

# SECURITIES AND EXCHANGE COMMISSION

## FORM S-8

Initial registration statement for securities to be offered to employees pursuant to employee benefit plans

Filing Date: **1994-08-25**  
SEC Accession No. **0000950149-94-000178**

([HTML Version](#) on [secdatabase.com](#))

### FILER

#### **BANKAMERICA CORP**

CIK: **9672** | IRS No.: **941681731** | State of Incorporation: **DE** | Fiscal Year End: **1231**  
Type: **S-8** | Act: **33** | File No.: **033-55225** | Film No.: **94546082**  
SIC: **6021** National commercial banks

Mailing Address  
555 CALIFORNIA STREET  
SAN FRANCISCO CA 94104

Business Address  
BANK OF AMERICA CTR  
555 CALIFORNIA ST  
SAN FRANCISCO CA 94104  
4156223530

As filed with the Securities and Exchange Commission on August 25, 1994  
Registration No. 33-\_\_\_\_\_

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

FORM S-8  
REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933

BANKAMERICA CORPORATION  
(Exact name of registrant as specified in its charter)

<TABLE>		
<S>	DELAWARE	<C>
	(State or other jurisdiction of incorporation or organization)	94-1681731 (I.R.S. Employer Identification No.)
</TABLE>		

BANK OF AMERICA CENTER  
555 CALIFORNIA STREET  
SAN FRANCISCO, CALIFORNIA 94104  
(Address of Principal Executive Offices)

CONTINENTAL ILLINOIS CORPORATION 1979 STOCK OPTION PLAN  
CONTINENTAL BANK CORPORATION 1982 PERFORMANCE,  
RESTRICTED STOCK AND STOCK OPTION PLAN  
OPTION AGREEMENT  
CONTINENTAL BANK CORPORATION 1991 EQUITY PERFORMANCE INCENTIVE PLAN  
CONTINENTAL EMPLOYEES SAVINGS INCENTIVE PLAN  
(Full title of the plans)

CHERYL SOROKIN  
BANKAMERICA CORPORATION  
BANK OF AMERICA CENTER  
555 CALIFORNIA STREET  
SAN FRANCISCO, CALIFORNIA 94104  
TELEPHONE: (415) 622-3530  
(Name, address and telephone number of agent for service)

Copies to:

<TABLE>		
<S>	Jeffrey R. Lopic Bank of America NT & SA Legal Department (3017) 555 California Street San Francisco, CA 94104 (415) 622-2189	<C>
		Rodney R. Peck Pillsbury Madison & Sutro 235 Montgomery Street San Francisco, CA 94104 (415) 983-1000
</TABLE>		

CALCULATION OF REGISTRATION FEE

<TABLE>  
<CAPTION>

PROPOSED MAXIMUM                      PROPOSED MAXIMUM                      AMOUNT OF

TITLE OF SECURITIES TO BE REGISTERED	AMOUNT TO BE REGISTERED	OFFERING PRICE PER SHARE (1)	AGGREGATE OFFERING PRICE (1)	REGISTRATION FEE (1)
<S>	<C>	<C>	<C>	<C>
Common Stock, par value \$1.5625 per share(2) . . . . .	4,546,961 shares	\$47.875	\$217,685,758	\$75,064.58
Common Stock, par value \$1.5625 per share, offered pursuant to the Continental Employees Savings Incentive Plan(2)(3) . . .	100,000 shares	\$47.875	\$ 4,787,500	\$ 1,650.87

</TABLE>

- (1) Pursuant to Rule 457(h), the registration fee was computed on the basis of the market value of the Common Stock, computed in accordance with Rule 457(c) on the basis of the average of the high and low prices per share of such stock as reported on the New York Stock Exchange Composite Transactions Tape on August 22, 1994.
- (2) Associated with the Common Stock are Preferred Share Purchase Rights that will not be exercisable or evidenced separately from the Common Stock prior to the occurrence of certain events.
- (3) Pursuant to Rule 416(c) under the Securities Act of 1933, this registration statement also covers an indeterminate amount of interests to be offered or sold pursuant to the Continental Employees Savings Incentive Plan.

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PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

ITEM 3. INCORPORATION OF DOCUMENTS BY REFERENCE

The following documents, which have heretofore been filed by the registrant with the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended (the "Exchange Act"), are incorporated by reference herein and shall be deemed to be a part hereof:

- (a) BankAmerica Corporation Annual Report on Form 10-K for the year ended December 31, 1993;
- (b) Annual Report of the Continental Employees Savings Incentive Plan for the year ended December 31, 1993;
- (c) BankAmerica Corporation's Quarterly Reports on Form 10-Q for the quarters ended March 31 and June 30, 1994;
- (d) BankAmerica Corporation's current reports on Form 8-K dated January 19, January 27, March 11, March 21, March 29, April 20, May 12, June 30, July 18, July 20, August 11 and August 22, 1994;
- (e) the description of BankAmerica Corporation Common Stock set forth in the Registration Statement on Form 8-A dated May 25, 1976 (as amended by Forms 8 dated June 14, August 18 and September 10, 1976); and
- (f) the description of BankAmerica Corporation's Preferred Share Purchase Rights set forth in the Registration Statement on Form 8-A dated April 13, 1988 (as amended by Form 8 dated August 20, 1991).

All documents subsequently filed by the registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act, prior to the filing of a post-effective amendment which indicates that all securities offered have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference in the registration statement and to be part thereof from the date of filing of such documents.

ITEM 4. DESCRIPTION OF SECURITIES

Inapplicable.

ITEM 5. INTERESTS OF NAMED EXPERTS AND COUNSEL

Inapplicable.

ITEM 6. INDEMNIFICATION OF DIRECTORS AND OFFICERS

As authorized by Section 145 of the Delaware General Corporation Law, the Bylaws of BankAmerica Corporation provide for indemnification of directors and officers in certain cases. A director or officer of BankAmerica Corporation (i) must be indemnified by BankAmerica Corporation for all expenses of litigation or other legal proceedings when he or she is successful on the merits or otherwise in such litigation or proceedings, (ii) must be indemnified by BankAmerica Corporation for the expenses, judgments, fines and amounts paid in settlement of litigation or proceedings (other than a derivative action), even if he or she is not successful, if he or she acted in

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good faith and in a manner he or she reasonably believed to be in or not opposed to the best interest of BankAmerica Corporation (and, in the case of a criminal proceeding, had no reasonable cause to believe his or her conduct was not lawful), and (iii) must be indemnified by BankAmerica Corporation for expenses of a derivative action, even if he or she is not successful, if he or she acted in good faith and in a manner he or she believed to be in or not opposed to the best interests of BankAmerica Corporation, provided that no indemnification may be made in the case of a derivative action if the person is judged liable to BankAmerica Corporation, unless a court determines that, despite such adjudication but in view of the circumstances, such person is entitled to indemnification of such expenses.

The Bylaws of BankAmerica Corporation further provide that BankAmerica Corporation may purchase insurance on behalf of its directors and officers whether or not it would have the power to indemnify them against such liability.

There is directors' and officers' liability insurance presently outstanding which insures directors and officers of BankAmerica Corporation and certain of its subsidiaries, including Bank of America National Trust & Savings Association. The policies cover loss for which BankAmerica Corporation or any of such subsidiaries shall be required or permitted by law to indemnify directors and officers and which result from claims made against such directors or officers based upon the commission of wrongful acts in the performance of their duties. The policies also cover losses which the directors or officers must pay as the result of claims brought against them based upon the commission of wrongful acts in the performance of their duties and for which they are not indemnified by BankAmerica Corporation or any of such subsidiaries. The losses covered by the policies are subject to certain exclusions and do not include fines or penalties imposed by law or other matters deemed uninsurable under the law. The policies contain certain provisions regarding deductibles.

ITEM 7. EXEMPTION FROM REGISTRATION CLAIMED

Inapplicable.

ITEM 8. EXHIBITS

Parenthetical references to exhibits in the description of Exhibits 4.1 and 4.2 below are incorporated by reference from such exhibits to the indicated report or registration statement of BankAmerica Corporation (File No. 1-7377) filed with the Securities and Exchange Commission.

<TABLE>

<S>	<C>
4.1	Specimen of BankAmerica Corporation's Common Stock certificate with Rights legend (incorporated by reference to Exhibit 4.1 to BankAmerica Corporation's Registration Statement on Form S-4 (Reg. No. 33-439841) filed November 14, 1991).
4.2	Form of Rights Certificate (incorporated by reference to Exhibit B to Exhibit 1 to BankAmerica Corporation's Form 8-A dated April 13, 1988).
4.3	Continental Illinois Corporation 1979 Stock Option Plan.

4.4	Continental Bank Corporation 1982 Performance, Restricted Stock and Stock Option Plan.
4.5	Option Agreement.
4.6	Continental Bank Corporation 1991 Equity Performance Incentive Plan.
4.7	Continental Employees Savings Incentive Plan; and Continental Employees Savings Incentive Trust.
5.1	Opinion of Michael J. Halloran, counsel to BankAmerica Corporation, regarding legality of securities being issued.
23.1	Consent of Michael J. Halloran (included in Exhibit 5.1).
23.2	Consent of Price Waterhouse LLP.
23.3	Consent of Ernst & Young LLP.
24.1	Powers of Attorney

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ITEM 9. UNDERTAKINGS

(a) The undersigned Registrant hereby undertakes:

(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; (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) and (ii) shall not apply if the information required to be included in a post-effective amendment by (i) and (ii) is contained in periodic reports filed by the Registrant pursuant to section 13 or section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in this Registration Statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment 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.

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

(b) The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 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 offering therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has 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 Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant 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 Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act of 1933 and will be governed by the final adjudication of such issue.

(d) The undersigned Registrant hereby undertakes to submit the

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8, and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of San Francisco, State of California, on this 25th day of August, 1994.

BANKAMERICA CORPORATION  
(Registrant)

By /s/ CHERYL SOROKIN

-----  
Cheryl Sorokin  
Executive Vice President  
and Secretary

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

<TABLE>		<CAPTION>	
Signature	Capacity	Date	
-----	-----	----	
<S>	<C>	<C>	
RICHARD M. ROSENBERG*			
-----			
Richard M. Rosenberg	Chairman of the Board, Chief Executive Officer (Principal Executive Officer) and Director		
LEWIS W. COLEMAN*			
-----			
Lewis W. Coleman	Vice Chairman of the Board, Chief Financial Officer (Principal Financial Officer) and Director		
/s/ JAMES H. WILLIAMS			
-----			
James H. Williams	Executive Vice President (Principal Accounting Officer)	August 25, 1994	

</TABLE>

A majority of the members of the Board of Directors:

<TABLE>			
<S>	<C>	<C>	<C>
JOSEPH F. ALIBRANDI*	Director	PHILIP M. HAWLEY*	Director
PETER B. BEDFORD*	Director	FRANK L. HOPE, JR.*	Director
ANDREW F. BRIMMER*	Director	IGNACIO E. LOZANO, JR.*	Director
RICHARD A. CLARKE*	Director	CORNELL C. MAIER*	Director
LEWIS W. COLEMAN*	Director	WALTER E. MASSEY*	Director
TIMM F. CRULL*	Director	RICHARD M. ROSENBERG*	Director
KATHLEEN FELDSTEIN*	Director	A. MICHAEL SPENCE*	Director
DONALD E. GUINN*	Director		

</TABLE>

\*By: /s/ JEFFREY R. LAPIC

\_\_\_\_\_  
Jeffrey R. Lopic, Attorney-in-Fact

Dated: August 25, 1994

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THE PLAN. Pursuant to the requirements of the Securities Act of 1933, the trustees (or other persons who administer the Continental Employees Savings Incentive Plan) have duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Chicago, State of Illinois, on this 24th day of August, 1994.

CONTINENTAL TRUST COMPANY  
solely in its capacity as Trustee of the  
Continental Employees Savings Incentive Trust

By /s/ JOHN MISTRETTA  
-----  
John Mistretta  
Its: Vice President

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EXHIBIT INDEX

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23.3	Consent of Ernst & Young LLP.
24.1	Powers of Attorney

\* Parenthetical references to exhibits in the description of Exhibits 4.1 and 4.2 are incorporated by reference from such exhibits to the indicated report or registration statement of BankAmerica Corporation (File No. 1-7377) filed with the Securities and Exchange Commission.

CONTINENTAL ILLINOIS CORPORATION  
1979 STOCK OPTION PLAN

As Amended Effective as of January 1, 1981

1. PURPOSE. The purpose of the 1979 Stock Option Plan (the "Plan") of Continental Illinois Corporation (the "Company") is to provide the officers (including officers who are members of the Board of Directors), and other key employees, of the Company or any of its Subsidiaries (as hereinafter defined) who are materially responsible for the management of the business of the Company or a Subsidiary with incentive compensation opportunities which are competitive with those available elsewhere and to motivate such officers and employees to exert maximum efforts for the Company's success, thereby better enabling the Company and its Subsidiaries to attract and retain capable executive personnel and promoting the long term financial interests of the Company.

2. ADMINISTRATION. The Plan shall be administered, construed and interpreted by a Committee (the "Committee") of not less than three members, and such Committee shall be the Compensation and Nominating Committee of the Board of Directors of the Company until the Board of Directors of the Company determines otherwise. No member of the Committee shall be eligible, or within one year prior to such membership shall have been eligible, for selection as a person to whom stock may be allocated or to whom stock options or stock appreciation rights may be granted under the Plan or any other plan of the Company (or any of its affiliates) entitling participants therein to acquire stock, stock options or stock appreciation rights of the Company (or any of its affiliates). The decision of a majority of the members of the Committee shall constitute the decision of the Committee and the Committee may act either at a meeting at which a majority of the members of the Committee is present, or by writing signed by all members of the Committee. The Committee shall have the sole, final and conclusive authority to determine, consistent with and subject to the provisions of the Plan:

(a) The individuals ("optionees") to whom options ("options") and related stock appreciation rights ("stock appreciation rights") shall be granted under the Plan;

(b) The number of shares of common stock, par value \$5 per share, of the Company ("Common Stock") to be optioned under each option;



(c) The option price to be paid upon the exercise of each option;

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(d) The period or periods within which each option and related stock appreciation rights may be exercised; and

(e) The terms and conditions of each Stock Option Agreement and Stock Appreciation Rights Agreement between the Company and an optionee;

provided, however, that a Committee consisting of the Chairman of the Board of Directors and the President of the Company shall exercise all authority otherwise delegated to the Committee under the Plan with respect to options and stock appreciation rights which are granted to, or held by, persons who, at the time such authority is exercised, are not subject to Section 16(a) or Section 16(b) of the Securities Exchange Act of 1934.

3. ELIGIBILITY. The officers and other key employees of the Company or a Subsidiary, who, in the opinion of the Committee, are from time to time materially responsible for the management of the business of the Company or a Subsidiary, shall be eligible to be granted options (both incentive stock options and non-qualified options) and related stock appreciation rights under the Plan. The term "Subsidiary", as used herein, means any corporation whose relationship to the Company, whether established before or after adoption of this Plan, is such that the Company would be deemed to be the "parent corporation" of such corporation within the meaning of Section 425(e) of the Internal Revenue Code of 1954.

4. STOCK SUBJECT TO PLAN. The aggregate number of shares of Common Stock which may be delivered under the Plan shall not exceed 1,500,000, subject, however, to adjustment as provided in Section 8 hereof. Either authorized and unissued shares or treasury shares may be delivered under the Plan. If any option granted pursuant to the Plan shall expire or terminate for any reason, as to any shares, such shares shall again become available under the Plan; provided, however, that if any option or portion thereof is surrendered in exchange for cash or shares delivered pursuant to the exercise of a stock appreciation right, such number of shares covered by the option or portion thereof as are so surrendered may not again be made available under the Plan. The aggregate fair market value of the shares for which options intended to qualify as incentive stock options are granted to any employee in any calendar year under this Plan and each other stock option plan of the Company and any parent or subsidiary corporation shall not exceed \$100,000, plus any unused limit carryover to that year (as described in Section 422A(c)(4) of the Internal Revenue Code of 1954).

5. TERMS OF OPTIONS. Each option granted pursuant to the Plan shall be evidenced by a Stock Option Agreement between the Company and the optionee, and shall be subject to the following terms and conditions, and to such other terms

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inconsistent therewith as the Committee may deem appropriate in each case:

(a) Option Price. The per share price at which shares of Common Stock may be purchased under the option shall be determined by the Committee at the time such option is granted; but such price in no event shall be less than the greater of (i) the per share fair market value, as determined by the Committee, of such stock on the date on which such option is granted, or (ii) the par value of such stock.

(b) Period for Exercise of Option. The option or any part thereof shall become exercisable at such date or dates as shall be fixed by the Committee at the time such option is granted; provided that an incentive stock option, by its terms, shall not be exercisable while there is outstanding, within the meaning of Section 422A(c)(7) of the Internal Revenue Code of 1954, any other incentive stock option which was granted to the optionee before the granting of the option and which other incentive stock option is for the purchase of shares of stock in the Company or in a corporation which at the time of the granting of the other incentive stock option was a parent or subsidiary corporation of the Company, or in a predecessor corporation of any of such corporations.

(c) Purchase of Shares. The option price of each share of Common Stock purchased upon exercise of an option shall be paid in full in cash or, with the consent of the Committee, by delivery of shares of Common Stock having a fair market value equal to the option price or by a combination of such shares and cash, at the time of such exercise. Each option may be exercised in whole or in part, at any time or from time to time, during the period such option is exercisable, except that no option may be exercised for less than fifty shares of stock, unless the exercise for a lesser number of shares will exhaust such option.

(d) Termination of Option. Any option granted pursuant to the Plan shall terminate ten years after the date on which such option is granted, except as otherwise provided for below. If an optionee ceases to be an employee of the Company or any Subsidiary for any reason other than retirement or death, any option granted to him pursuant to the Plan shall forthwith terminate. Leave of absence approved by the Committee, or transfer of employment from the Company to any Subsidiary or from a Subsidiary to the Company or any other Subsidiary, shall not constitute

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cessation of employment. If any optionee ceases to be an employee of the Company or a Subsidiary by reason of retirement (the term "retirement", as used herein, means such termination of employment as shall entitle an individual to benefits, other than a deferred vested pension, under any then existing pension plan of the Company or a Subsidiary), any option granted to him pursuant to the Plan may be exercised by him within three years after the date of his retirement (but not later than ten years after the date such option was granted) to the full extent such option was exercisable on the date of such cessation. In the event of the death of an optionee while in the employ of the Company or a Subsidiary or within three years after the date of his retirement, any option which had not previously terminated may be exercised within three years after the date of his death by his estate or by the person or persons entitled thereto by will or by applicable laws of descent and distribution, to the full extent such option was exercisable on the date of his death; provided, however, that an incentive stock option may not be exercised after the expiration of ten years from the date the option was granted.

6. STOCK APPRECIATION RIGHTS. The Committee may, in its discretion, grant a stock appreciation right to any optionee under the Plan. Each stock appreciation right shall be evidenced by a Stock Appreciation Rights Agreement between the Company and the optionee, and shall relate to and be associated with all or any part of a specific option. Such stock appreciation right may be granted either at the time of grant of such option or at any time thereafter. A stock appreciation right shall be exercisable to the extent, and only to the extent, that the related option is exercisable; provided, however, that for purposes of this sentence, to the extent provided by the Committee, an incentive stock option which is otherwise exercisable shall not be considered nonexercisable merely by reason of the fact that a previously granted incentive stock option is outstanding within the meaning of Section 422A(c)(7) of the Internal Revenue Code of 1954. The Committee may at the time of granting any stock appreciation right add such additional conditions and limitations to such stock appreciation right as it shall deem advisable, including, but not limited to, the period or periods within which such stock appreciation right shall be exercisable and the maximum amount of appreciation to be recognized with regard to such stock appreciation right. In the case of optionees who are persons subject to Section 16(a) and Section 16(b) of the Securities Exchange Act of 1934, the Committee may at any time add such additional conditions and limitations to such stock appreciation right which, in its discretion, the Committee deems necessary or desirable in order to comply with Section 16(a) or Section 16(b) and the rules and regulations thereunder, or in order to obtain

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any exemption therefrom. A stock appreciation right shall entitle the optionee to whom it is granted (including his estate or other successor in interest upon his death as provided in the last sentence of Section 5(d) hereof) the right to elect, so long as such stock appreciation right is exercisable and subject to such limitations as the Committee shall have imposed, to surrender any then exercisable portion of his related option, in whole or in part, and receive from the Company in exchange, without any payment of cash (except for applicable employee withholding taxes), that number of shares of Common Stock having an aggregate fair market value on the date of such surrender equal to the product of (i) the excess, if any, of the per share fair market value of Common Stock on the date of such surrender over the per share option price under such option and (ii) the number of shares of Common Stock called for by such option or portion thereof which is so surrendered. Any option or portion thereof which is so surrendered shall no longer be exercisable. The Committee, in its sole discretion, may allow the Company to settle all or part of the Company's obligation arising out of the exercise of a stock appreciation right by the payment of cash equal to the aggregate fair market value of the shares of Common Stock the Company would otherwise be obligated to deliver.

7. TRANSFERABILITY. Options and stock appreciation rights are not transferable except by will or the laws of descent and distribution. Options and stock appreciation rights may be exercised during the lifetime of the participant only by the participant and after the death of the participant, only as provided in Section 5(d).

8. ADJUSTMENT OF SHARES. In the event of any change after the effective date of the Plan in the outstanding Common Stock of the Company by reason of any reorganization, recapitalization, stock split, stock dividend, combination of shares, merger or consolidation, or any other change after the effective date of the Plan in the nature of shares of Common Stock of the Company, the Committee shall, if it deems it to be appropriate, direct that a proportionate adjustment be made in the maximum number and kind of shares which may be delivered under the Plan, and in the option price under and the number and kind of shares covered by outstanding options (and related stock appreciation rights) granted under the Plan. Such determination of the Committee shall be conclusive. However, in no event shall the Committee adjust the option price of the stock to a price less than the par value of the stock on the date of the adjustment. Furthermore, if there is an adjustment in the number of shares, no fraction of a share shall be delivered upon any exercise of an option; and, if an adjustment of the option price shall result in a fraction of one cent, a full cent shall be included in such price in lieu of such fraction.

9. EMPLOYEES' AND OPTIONEES' RIGHTS. No employee or other person shall have any claim or right to be granted an

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option or a stock appreciation right under the Plan except as the Committee shall have conferred in its discretion in the administration of the Plan. Participation in the Plan shall not confer upon any optionee any right with respect to continuation of employment by the Company or a Subsidiary, nor interfere with the right of the Company or such Subsidiary to terminate at any time employment of any optionee. An option or stock appreciation right shall not confer any rights as a stockholder upon the holder thereof, except only as to shares actually delivered pursuant to the Plan.

10. AMENDMENT. The Board of Directors of the Company may amend the Plan from time to time, except that, without the approval of a majority of the votes represented and entitled to be voted at a duly held meeting of the stockholders of the Company:

(a) The maximum number of shares which may be delivered under the Plan may not be increased except as provided in Section 8 hereof;

(b) The option price under any option may not be reduced except as provided in Section 8 hereof;

(c) The period during which an option may be exercised may not be extended beyond the period provided in Section 5(d) hereof; and

(d) The granting of an option to a member of the Committee shall be prohibited as provided in Section 2 hereof.

The Committee may, with the consent of the optionee, amend any option agreement or stock appreciation rights agreement to the extent that the Committee determines that such amendment is necessary or desirable in order to permit any option outstanding on or after January 1, 1981 to qualify as an incentive stock option or to be exercisable, in whole or in part, by delivery of shares of Common Stock having a fair market value equal to the option price. No amendment of the Plan or of an agreement, however, may, without the consent of the optionee, make any changes in any outstanding option (or related stock appreciation rights) theretofore granted under the Plan which would adversely affect the rights of such optionee.

11. TERMINATION. The Plan shall terminate on the tenth anniversary of the date of approval of the Plan by the stockholders of the Company as provided in Section 12 and may be terminated at any earlier time by the Board of Directors of the Company. No option or stock appreciation right shall be granted hereunder after termination of the Plan. Termination of the Plan, however, shall not affect the validity of any option (or related stock appreciation right) theretofore granted under the Plan.

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12. EFFECTIVE DATE. This Plan shall become effective upon the approval by the affirmative vote of a majority of the shares present or represented by proxy at the Annual Meeting of Stockholders to be held on April 23, 1979 or any adjournment thereof. The effective date of each option and stock appreciation right shall be the day on which it is granted to any optionee hereunder.

CONTINENTAL BANK CORPORATION  
1982 PERFORMANCE, RESTRICTED STOCK  
AND STOCK OPTION PLAN  
(As Amended on October 22, 1990)

1. Purpose. The purpose of the 1982 Performance, Restricted Stock and Stock Option Plan (the "Plan") of Continental Bank Corporation (the "Company") is to promote the long-term financial interests of the Company by (i) rewarding key executives of the Company and its Subsidiaries (as defined below) for their contributions to the success of the Company, (ii) attracting and encouraging long service by key executives possessing outstanding abilities, (iii) providing competitive incentive compensation in the form of incentive stock options, non-qualified stock options, stock appreciation rights and restricted stock; and (iv) furthering the identity of interests of key executives with those of the Company's stockholders through opportunities for increased stock ownership and awards based on corporate performance. The term "Subsidiary" means any corporation of which the Company owns or controls, directly or indirectly, 50 percent or more of the outstanding shares of stock normally entitled to vote for the election of directors.

2. Administration. The Plan shall be administered, construed and interpreted by a Committee of not less than three members, which, subject to the following provisions of this Section 2, shall be the Compensation Committee of the Board of Directors of the Company until such Board of Directors determines otherwise. No member of the Committee shall be eligible, or within one year prior to such membership shall have been eligible, for selection as a person to whom stock may be awarded or allocated or to whom stock options or stock appreciation rights may be granted under the Plan or any other plan of the Company (or of any of its affiliates) entitling participants therein to acquire stock, stock options or stock appreciation rights of the Company (or of any of its affiliates). The decision of a majority of the members of the Committee shall constitute the decision of the Committee and the Committee may act either at a meeting at which a majority of the members of the Committee is present, or by writing signed by all members of the Committee. The Committee shall have the sole, final and conclusive authority to interpret the Plan. Notwithstanding the foregoing provisions of this Section 2, the Chairman of the Company shall exercise all authority otherwise delegated to the Committee under the Plan with respect to stock options, stock appreciation rights and Restricted Stock (as described in Section 8) awarded to, or held by, persons who, at the time such authority is exercised, are not subject to Section 16(a) or Section 16(b) of the Securities Exchange Act of 1934.

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3. Participation. The Committee shall, from time to time, determine and designate the officers (including officers who are members of the Board of Directors) and other key employees of the Company and its Subsidiaries who shall be Participants in the Plan and the number of stock options, stock appreciation rights and shares of Restricted Stock to be awarded to each such Participant. In making any such award the Committee shall take into account the past performance of the Company and its Subsidiaries, the Participant's contributions to such performance, the capacity of the Participant to contribute in a substantial measure to such performance in the future, and such other factors as the Committee may consider relevant.

4. Stock Subject to Plan. Shares of stock subject to the Plan shall be shares of the Company's common stock, par value \$4 per share ("Common Stock"). Subject to adjustment as provided in Section 11, the aggregate number of shares of Common Stock which may be delivered under the Plan shall not exceed 4,000,000 shares. Any shares subject to any grant which terminates by expiration, cancellation, forfeiture, surrender or otherwise without the issuance of shares or without payment therefore or, in the case of Restricted Stock, without vesting shall again be available for future grants under the Plan. Either authorized and unissued shares or treasury shares may be delivered under the Plan; provided, however, that unissued shares shall not be awarded as Restricted Stock to any Participant who has been employed by the Company and its Subsidiaries for less than one year, unless the Committee expressly determines, after consideration of all other remuneration paid or payable to the Participant, that the services already rendered to the Company and its Subsidiaries by the Participant for which he is being awarded Restricted Stock have a value of not less than the par value of the shares awarded to him.

5. Terms of Option. Each option granted pursuant to the Plan shall be evidenced by a Stock Option Agreement between the Company and the Participant, and shall be subject to the following terms and conditions, and to such other terms and conditions not inconsistent therewith as the Committee may deem appropriate in each case:

- (a) Option Price. The price at which a share of Common Stock may be purchased pursuant to the exercise of an option shall be determined by the Committee at the time such option is granted, but shall not be less than the greater of (i) the fair market value, as determined by the Committee, of a share of Common Stock on the date of grant or (ii) the par value of such stock.
- (b) Period for Exercise of Option. The option or any part thereof shall become exercisable at such date or dates as shall be fixed by the Committee at the time such



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option is granted or at such earlier time as may subsequently be determined by the Committee; provided that an incentive stock option granted prior to January 1, 1987, by its terms, shall not be exercisable while there is outstanding, within the meaning of Section 422A(b) (7) of the Internal Revenue Code of 1954, any other incentive stock option which was granted to the Participant before the granting of the option and which other incentive stock option is for the purchase of shares of stock in the Company, in a corporation which at the time of the granting of the other incentive stock option was a parent or subsidiary corporation of the Company, or in a predecessor corporation of any such corporations.

- (c) Purchase of Shares. The option price of each share of Common Stock purchased upon exercise of an option shall be paid in full at the time of exercise, which payment shall be in cash or, unless otherwise determined by the Committee, by delivery of shares of Common Stock having a fair market value equal to the option price, or by a combination of such shares and cash. Each option may be exercised in whole or in part, at any time or from time to time, during the period such option is exercisable, except that no option may be exercised for less than fifty shares of stock, unless the exercise for a lesser number of shares will exhaust such option.
- (d) Termination of Option. Except as otherwise provided for below, any option granted pursuant to the Plan shall terminate not more than ten years after the date on which such option is granted. If a Participant ceases to be an employee of the Company or any Subsidiary for any reason other than retirement or death, any option granted to him pursuant to the Plan shall forthwith terminate. A leave of absence approved by the Committee, or a transfer of employment from the Company to any Subsidiary or from a Subsidiary to the Company or any other Subsidiary, shall not constitute a cessation of employment. If any Participant ceases to be an employee of the Company or a Subsidiary by reason of a retirement which entitles him to pension benefits, other than a deferred vested pension, under any pension plan then maintained by the Company or a Subsidiary, any option granted to him pursuant to the Plan may be exercised by him within three years after the date of his retirement (but not later than ten years after the date such option was granted) to the full extent such option was

exercisable on the date of such cessation. In the event of the death of a Participant while in the employ of the Company or a Subsidiary or within

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three years after the date of his retirement, any option which had not previously terminated may be exercised within three years after the date of his death by his estate or by the person or persons entitled thereto by will or by applicable laws of descent and distribution, to the full extent such option was exercisable on the date of his death; provided, however, that an incentive stock option may not be exercised after the expiration of ten years from the date the option was granted.

- (e) Limitation on Amount of Incentive Stock Options. The aggregate fair market value (determined at the time the option is granted) of the shares with respect to which incentive stock options granted after December 31, 1986 are exercisable for the first time by any Participant in any calendar year under this Plan and each other stock option plan of the Company and any parent and subsidiary corporations shall not exceed \$100,000.

6. Stock Appreciation Rights. The Committee may, in its discretion, grant a stock appreciation right to any Participant under the Plan. Each stock appreciation right shall be evidenced by a Stock Appreciation Rights Agreement between the Company and the Participant, and shall relate to and be associated with all or any part of a specific option. A stock appreciation right may be granted either at the time of the grant of the related option or at any time thereafter. A stock appreciation right shall be exercisable only if the fair market value of a share of Common Stock exceeds the option price for the related option and then shall be exercisable to the extent, and only to the extent, that the related option is exercisable. The Committee may at the time of granting any stock appreciation right add such additional conditions and limitations to the stock appreciation right as it shall deem advisable, including, but not limited to, limitations on the period or periods within which the stock appreciation right shall be exercisable and the maximum amount of appreciation to be recognized with regard to such stock appreciation right. In the case of Participants who are subject to Section 16(a) and Section 16(b) of the Securities Exchange Act of 1934, the Committee may at any time add such additional conditions and limitations to such stock appreciation right which, in its discretion, the Committee deems necessary or desirable in order to comply with Section 16(a) or Section 16(b) and the rules and regulations thereunder, or in order to obtain any exemption therefrom. A stock

appreciation right shall entitle the Participant to whom it is granted (including his estate or other successor in interest upon his death as provided in the last sentence of paragraph 5(d)) the right to elect, so long as such stock appreciation right is exercisable and subject to such limitations as the Committee shall have imposed, to surrender any then exercisable portion of his related option, in

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whole or in part, and receive from the Company in exchange, without any payment of cash (except for applicable employee withholding taxes), that number of shares of Common Stock having an aggregate fair market value on the date of surrender equal to the product of (i) the excess of the fair market value of a share of Common Stock on the date of surrender over the per share option price under such option and (ii) the number of shares of Common Stock subject to such option or portion thereof which is surrendered. Any option or portion thereof which is surrendered shall no longer be exercisable. The Committee, in its sole discretion, may allow the Company to settle all or part of the Company's obligation arising out of the exercise of a stock appreciation right by the payment of cash equal to the aggregate fair market value of the shares of Common Stock the Company would otherwise be obligated to deliver.

7. Transferability. Options and stock appreciation rights are not transferable except by will or the laws of descent and distribution. Options and stock appreciation rights may be exercised during the lifetime of the Participant only by the Participant and, after the death of the Participant, only as provided in paragraph 5(d).

8. Terms and Conditions of Restricted Stock Awards. All shares of Common Stock awarded to Participants under the Plan ("Restricted Stock") shall be subject to the following terms and conditions and to such other terms and conditions, not inconsistent with the Plan, as shall be prescribed by the Committee in its sole discretion:

- (a) Restricted Period. Shares of Restricted Stock awarded to Participants may not be sold, assigned, transferred, pledged or otherwise encumbered during a "Restricted Period" commencing on the date of the award and ending on the September 30th coincident with or next following the fourth anniversary thereof, or such later date as the Committee may designate at the time of the award, subject to the following:
  - (i) Except as otherwise provided by the Committee at the time of an award of Restricted Stock, if a Participant's employment with the Company and its Subsidiaries is terminated by reason of his death,

disability (as determined by the Committee) or a retirement which entitles him to pension benefits other than a deferred vested pension under a pension plan then maintained by the Company or a Subsidiary, then the Restricted Period shall end as of the date of such termination with respect to such number of shares (disregarding any fractional shares) of Restricted Stock granted to him under such prior award as is proportionate to the ratio of (A) the number of

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whole calendar months elapsed between the date of the award and the date of such termination to (B) the number of whole calendar months in the original Restricted Period.

- (ii) The Committee may, at the time of an award or at any time thereafter, reduce or terminate the Restricted Period otherwise applicable to all or any portion of any Restricted Stock award; provided, however, that no such reduction under this subparagraph (ii) shall be applicable to Restricted Stock held by a Participant who voluntarily terminates his employment within one year of the date such Restricted Stock was awarded. For purposes of this subparagraph (ii), termination of employment by reason of disability (as determined by the Committee) or mandatory retirement shall not be deemed a voluntary termination.

Subject to the provisions of paragraphs (b) and (f) next below, at the end of the Restricted Period for any shares of Restricted Stock, such shares will be transferred free of all restrictions to the Participant or, in the event of his death, to the beneficiary or beneficiaries designated by the Participant under this Plan or, if none, to his estate. Delivery of shares in accordance with the preceding sentence shall be made within the thirty-day period following the end of the Restricted Period.

- (b) Forfeitures. Except as otherwise provided in subparagraph 8(a)(i) and subject to the rights of the Committee under subparagraph 8(a)(ii), a Participant shall forfeit all shares of Restricted Stock and all dividends and interest accumulated in accordance with the provisions of Section 9 if his

employment with the Company and its Subsidiaries is terminated prior to the last day of the applicable Restricted Period.

- (c) Certificates Deposited With Company. Each certificate issued in respect of shares of Restricted Stock awarded under the Plan shall be registered in the name of the Participant and deposited with the Company. Each such certificate shall bear the following (or a similar) legend:

"The transferability of this certificate and the shares of stock represented hereby are subject to the terms and conditions (including forfeiture) contained in the Continental Bank Corporation 1982 Performance, Restricted Stock and Stock Option Plan and an Agreement entered

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into between the registered owner and Continental Bank Corporation. A copy of such Plan and Agreement is on file at the principal office of Continental Bank Corporation at 231 South LaSalle Street, Chicago, Illinois 60697."

- (d) Restricted Stock Agreement. The Participant shall enter into an Agreement with the Company in a form specified by the Committee agreeing to the terms and conditions of the award and such other matters as the Committee shall, in its sole discretion, determine.
- (e) Stockholder Rights. Subject to the foregoing restrictions and to the provisions of Section 9, each Participant shall have all the rights of a stockholder with respect to his shares of Restricted Stock, including, but not limited to, the right to vote such share.
- (f) Substitution of Rights. Prior to the end of the Restricted Period with respect to any shares of Restricted Stock awarded to a Participant, the Committee may, with the consent of the Participant, substitute an unsecured obligation of the Company to pay cash or stock (on such reasonable terms and conditions as the Committee may, in its sole discretion, determine) in lieu of its obligations under this Section 8 and under Section 9 to deliver unrestricted shares of Common Stock plus accrued dividends and interest.

9. Dividends. Except as otherwise provided by the Committee, dividends, including stock dividends, shall be accrued on each share of

Restricted Stock from the date as of which it is awarded and, if such share has not been forfeited, shall be paid to the Participant, or in the event of his death to his estate, as of the last day of the Restricted Period with respect to such share. Such dividends shall not be held in a separate fund or separately invested. Upon delivery of such dividends, interest shall be paid by the Company on the amount of cash dividends withheld, including cash dividends on stock dividends, at a rate equal to the rate of interest payable on amounts deferred under the Continental Bank Corporation Deferred Incentive Plan, as such rate may be adjusted from time to time.

10. Compliance With Applicable Laws. Notwithstanding any other provision of the Plan, the Committee may subject shares of Common Stock awarded under the Plan to such conditions, limitations or restrictions as the Committee determines to be necessary or desirable to comply with any law or regulation or with the requirements of any securities exchange.

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11. Changes in Capitalization, Similar Changes and Changes in Control. In the event of any change in the outstanding shares of Common Stock by reason of any stock dividend or split, recapitalization, merger, consolidation, combination or exchange of shares or other similar corporate change, the maximum aggregate number and class of shares which may be delivered under the Plan and the option price under and the number and class of shares covered by outstanding options and stock appreciation rights shall be equitably adjusted by the Committee. Such determination of the Committee shall be conclusive; provided that in no event shall the Committee adjust the option price of the stock to a price less than the par value of the stock on the date of the adjustment. Furthermore, if there is an adjustment in the number of shares, no fraction of a share shall be delivered upon any exercise of an option or with respect to any Restricted Stock; and, if an adjustment of the option price shall result in a fraction of one cent, a full cent shall be included in such price in lieu of such fraction. Any shares of stock or other securities received by a Participant with respect to Restricted Stock will be subject to the same restrictions and shall be deposited with the Company. If the Company shall be consolidated or merged with another corporation, any stock, securities or other property which any Participant is entitled to receive by reason of his ownership of the shares of Restricted Stock shall be deposited with the Company or its successor. Subject to the provisions of Section 8, such stock, securities or other property shall also be subject to the same restrictions as such Restricted Stock, and shall bear an appropriate legend similar in form to the legend set forth in paragraph 8(c). Notwithstanding the foregoing provisions of this Section 11 or any other provision of the Plan, other than Section 14, the Committee may, in its sole discretion, at the time of any award or grant under the Plan or at any time thereafter, provide for the acceleration of rights under any grant or award in

the event of a change in control of the Company and may establish the conditions under which such a change in control will be deemed to have occurred.

12. Withholding Tax. The Company shall have the right to withhold with respect to any payments made to Participants under the Plan any taxes required by law to be withheld because of such payments.

13. Employees' and Participants' Rights. No employee or other person shall have any claim or right to be awarded stock options, stock appreciation rights or Restricted Stock under the Plan except as the Committee shall have conferred in its discretion in the administration of the Plan. Participation in the Plan shall not confer upon any Participant any right with respect to continuation of employment by the Company or a Subsidiary, nor interfere with the right of the Company or such Subsidiary to terminate at any time employment of any Participant.

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14. Amendment and Termination. The Board of Directors may amend, suspend or terminate the Plan or any portion thereof at any time. The Compensation Committee of the Board of Directors, or any successor thereto designated by the Board of Directors in accordance with the provisions of Section 2, may amend the Plan to the extent necessary for the efficient administration of the Plan, or to make it practically workable or to conform to the provisions of any federal or State law or regulation. Notwithstanding the foregoing provisions of this Section 14, in no event shall any amendment be made without stockholder approval which shall:

- (a) increase the total number of shares which may be awarded under Section 4 of the Plan (subject to adjustment in accordance with Section 11);
- (b) reduce the option price under any option below the fair market value of the stock subject to the option determined as of the date of grant;
- (c) extend the period during which an option or stock appreciation right may be exercised beyond the period provided in paragraph 5(d); or
- (d) withdraw the administration of the Plan from the Committee.

The Plan shall terminate automatically on April 26, 1993. In no event may any amendment, suspension or termination impair the rights of any Participant, without his consent, in any stock option, stock appreciation right or

Restricted Stock previously awarded under the Plan.

15. Effective Date. This Plan shall be effective as of January 1, 1982 subject to the approval by the affirmative vote of a majority of the shares present or represented by proxy at the Annual Meeting of Stockholders to be held on April 26, 1982 or any adjournment thereof. All awards of stock options, stock appreciation rights and Restricted Stock are subject to such approval and, notwithstanding any other provision of the Plan, if such stockholder approval is not obtained, all such awards as well as dividends paid or payable with respect to Restricted Stock shall be forfeited.



## OPTION AGREEMENT

This Option Agreement is entered into as of the 27th day of July, 1987, by and between Continental Illinois Corporation ("CICorp") and Thomas C. Theobald ("Executive").

Section 1. Grant. Subject to the following provisions of this Option Agreement, CICorp hereby grants Executive options (the "Options") to purchase 2,000,000 shares of CICorp common stock, \$1.00 par value per share ("Common Stock").

Section 2. Duration. Subject to the provisions of Section 3, the Options shall become exercisable with respect to 666,667 shares of Common Stock on July 31, 1988 and with respect to an additional 666,666 shares of Common Stock on each of July 31, 1989 and July 31, 1990, in each case only if the Executive is continually employed by CICorp from July 27, 1987 through such date. If the Executive ceases to be employed by CICorp after July 27, 1987 and before July 31, 1990, by reason of his death or Disability (as defined in the Executive's employment agreement) the number of shares for which the Options were to become exercisable on the July 31 following such cessation of employment will be pro rated on a daily basis. For example, if such Executive ceases to be employed halfway between July 31, 1987 and July 31, 1988, for either such reason, one-half of the shares which would have been exercisable on July 31, 1988 will become exercisable upon such cessation. Once an Option becomes exercisable, it shall remain exercisable until July 31, 1997.

For purposes of this Section 2, cessation of employment by reason of Disability shall not be deemed to occur until six months after Executive's employment is terminated pursuant to Section 7 of the Executive's employment agreement.

Section 3. Acceleration. If the Executive's employment is terminated for reasons other than Cause or if there is a Change in Control of CICorp (as defined below), all outstanding Options shall immediately become exercisable. For purposes of this Option Agreement, "Change in Control" shall mean (i) the acquisition by any person or group of more than 50% of the voting stock of CICorp or (ii) a change in composition of a majority of the Board of Directors of CICorp resulting from the election of directors other than nominees of the Board of Directors.

Section 4. Manner of Exercise. Any exercise of an Option shall be by

delivery of (i) a written notice to CICorp specifying the number of shares of Common Stock purchased and (ii) payment for such shares. Payment shall be made either (i) in cash (including certified check, bank draft, or money order), or (ii) by delivering shares of Common Stock already

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owned by Executive, with each such share being valued at the closing price for a share of Common Stock as shown on the New York Stock Exchange composite tape on the last business day preceding the day on which notice of exercise is received by CICorp, or (iii) a combination of such shares and cash. CICorp shall have the right to require payment (through withholding from the Executive's salary, from the award itself or otherwise as CICorp shall determine) of any federal and state taxes required to be withheld from any transfer of shares hereunder.

Promptly after any exercise of an option, CICorp, at its principal executive office, will deliver to the Executive a certificate or certificates representing the shares so purchased free and clear of any liens, encumbrances, pledges or other security interests and free and clear of any charges or assessments and not subject to any restrictions as to transferability, except as contained herein.

Section 5. Price. The price of each share purchased by exercise of an Option shall be \$5.375, subject to adjustment as provided in Section 6.

Section 6. Antidilution. Each time a Dilution Event (as defined below) occurs:

- (a) the number of shares subject to unexercised Options shall be adjusted by multiplication thereof by a fraction, the numerator of which is the number of shares of Common Stock outstanding immediately following such Dilution Event and the denominator of which is the number of shares of Common Stock outstanding immediately prior to such Dilution Event; and
- (b) for purposes of determining the price under Section 5 with respect to all such shares subject to unexercised Options (as adjusted in number hereby) the Option price shall be adjusted by multiplication thereof by a fraction, the numerator of which is the number of shares of Common Stock outstanding immediately prior to such Dilution Event and the denominator of which is the number of shares of Common Stock outstanding immediately after such Dilution Event.

"Dilution Event" means any of the following: (i) a subdivision or reclassification by CICorp of the outstanding shares of Common Stock into a

greater number of such shares, (ii) a combination or reclassification by CICorp of the outstanding shares of Common Stock into a lesser number of such shares, or (iii) a payment by CICorp of a dividend in Common Stock.

Section 7. Registration Rights and Rule 144 Compliance. The shares of Common Stock issued or issuable upon the exercise

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of Options granted under this Option Agreement shall be registered under the Securities Act of 1933 under the circumstances and in accordance with the terms and conditions set forth on Exhibit A to this Option Agreement.

So long as Executive owns any shares of Common Stock purchased by exercise of the Options, CICorp will remain in compliance with the current public information requirements of paragraph (c)(1) of Rule 144 under the Securities Act of 1933, or any applicable successor provision thereto.

Section 8. Stock Legend and Investment Representation. If required by applicable securities laws, all certificates representing Common Stock issued on exercise of an Option shall bear the following legend:

"These securities have not been registered under the Securities Act of 1933. They may not be sold, transferred, pledged or hypothecated in the absence of an effective registration statement under the Act or an opinion from counsel, satisfactory to Continental Illinois Corporation, that registration under the Act is not required."

The Executive hereby agrees that any shares of Common Stock to be issued upon the exercise of Options are to be acquired for investment and not for resale or with a view to the distribution thereof in violation of the Securities Act of 1933 or state securities laws.

Section 9. Assignment. The Options, rights and obligations of the Executive and the obligations of CICorp under this Option Agreement may not be sold, assigned, transferred, pledged or otherwise encumbered or disposed of, except that the Options may be transferred by will or by laws of descent and distribution. During the Executive's lifetime, the Options shall be exercisable only by the Executive or by his guardian or legal representative.

Section 10. Notices. All notices or other communications required or permitted hereunder shall be in writing and shall be delivered in person or mailed, registered mail, return receipt requested, postage prepaid, if to CICorp to Continental Illinois Corporation, 231 South LaSalle Street, Chicago, Illinois 60697, Attention: General Counsel, and if to the Executive, to the

address set forth under his signature below or to such other address as he may specify to CICorp in writing.

Section 11. Complete Agreement. This Option Agreement shall constitute the entire agreement between CICorp and the Executive with respect to the subject matter hereof and shall supersede all previous negotiations, commitments and writings with respect to such subject matter.

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Section 12. Amendment; Waiver. This Option Agreement may not be amended, discharged, released, changed or modified in any manner except by an instrument in writing signed by the Executive and signed on behalf of CICorp by a duly authorized officer. The failure of either party to enforce at any time any of the provisions of this Option Agreement shall in no way be construed as a waiver of any such provision, nor in any way affect the validity of this Option Agreement or any part thereof or the right of either party thereafter to enforce each and every such provision. No waiver of any breach of this Option Agreement shall be held to be a waiver of any other or subsequent breach. The Corporation shall not merge or consolidate with any other corporation without making suitable arrangements for an equitable adjustment to the Options which will preserve the value of the Options to the Executive.

Section 13. Governing Law. This Option Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

IN WITNESS WHEREOF, CICorp and the Executive have entered into this Option Agreement as of the date first above written.

CONTINENTAL ILLINOIS CORPORATION

/s/ JOHN E. SWEARINGEN

By

\_\_\_\_\_  
Chairman of the Board of Directors  
and Chief Executive Officer

/s/ THOMAS C. THEOBALD

\_\_\_\_\_  
THOMAS C. THEOBALD

Address: 860 United Nations Plaza  
New York, New York 10017

Exhibit A

Registration of Common Stock

A. Registration Rights.

(1) As long as CICorp has shares registered pursuant to Section 12(b) or 12(g) of the Securities Exchange Act of 1934, CICorp will, upon request by the Executive, file a registration statement under the Securities Act of 1933 (the "Securities Act") to register such of the shares of its Common Stock which have been or are issuable upon the exercise of Options as requested by the Executive.

(2) If at any time or from time to time CICorp shall determine to file a registration statement under the Securities Act to register any shares of its Common Stock, CICorp will promptly notify the Executive of such determination and give the Executive an opportunity to include the shares of Common Stock which have been or are issuable upon the exercise of Options by the Executive as part of such registration and shall include in such Registration Statement such of these shares as the Executive requests.

B. Registration Procedures. After receipt of a request from the Executive to register shares of Common Stock which have been or are issuable upon the exercise of Options by the Executive, CICorp will, as expeditiously as is reasonable:

(1) Prepare and file with the Securities and Exchange Commission (the "Commission") a registration statement with respect to shares of its Common Stock which have been or are issuable upon the exercise of Options as shall have been requested by the Executive (the "Securities") and use its best efforts to cause such registration statement to become and, subject to Subsection (2), remain effective.

(2) Prepare and file with the Commission such amendments and supplements to such registration statement and the prospectus used in connection therewith as may be necessary to keep such registration statement effective and to comply with the provisions of the Securities Act with respect to the sale or other disposition of all Securities covered by such registration statement whenever the Executive shall desire to sell or otherwise dispose of the same; provided, however, that CICorp shall have no obligation to file any amendment more than 9 months

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after the effective date of such registration statement.

(3) Furnish to the Executive such numbers of copies of preliminary prospectuses and prospectuses and each supplement or amendment thereto and such other documents as the Executive may reasonably request in order to facilitate the sale or other disposition of the Securities owned by the Executive in conformity with (a) the requirements of the Securities Act and (b) the Executive's proposed method of distribution.

(4) Use its best efforts to register or qualify the Securities covered by such registration statement under such other securities or blue sky laws of such jurisdictions within the United States and Puerto Rico as the Executive shall reasonably request, and do such other reasonable acts and things as may be required of it to enable the Executive to consummate the public sale or other disposition in such jurisdictions of the Securities owned by the Executive; provided, that CICorp will not be required to (i) qualify generally to do business in any jurisdiction where it would not otherwise be required to qualify but for this Subsection, or (ii) consent to general service of process in any such jurisdiction except for consents customarily required by state securities commissioners.

(5) Furnish, at the request of the Executive on the date that such shares of Common Stock issued upon the exercise of Options are delivered to the underwriters for sale pursuant to such registration or, if such shares of Common Stock are not being sold through underwriters, on the date that the registration statement with respect to such shares of Common Stock becomes effective, (1) an opinion, dated such date, of the counsel representing CICorp for the purposes of such registration (who may be an employee of CICorp), addressed to the underwriters, if any, and to the Executive, covering such legal matters with respect to the registration in respect of which such opinion is being given as the Executive may reasonably request and are then customarily included in such opinions to underwriters and (2) letters, dated, respectively, (i) the effective date of the registration statement and (ii) the date such Securities are delivered to the underwriters, if any, for sale pursuant to such registration, from a firm of independent certified public accountants of recognized national standing selected by CICorp, addressed to the underwriters, if any, and to the Executive, covering such financial,

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statistical and accounting matters with respect to the registration in respect of which such letters are being given as the Executive may reasonably request and are customarily included in such letters.

(6) Otherwise use its best efforts to comply with all applicable rules and regulations of the Commission, and make available to its securities holders, as soon as reasonably practicable, an earnings statement covering the period of at least 12 months, but not more than 18 months, beginning with the first month after the effective date of the registration statement, which earnings statement shall satisfy the provisions of Section 11(a) of the Securities Act and the rules and regulations of the Commission thereunder (including at the option of Company, Rule 158).

C. Expenses; Limitations on Registration. All expenses incurred in the registration of the Securities including, without limitation, all registration and filing fees (including all expenses incident to filing with the National Association of Securities Dealers, Inc.), printing expenses, legal fees and disbursements of counsel for CICorp, expenses of any special audits incident to or required by any such registration and expenses of complying with the securities or blue sky laws of any jurisdictions pursuant to Subsection 4 of Section B, shall be paid by CICorp, except that

(1) CICorp shall not be liable for the legal fees and disbursements of counsel for the Executive; and

(2) CICorp shall not be liable for any discounts or commissions to any underwriter or any fees or disbursements of counsel for any underwriter in respect of the Securities sold by the Executive.

It shall be a condition precedent to the obligation of CICorp to take any action to register the shares of Common Stock of the Executive which are received upon the exercise of Options that (i) CICorp shall have received an undertaking satisfactory to it from the Executive to pay all expenses to be incurred by or for the account of and required to be paid by the Executive, and (ii) the Executive shall furnish to CICorp such information regarding such Securities and the intended method of disposition thereof as CICorp shall reasonably request and as shall be required in connection with the action taken by CICorp.

D. Indemnification.

(1) In the event of any registration of any shares of Common Stock issuable upon the exercise of

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Options under the Securities Act pursuant to this Exhibit A, CICorp shall indemnify and hold harmless the Executive against any losses, claims, damages or liabilities, joint or several, to which the Executive may become subject under the Securities Act or any other statute or at common law, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon (i) any untrue statement or alleged untrue statement of any material fact contained, on the effective date thereof, in any registration statement under which such Securities were registered under the Securities Act, any preliminary prospectus or final prospectus contained therein, or any amendment or supplement thereto, or (ii) any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, and shall reimburse the Executive for legal or any other expenses reasonably incurred by the Executive in connection with investigating or defending any such loss, claim, damage, liability or action; provided, however, that CICorp shall not be liable in any such case to the extent that any such loss, claim, damage or liability arises out of or is based upon any untrue statement or alleged untrue statement or omission or alleged omission made in such registration statement, preliminary prospectus, prospectus, or amendment or supplement in reliance upon and in conformity with written information furnished to CICorp through an instrument duly executed by or on behalf of the Executive stating that it is specifically for use therein. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of the Executive and shall survive the transfer of such Securities by the Executive.

(2) The Executive, by including shares of Common Stock issuable upon the exercise of Options in a registration statement, shall agree to indemnify and hold harmless CICorp, its directors and officers and each other person, if any, who controls CICorp against any losses, claims, damages or liabilities, joint or several, to which CICorp or any director or officer or any such person may become subject under the Securities Act or any other statute or at common law, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon (i) the disposition by the Executive of any shares of Common Stock issued upon the exercise of Options in violation of the provisions or the conditions in this Exhibit A, or (ii) any untrue statement or alleged untrue statement of any material



fact contained, on the effective date thereof, in any registration statement under which Securities were registered under the Securities Act at the request of the Executive, any preliminary prospectus or final prospectus contained therein, or any amendment or supplement thereto, any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, in each case to the extent, but only to the extent, that such untrue statement or alleged untrue statement or omission or alleged omission was made in such registration statement, preliminary prospectus, prospectus, amendment or supplement in reliance upon and in conformity with written information furnished to CICorp through an instrument duly executed by or on behalf of such Executive specifically stating it is for use therein, and shall reimburse CICorp or such director, officer or other person for any legal or any other expenses reasonably incurred in connection with investigating or defending any such loss, claim, damage, liability or action.

(3) Indemnification similar to that specified in Subsections (1) and (2) of this Section D shall be given by CICorp and the Executive registering shares of Common Stock issued upon the exercise of Options with respect to any required registration or other qualification of such shares of Common Stock under any federal or state securities or blue sky or other law or regulation of governmental authority other than the Securities Act.

(4) Promptly after receipt by any person of notice of the commencement of any action in respect of which indemnity may be sought pursuant to this Section D, such person (the "indemnified party") will notify each party against whom indemnity may be sought (the "indemnifying party") in writing of the commencement thereof, and subject to the provisions hereinafter stated, the indemnifying party shall assume the defense of such action, including (i) the employment of counsel (who shall be counsel satisfactory to the indemnified party) and (ii) the payment of expenses, insofar as such action shall relate to any liability or alleged liability in respect of which indemnity may be sought against the indemnifying party hereunder, and (iii) the right to negotiate and effectuate the settlement of such actions. Any indemnified party shall have the right to employ separate counsel in any such action and participate in the defense thereof, but the fees and expenses of such counsel shall not be at the expense of the indemnifying party unless the employment of

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such counsel has been specifically authorized by the indemnifying party or unless the named parties in any such proceeding (including any impleaded parties) include both the indemnifying party and the indemnified party and representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them (in which case the indemnifying party shall not have the right to direct the defense of such action on behalf of the indemnified party). It is understood that the indemnifying party shall not, in connection with any proceeding or related proceedings in the same jurisdiction, be liable for the reasonable fees and disbursements of more than one separate firm for all such indemnified parties. The indemnifying party shall not be liable to indemnify any person for any settlement of any such action effected without the consent of the indemnifying party. Failure by any indemnified party to promptly notify an indemnifying party of the commencement of any action in respect of which indemnity may be sought shall not result in such indemnified party not being entitled to indemnification pursuant to this Section D unless such failure to give prompt notice results in any adverse impact on the indemnifying party's ability to defend such action.

(5) The fact that indemnification is not available pursuant to this Section D shall not affect any other right to indemnification which may otherwise exist.

CONTINENTAL BANK CORPORATION  
1991 EQUITY PERFORMANCE INCENTIVE PLAN

1. Purpose. The purpose of this Plan is to promote the long-term financial interests of the Company by (i) rewarding key employees of the Company or one or more of its Affiliates for their contributions to the success of the Company; (ii) attracting and encouraging long service by key employees possessing outstanding abilities; (iii) providing key employees with additional incentives in the form of Incentive Stock Options, Non-Qualified Stock Options, Stock Appreciation Rights and Restricted Stock Units; and (iv) furthering the identity of interests of key employees with those of the Company's stockholders through opportunities for increased stock ownership and awards based on corporate stock performance.

2. Definitions.

"Affiliate" means a corporation, partnership, joint venture or other entity in which the Company has an ownership interest.

"Award" means an award of Incentive Stock Options, Non-Qualified Stock Options, Stock Appreciation Rights, Restricted Stock or Restricted Stock Units under the Plan.

"Award Agreement" means an agreement entered into between the Company and a Participant, setting forth the terms and conditions applicable to an award granted to the Participant.

"Board of Directors" or "Board" means the Board of Directors of the Company.

"Code" means the Internal Revenue Code of 1986, as amended from time to time, and any successor statute.

"Committee" means the Human Resources Committee of the Board of Directors, or such other committee as may be designated by the Board of Directors and so constituted as to permit the Plan to comply with Rule 16b-3 under the Exchange Act or any successor rule or regulation.

"Common Stock" means the Company's common stock, \$4.00 par value per share.

"Company" means Continental Bank Corporation, a Delaware corporation.

"Exchange Act" means the Securities Exchange Act of 1934, as amended from time to time, and any successor statute.

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"Fair Market Value" means, as of any given date, the mean of the highest and lowest market prices of the Common Stock, or other security for which Fair Market Value is being determined, as reported on the composite tape of New York Stock Exchange issues (or such other reporting system as shall be selected by the Committee) on such date or, if no sale of Common Stock or such other security is reported for such date, the next preceding day for which there was a reported sale. If such Common Stock or other security is not traded on the New York Stock Exchange, the Fair Market Value shall be such amount as shall be reasonably determined by the Committee.

"Incentive Stock Option" means any Stock Option intended to meet the requirements of an "incentive stock option" within the meaning of Section 422 of the Code, or any successor Code section.

"Non-Qualified Stock Option" means any Stock Option that is not an Incentive Stock Option.

"Participant" means an employee of the Company or its Affiliates who is designated as a Participant in the Plan by the Committee pursuant to Section 4 below.

"Plan" means the Continental Bank Corporation 1991 Equity Performance Incentive Plan, as set forth herein and as amended from time to time.

"Restricted Stock" means Common Stock which has been awarded to a Participant subject to the restrictions referred to in Section 9 below, so long as such restrictions are in effect.

"Restricted Stock Unit" means a right to receive a payment determined by the price of Common Stock as described in Section 10 below.

"Stock Appreciation Right" means a right to receive a payment determined by the appreciation in Common Stock as described in Section 8 below.

"Stock Option" or "Option" means a right to purchase shares of Common Stock (including Restricted Stock, if the Committee so determines) as described in Section 7 below.

3. Administration. The Plan and all Awards granted pursuant thereto shall be administered, construed and interpreted by the Committee. The decision of a majority of the members of the Committee voting shall constitute

the decision of the Committee and the Committee may act either at a meeting at which a majority of the members of the Committee is present, or by writing signed by all members of the Committee. The Committee shall have the sole, final and conclusive authority to interpret the Plan and all Awards granted pursuant thereto.

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Notwithstanding the foregoing provisions of this Section 3, and subject to the restrictions set forth in Section 14 below, the Committee may delegate to the Chairman or, except as to the issuance of Common Stock, the Chief Human Resources Officer of the Company any or all authority otherwise delegated to the Committee under the Plan with respect to granting Awards to or administering Awards granted to, or held by, persons who, at the time such authority is exercised, are not subject to Section 16(a) or Section 16(b) of the Exchange Act.

4. Participation. The Committee shall, from time to time, determine and designate the key employees of the Company or its Affiliates (any of whom may be members of the Board of Directors) who shall be Participants in the Plan and the types, terms and size of Awards to be made to each such Participant. Any such Award may be granted singly or in combination or in tandem with other Awards and may be made in tandem with or in lieu of current or deferred compensation and may be conditioned on a Participant's purchase and/or retention of shares of Common Stock, all as the Committee may determine.

5. Stock Subject to Plan. Shares of stock subject to the Plan shall be shares of the Company's Common Stock. Subject to adjustment as provided in Section 12 below, the aggregate number of shares of Common Stock with respect to which Awards may be granted under the Plan shall not exceed 3,500,000 shares. The grant of an Award shall be deemed to be a grant of shares equal to the greater of the number of shares that may be issued under the Award or the number of shares on the basis of which the Award is calculated. To the extent that any Award terminates by expiration, cancellation, forfeiture, surrender or otherwise (other than by reason of the exercise of an Award granted in tandem therewith) without the issuance of shares or without payment therefor or, in the case of Restricted Stock, without vesting, any shares subject to such Award or on the basis of which such Award would have been calculated shall again be available for future Awards. Either authorized and unissued shares or treasury shares may be used for Plan purposes; provided, however, that unissued shares shall not be awarded to any Participant who has been employed by the Company or its Affiliates for less than one year, unless the Committee expressly determines, after consideration of all other remuneration paid or payable to the Participant, that the services already rendered to the Company and its Affiliates by the Participant for which the Participant is being granted the Award have a value of not less than the

par value of the shares being awarded.

6. Award Agreement. Each Award under this Plan shall be evidenced by an Award Agreement which shall include provisions governing the disposition of the Award in the event of retirement, disability, death or other termination of a Participant's employment by or relationship to the Company or

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any of its Affiliates, and such other terms and conditions, including the criteria for determining vesting of Awards and the amount or value of Awards, as the Committee shall deem necessary and appropriate to effect an Award Agreement with the Participant to whom the Award is granted.

7. Options. Each Option shall entitle the Participant to whom it is granted the right to purchase a specified number of shares of Common Stock (including Restricted Stock, if the Committee so determines) at a fixed price subject to the following terms and conditions, and to such other terms and conditions not inconsistent with the Plan as shall be prescribed by the Committee in its sole discretion:

(a) Option Price. The price at which a share of Common Stock may be purchased pursuant to the exercise of an Option shall be determined by the Committee at the time such Option is granted, but shall not be less than the greater of (i) the Fair Market Value of a share of Common Stock on the date of grant or (ii) the par value of the Common Stock.

(b) Exercisability of Option. An Option or any part thereof shall become exercisable at such date or dates as shall be fixed by the Committee at the time such Option is granted or at such earlier time as may subsequently be determined by the Committee but in no event earlier than six months after the date of grant. Options shall be exercised in whole or in part by written notice to the Company and payment in full of the option price. Payment of the option price may be made, at the discretion of the optionee, and to the extent permitted by the Committee, (A) in cash (including check, bank draft, or money order), (B) in Common Stock (valued at the Fair Market Value thereof on the date of exercise), (C) by a combination of cash and Common Stock or (D) with any other consideration (including payment in accordance with a cashless exercise program under which, if so instructed by the Participant, shares of Common Stock may be issued directly to the Participant's broker or dealer upon receipt of the option price in cash from the broker or dealer).

(c) Termination of Option. An Option shall terminate as

determined by the Committee at the time such Option is granted; provided, however, no Option shall be exercisable after the expiration of ten years from the date such Option is granted.

(d) Limitation on Amount of Incentive Stock Options. The aggregate Fair Market Value (determined at the time the Option is granted) of the shares with

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respect to which Incentive Stock Options are exercisable for the first time by any Participant in any calendar year under this Plan and each other stock option plan of the Company and any "parent" and "subsidiary" corporations (as those terms are defined in Sections 424(e) and 424(f) of the Code, respectively, or any successor Code section) shall not exceed \$100,000.

8. Stock Appreciation Rights. Each Stock Appreciation Right shall entitle the Participant to whom it is granted to receive, upon exercise of the Stock Appreciation Right (or of both the Stock Appreciation Right and the related Option, or of a portion of either, in the case of a Stock Appreciation Right granted in tandem with all or a portion of a related Stock Option), without any payment of cash (except for applicable employee withholding taxes), that number of shares of Common Stock (including Restricted Stock, if the Committee so determines) having an aggregate Fair Market Value on the date of exercise equal to the excess of the aggregate Fair Market Value on the exercise date of the shares of Common Stock for which the Stock Appreciation Right is exercised, over the exercise price of such right, which price shall be not less than the Fair Market Value of such shares on the date the right was granted (or, in the case of a right granted in tandem with an Option, the option price the Participant would otherwise have been required to pay for such shares). Each Stock Appreciation Right shall be subject to the terms and conditions set forth in this Section 8 and to such other terms and conditions not inconsistent with the Plan as shall be specified in a related Award Agreement, including, but not limited to, limitations on the period or periods within which the Stock Appreciation Right shall be exercisable and any restrictions as to the amount of appreciation that may be recognized upon exercise of such Stock Appreciation Right. No Stock Appreciation Right shall become exercisable prior to six months after the date of grant. A Stock Appreciation Right granted in tandem with all or a portion of a related Stock Option may be granted either at the time of the grant of the related Option or, unless the related Option is an Incentive Stock Option, at any time thereafter during the term of the Option and shall be exercisable only to the extent that the related Option is exercisable. The Company may (if the Committee so determines) settle all or part of the Company's obligation arising out of the exercise of a Stock Appreciation Right by the payment of cash equal to the

aggregate Fair Market Value of the shares of Common Stock the Company would otherwise be obligated to deliver.

9. Restricted Stock. Restricted Stock is Common Stock that is subject to forfeiture, restrictions on transfer and/or such other restrictions on incidents of ownership, as the Committee may determine. A Restricted Stock Award shall entitle the Participant to whom it is granted to receive, on the date or

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dates designated in the Award Agreement, subject to such terms and conditions as the Committee may determine, the number of shares of Common Stock specified in the Award Agreement and shall require no payment of consideration by the Participant, either on the date of grant or the date the restrictions are removed, unless specifically required by the terms of the Award Agreement. The Committee in its sole discretion may specify at the time a Restricted Stock Award is granted that the recipient thereof is entitled to receive, currently or on a deferred basis, interest or dividends or interest or dividend equivalents with respect to the number of shares covered by the Award, and the Committee may specify that such amounts (if any) shall be deemed to have been reinvested in additional Common Stock or otherwise reinvested.

10. Restricted Stock Units. Each Restricted Stock Unit shall entitle the Participant to whom it is awarded to receive from the Company upon its surrender, on or as soon as practicable after the date designated in the Award Agreement, a payment, subject to such terms and conditions as the Committee may determine (including those related to the form of such payment), equal to the Fair Market Value of a share of Common Stock on the date the restrictions lapse. The Committee in its sole discretion may specify at the time a Restricted Stock Unit is awarded that the recipient thereof is entitled to receive, currently or on a deferred basis, interest or dividends or interest or dividend equivalents with respect to the number of shares covered by the Award, and the Committee may specify that such amounts (if any) shall be deemed to have been reinvested in Common Stock or otherwise reinvested.

11. Compliance With Applicable Laws. Notwithstanding any other provisions of the Plan, the Committee may subject shares of Common Stock (including Restricted Stock) awarded under the Plan to such conditions, limitations or restrictions as the Committee determines to be necessary or desirable to comply with any law or regulation or with the requirements of any securities exchange.

12. Changes in Capitalization, Similar Changes and Changes in Control. In the event of any change in the outstanding shares of Common Stock by reason of any stock dividend or split, recapitalization, merger,



reorganization (including, but not limited to, any spinoff, extraordinary dividend or other distribution), consolidation, combination or exchange of shares or other similar corporate change, the maximum aggregate number and class of shares with respect to which Awards may be granted under the Plan and (where applicable) the exercise or purchase price of and the number and class of shares covered by outstanding Awards shall be equitably adjusted by the Committee. Such determination of the Committee shall be conclusive; provided that in no event shall the Committee adjust the exercise or purchase price for an Award under which shares may

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be issued to a price less than the par value of the stock on the date of the adjustment. Furthermore, if there is an adjustment in the number of shares, no fraction of a share (or, if applicable, fraction of one cent) shall be delivered with respect to any Restricted Stock or upon any exercise of any other Award and, if an adjustment of the exercise or purchase price shall result in a fraction of one cent, a full cent shall be included in such price in lieu of such fraction. Any shares of stock or other securities received by a Participant with respect to Restricted Stock in connection with such an adjustment shall be subject to the same restrictions as was the Restricted Stock at the time of the adjustment. If the Company shall be consolidated or merged with another corporation, any stock, securities or other property which any Participant is entitled to receive by reason of such Participant's ownership of the shares of Restricted Stock shall be deposited with the Company or its successor. Subject to the provisions of Section 9 above, such stock, securities or other property shall also be subject to the same restrictions as such Restricted Stock, and shall bear an appropriate legend with respect thereto. Notwithstanding the foregoing provisions of this Section 12 or any other provision of the Plan, other than Section 14, the Committee may, in its sole discretion, at the time of granting any Award under the Plan or at any time thereafter, provide for the acceleration of vesting or the modification of any other terms of such Award in the event of a change in control of the Company and may establish the conditions under which such a change in control will be deemed to have occurred.

13. Employees' and Participants' Rights. Notwithstanding any other provision of the Plan:

(a) No Right to Receive Award. No employee of the Company or any Affiliate or other person shall have any claim or right to receive an Award under the Plan except as the Committee (or, if authority is delegated as provided in Section 3, the Chairman or the Chief Human Resources Officer) shall have conferred in its discretion in the administration of the Plan.

(b) No Right to Continued Employment. Participation in the Plan shall not confer upon any Participant any right with respect to continuation of employment by the Company or any Affiliate, nor interfere with the right of the Company or such Affiliate to terminate at any time employment of any Participant.

(c) Rights as a Stockholder. A Participant shall have no rights as a stockholder with respect to any shares covered by an Award until the date the

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Participant or the Participant's nominee becomes the stockholder of record of the shares. No adjustment shall be made for dividends or other rights for which the record date is prior to the date the Participant or the Participant's nominee becomes the stockholder of record of the shares, unless the Award Agreement specifically requires such adjustment.

(d) Withholding. Except as otherwise provided by the Committee, the deduction of withholding and any other taxes required by law will be made from all amounts paid in cash. In the case of payments of Awards in shares of Common Stock, the Participant shall be required to pay the amount of any taxes required to be withheld prior to receipt of such stock; provided, however, that the Committee may permit the withholding obligation to be met in whole or in part by withholding a number of shares otherwise deliverable under the Award, the Fair Market Value of which equals the amount required to be withheld.

(e) Non-Assignability. An Award shall not be assignable or transferable except by will or by the laws of descent and distribution or pursuant to a qualified domestic relations order as defined by the Code or Title I of the Employees Retirement Income Security Act, or the rules thereunder (but only if permitting such transfer will not affect the status of the Award under the Code).

14. Amendment and Termination. The Board of Directors may amend, suspend or terminate the Plan or any portion thereof at any time; provided, however, that no such amendment, suspension or termination shall impair the rights of Participants with respect to any outstanding Awards. Notwithstanding any other provision of the Plan to the contrary, the Committee may amend the Plan to the extent necessary for the efficient administration of the Plan, or to make it practically workable or to conform to the provisions of any federal or state law or regulation. Notwithstanding the foregoing provisions of this Section 14, in no event shall any amendment be made without stockholder

approval, as long as such approval is required by Rule 16b-3 of the Exchange Act or by the rules of the New York Stock Exchange, which shall:

(a) increase the total number of shares with respect to which Awards may be granted under Section 5 of the Plan (subject to adjustment in accordance with Section 12 above);

(b) reduce the option price under any Option below the Fair Market Value of the stock subject to the Option determined as of the date of grant;

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(c) materially modify the requirements as to eligibility for participation in the Plan; or

(d) withdraw the administration of the Plan from the Committee.

The Plan shall terminate automatically on February 25, 2001, except as to outstanding Awards.

15. Effective Date. This Plan shall be effective as of February 25, 1991 subject to the approval by the affirmative vote of a majority of the shares present or represented by proxy at the Annual Meeting of Stockholders to be held on April 22, 1991 or any adjournment thereof and any necessary regulatory approval. All Awards are subject to such approval and, notwithstanding any other provision of the Plan, if any such approval is not obtained, all such Awards as well as dividends paid or payable with respect to such Awards shall be forfeited.

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CONTINENTAL EMPLOYEES  
SAVINGS INCENTIVE PLAN

(As Amended and Restated Effective January 1, 1989)

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CONTINENTAL EMPLOYEES  
SAVINGS INCENTIVE PLAN

SECTION 1

General

1.1. General. Effective January 1, 1980, Continental Illinois Corporation ("CICorp") established the Continental Illinois Employees Cash and Deferred Profit Sharing Plan and Trust (the "Cash and Deferred Plan and Trust"). The Cash and Deferred Plan and Trust were amended and restated effective July 1, 1985 as the Continental Illinois Employees Savings Incentive Plan and Trust, (the "Plan" and "Trust") a profit sharing plan that includes a cash or deferred arrangement and related trust.

On December 11, 1988, CICorp became Continental Bank Corporation (the "Company" or "CBC"). The Plan and Trust have been amended from time to time. The Company has determined that the Plan and Trust document should be amended and restated as two separate documents, one embodying the Plan, and the other the Trust. The following provisions constitute an amendment, restatement and continuation of the Plan as in effect immediately prior to January 1, 1989, the "Effective Date" of the Plan as set forth herein, which on and after the Effective Date shall be known as the Continental Employees Savings Incentive Plan. The Plan is intended to qualify as a profit sharing plan with a cash or deferred arrangement under sections 401(a) and 401(k) of the Internal Revenue Code of 1986, as amended (the "Code").

1.2. Related Companies and Employers. The term "Related Company" means any corporation or trade or business during any period during which it is, along with the Company, a member of a controlled group of corporations or a controlled group of trades or businesses, as described in sections 414(b) and 414(c), respectively, of the Code. The Company and each Related Company, that has been designated by the Chairman of CBC as having adopted the Plan are referred to below collectively as the "Employers" and individually as an "Employer". Appendix A to the Plan lists the Employers.

1.3. Trust Agreement, Plan Administration. All contributions made under the Plan will be held, managed and controlled by one or more trustees (the "Trustee") acting under a trust (the "Trust" or "Trust Agreement") which forms a part of the Plan. The authority to control and manage the operation and

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administration of the Plan is vested in a Committee described in subsection 12.1. The members of the Committee shall be "named fiduciaries", as described in section 402 of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), with respect to their authority under the Plan. The Administrator of the Plan shall be selected by the Committee described in Section 12, and except as otherwise expressly provided therein, shall have the rights, duties and obligations of an "administrator" as that term is defined in section 3(16)(A) of ERISA and of a "plan administrator" as that term is defined in section 414(g) of the Code.

1.4. Plan Year. The term "Plan Year" means the twelve-consecutive-month period beginning on each January 1.

1.5. Accounting Dates. The term "Accounting Date" means the last day of each calendar quarter, provided, however, that effective January 1, 1990, the term Accounting Date means the last day of each month, and for all Plan Years means any other date that may be designated by the Committee as an Accounting Date.

1.6. Applicable Laws. The Plan shall be construed and administered in accordance with the internal laws of the State of Illinois to the extent that such laws are not preempted by the laws of the United States of America.

1.7. Gender and Number. Where the context admits, words in any gender shall include any other gender, words in the singular shall include the plural and the plural shall include the singular.

1.8. Notices. Any notice or document required to be filed with the Committee under the Plan will be properly filed if delivered or mailed by registered mail, postage prepaid, to the Committee, in care of the Company, at its principal executive offices. Any notice required under the Plan may be waived by the person entitled to notice.

1.9. Form and Time of Elections. Unless otherwise specified herein, each election permitted to be made by any Member or other person entitled to benefits under the Plan, and any permitted modification or revocation thereof, shall be (a) in writing filed with the Committee at such times and in such form as the Committee shall require, or (b) to the extent permitted by the Committee under uniform and nondiscriminatory rules and regulations, under the Company's "Benefits Express Automated System".

1.10. Evidence. Evidence required of anyone under the Plan may be by certificate, affidavit, document or other information which the person acting on it considers pertinent and reliable, and signed, made or presented by the proper party or parties.

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1.11. Action by Company and Employers. Except to the extent that the provisions of the Plan require that the Company or an Employer act by resolution of its Board of Directors, or a committee thereof, any action required or permitted to be taken by the Company or an Employer may be taken on its behalf by the Chairman of CBC or his delegate.

1.12. No Reversion to Employers. No part of the corpus or income of the Trust shall revert to any Employer or be used for, or diverted to, purposes

other than for the exclusive benefit of Members and other persons entitled to benefits under the Plan, except as specifically provided in the Trust Agreement.

1.13. Plan Supplements. The provisions of the Plan as applied to any Employer or any group of employees of any Employer may, with the consent of the Company, be modified or supplemented from time to time by the adoption of one or more Supplements. Each Supplement shall form a part of the Plan as of the Supplement's effective date. In the event of any inconsistency between a Supplement and the Plan document, the terms of the Supplement shall govern.

1.14. Defined Terms. Terms used frequently with the same meaning are indicated by initial capital letters, and are defined throughout the Plan. Appendix B to the Plan contains an alphabetical listing of all such terms and the subsections in which they are defined.

## SECTION 2

### Participation in Plan

2.1. Eligibility for Participation. Subject to the conditions and limitations of the Plan, each individual who was a Member in the Plan immediately prior to the Effective Date shall continue as such on and after that date, and each employee of an Employer who was not a Member in the Plan immediately prior to the Effective Date shall become a Member in the Plan on the first day of the first calendar quarter (the "Entry Date") coincident with or next following the date on which

- (a) he has completed one Year of Service and is an Eligible Employee, as defined at subsection 2.2 or, effective July 1, 1992 he is an Eligible Employee, and
- (b) he has elected in accordance with subsection 2.3 to participate in the Plan.

2.2. Eligible Employees and Excluded Employees. Each employee of an Employer shall be an Eligible Employee, unless

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such employee is an Excluded Employee. The following classes of employees shall be Excluded Employees:

- (a) persons who are members of a collective bargaining unit as to which retirement benefits have been the subject of good faith bargaining unless the Plan has been extended to the collective bargaining unit under a currently effective collective bargaining agreement;
- (b) persons whose compensation is on a per diem or hourly basis; and
- (c) persons who are employed by a branch or other subdivision of an Employer located outside of the United States and who are not compensated from United States sources.

An employee who transfers from salaried to hourly-paid status will, as of the date of transfer, become an Excluded Employee. An individual who transfers from hourly-paid to salaried status will become an Eligible Employee as of the date of transfer (or, for periods prior to July 1, 1992, after completion of one Year of Service from his initial date of hire.)

2.3. Election to Participate. To become a Member, an Eligible Employee must file with the Employer a written application to participate in the Plan, on such form or forms and at such times as prescribed by the Committee, which application shall include (a) a "Pre-tax Contribution agreement" between the Eligible Employee and the Employer whereby he elects to reduce his Salary (as defined in subsection 4.4) to which he is thereafter entitled by an amount permitted under subsection 4.1, and otherwise in accordance with Section 4, and the Employer agrees to contribute such amount to the Plan on his behalf, and (b) an authorization by the Eligible Employee for the Employer to make regular payroll deductions of the amounts elected by him pursuant to such Pre-tax Contribution agreement. Any form that the Committee is required to provide shall be provided on or before the Entry Date on which the Eligible Employee is to become a Member and such election, if made in



accordance with Committee requirements, shall take effect as of the first payroll date following such Entry Date. An election made under this subsection 2.3 shall remain in effect until such time as a subsequent election is made under subsection 4.3.

2.4. Inactive Participation. Once an employee becomes a Member in the Plan, he will remain a Member as long as he continues to have an Account balance under the Plan for all purposes under the Plan except for, in the case of an individual who ceases to satisfy the requirement of subsection 2.1, the contribution provisions of Sections 4 and 5.

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2.5. Plan Not Contract of Employment. The Plan does not constitute a contract of employment, and participation in the Plan will not give any employee or Member the right to be retained in the employ of any Employer nor any right or claim to any benefit under the Plan, unless such right or claim has specifically accrued under the terms of the Plan.

2.6. Leased Employees. If a person satisfies the requirements of section 414(n) of the Code and applicable Treasury regulations for treatment as a "Leased Employee", such Leased Employee shall not be eligible to participate in this Plan or in any other plan maintained by an Employer or a Related Company which is qualified under section 401(a) of the Code, but, to the extent required by section 414(n) of the Code and applicable Treasury regulations, such person shall be treated as if the services performed by him in such capacity were performed by him as an employee of a Related Company which has not adopted the Plan; provided, however, that no such service shall be credited:

- (a) for any period during which not more than 20 percent of the Non-highly Compensated workforce of the Employers and the Related Companies consists of Leased Employees and the Leased Employee is a member in a money purchase pension plan maintained by the leasing organization which (i) provides for a nonintegrated employer contribution of at least 10 percent of compensation, (ii) provides for full and immediate vesting, and (iii) covers all employees of the leasing organization (beginning with the date they become employees), other than those employees excluded under section 414(n) (5) of the Code; or
- (b) for any other period unless the Leased Employee provides satisfactory evidence to the Employer or Related Company that he meets all of the conditions of this subsection 2.6 and applicable law required for treatment as a Leased Employee.

For purposes of paragraph (a) above, "Highly Compensated" shall have the meaning set forth in subsection 8.12.

### SECTION 3

#### Service

3.1. Years of Service. The term "Years of Service" means, with respect to any employee, the number of years, computed to fractional portions thereof, elapsed since the first date for which he was paid, or entitled to payment, for the performance of

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duties for an Employer or a Related Company, subject to the following:

- (a) if an employee's employment with the Employers and the Related Companies is terminated and he incurs a One Year Break in Service (as defined in subsection 3.3), he shall not be credited with service for the period between the date his employment is terminated and the date, if any, of his reemployment by an Employer or a Related Company;
- (b) if and to the extent that the Company so provides, the last

continuous period of employment of an individual with any corporation or other organization which is merged or consolidated with, or all or substantially all of the assets or common capital stock of which are otherwise acquired by, a Related Company will be considered a period of service with a Related Company if, concurrently with or immediately following such merger, consolidation or acquisition, such individual is employed by a Related Company; and

- (c) Years of Service shall include the period of time during which an individual is on a Leave of Absence.

3.2. Leave of Absence. "Leave of Absence" means:

- (i) subject to subsection 3.3, absence from active employment with a Related Company under conditions that, under uniform rules adopted by the Committee, is not treated as a termination of employment; or
- (ii) a leave of absence required by law or granted by a Related Company for military or governmental service, meaning thereby service in the armed forces of the United States during a period of national emergency or time of war, any governmental service pursuant to any national conscription law of the United States and any governmental service that the Committee by rules and regulations from time to time may specify as military or governmental service plus, in any case, an additional period of 90 days after separation or discharge from such service, provided that such additional period shall terminate forthwith in the case of any individual accepting permanent employment elsewhere than with a Related Company.

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3.3. One Year Break in Service. The term "One Year Break in Service" means, with respect to any employee, the 12-consecutive-month period commencing on a Termination Date (as defined in subsection 9.2) if he is not paid or entitled to payment for the performance of duties for the Employer or a Related Company during that 12-consecutive-month period. For purposes of determining whether a One Year Break in Service has occurred, an employee who is absent from service beyond the first anniversary of the date on which his Maternity or Paternity Absence began, shall be deemed to have incurred a Termination Date on the second anniversary of the date on which the Maternity or Paternity Absence began, subject to subsection 3.2. The Committee may require the employee to furnish such information as it considers necessary to establish that such individual's absence was a Maternity or Paternity Absence. The term "Maternity or Paternity Absence" means an employee's absence from work because of the pregnancy of such individual, the birth of a child of such individual, the placement of a child with such individual in connection with the adoption of a child by such individual, or for purposes of caring for the child by such individual immediately following such birth or placement.

#### SECTION 4

##### Member Contributions

4.1. Pre-Tax Contributions. Subject to the limitations set forth in subsection 4.5 and Section 8, and such additional rules as the Committee may establish on a uniform and nondiscriminatory basis, for each payroll period, the Employer shall contribute to the Plan on behalf of each Member an amount, in any multiple of one percent (1 percent), of not less than one percent (1 percent) nor greater than fifteen percent (15 percent) of his Salary (as defined in subsection 4.5) for such payroll period (such contributions being referred to herein as "Pre-tax Contributions") as elected by the Member and designated in the Pre-tax Contribution agreement entered into between the Member and the Employer, described in subsection 2.3.

4.2. Payment of Pre-Tax Contributions. Pre-tax Contributions shall be paid to the Trustee by the Employer on the earliest date on which such contributions can reasonably be segregated from the Employer's general assets, but not later than 90 days after the date on which such amounts would otherwise have been payable to the Member.

4.3. Variation, Discontinuance or Resumption of Pre-tax Contributions. Subject to such rules and restrictions as the

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Committee may establish on a uniform and nondiscriminatory basis, a Member may elect to change his contribution rate (but not retroactively) within the limits specified in subsection 4.1, to discontinue making contributions or to resume contributions.

4.4. Salary. For purposes of this Section 4 and Section 5, a Member's Salary shall mean his basic salary or wages (unreduced by any amounts by which his base salary is reduced pursuant to any Pre-tax Contribution agreement or other salary reduction agreement with an Employer) paid to an employee by an Employer during the Plan Year or portion thereof during which he is an Eligible Employee, excluding payments (after the first six months of payments) under the provisions of the Continental Employees Disability Income Program and excluding any other additional compensation, such as overtime pay, shift differential, incentive compensation, bonuses and cash awards.

4.5. Limitation on the Amount of Salary Taken Into Account For Any Plan Year. Notwithstanding any other provision of the Plan to the contrary, effective for Plan Years beginning after 1988 the amount of Salary that may be taken into account under the Plan for any Plan Year for purposes of applying the annual percentage limitations of subsections 4.1 and 5.1 shall not exceed (i) for each Plan Year beginning after 1988 and before January 1, 1994, \$200,000 or such other amount as may be permitted for any year under section 401(a)(17) or any successor thereto of the Code, and (ii) for each Plan Year beginning on or after January 1, 1994, \$150,000 or such other amount as may be permitted under Code Section 401(a)(17) or any successor thereto; taking into account for purposes of such limitation any proration required in situations where "family members" (as defined in sections 401(a)(17) and 414(q)(6) of the Code) and their Salaries must be aggregated, or where Salary is computed with respect to a period less than a full year (other than on account of mid-year commencement or cessation of active participation in the Plan).

4.6. Rollover Contributions. An Eligible Employee may, with the consent of the Committee, make a Rollover Contribution (as defined below) to the Plan. The term "Rollover Contribution" means

- (a) a cash contribution to the Plan by the Eligible Employee of amounts distributed from a qualified plan described in section 401(a) of the Code (or distributed from an individual retirement account and constituting a "rollover contribution" as described in Code section 408(d)(3)) and made within 60 days of receipt of such amount, or
- (b) effective January 1, 1993, a cash payment made to the Plan by another qualified plan described in section

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401(a) of the Code as a direct rollover (as contemplated under Code section 401(a)(31)) on behalf of and at the direction of the Eligible Employee,

provided such distributed or directly rolled over amounts are permitted to be rolled over to a qualified plan under applicable provisions of the Code as then in effect. The Committee may request from the Eligible Employee such documents as it considers necessary or desirable to establish that the Rollover Contribution satisfies the foregoing requirements. If an Eligible Employee who is not otherwise a Member makes a Rollover Contribution to the Plan, he shall be treated as a Member only with respect to his Rollover Contribution Account (defined in subsection 7.1(b)) until he has met all of the requirements for Plan participation set forth in subsections 2.1 and 2.3. The portion of a Member's interest under the Plan which is attributable to his Rollover Contributions shall be fully vested and nonforfeitable at all times.

## SECTION 5

### Matching Contributions

5.1. Matching Contributions. Subject to the conditions and limitations of subsection 4.5 and Section 8:

(a) Basic Employer Matching Contributions.

- (i) For each Plan quarter, the Employer shall contribute to the Plan on behalf of each Member who completed at least one Year of Service prior to the date such quarter commenced an amount equal to 50 percent of that portion of the aggregate amount of Pre-tax Contributions contributed by the Employer to the Plan on behalf of such Member for that Plan quarter that does not exceed 4 percent of his Salary for that quarter. All such matching contributions shall be credited to the Member's Savings Incentive Account. Effective May 1, 1990, however, such contributions shall be made as of each monthly Accounting Date with respect to Members whose employment with the Employer terminated during the month ending on such Accounting Date as a result of any event described in subsection 5.2, and such contributions shall be based on Salary for the quarter in which such termination occurred to the date of such event.

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- (ii) If in any Plan quarter or quarters the matching contribution under paragraph (i) above for any Contributing Member is, for any reason, less than the maximum match that could have been made for him in that quarter (i.e., 50 percent of the Pre-tax Contributions actually made on his behalf not in excess of 4 percent of his Salary for that quarter), then the Employer shall make an additional matching contribution on his behalf as of the end of the Plan Year in which such quarter falls. Such additional matching contribution shall be in an amount necessary to assure that the aggregate Basic Employer Matching Contributions under this subsection 5.1(a) made on such Contributing Member's behalf for that Plan Year are not less than 50 percent of the aggregate amount of his annual Pre-tax Contributions not in excess of 4 percent of his Salary for those quarters of the Plan Year after he completed a Year of Service. Such additional contribution shall be made only if the Member is in the employ of the Employer on the last day of the Plan Year unless the conditions of subsection 5.2 are satisfied. Such contribution shall be paid to the Trustee in accordance with the provisions of subsection 5.4 as part of the Basic Employer Matching Contribution for the last quarter of the Plan Year, and shall be credited to the Member's Savings Incentive Account in accordance with the provisions of subsection 7.2(f). Contributing Member means an Eligible Employee who has elected to have contributions made on his behalf for the relevant Plan Year quarter.

- (b) Supplemental Employer Matching Contributions. For each Plan Year, the Employer may, at the sole discretion of the Board of Directors of the Company, contribute to the Plan an additional matching amount which shall be a percentage not in excess of 150 percent of the aggregate amount of Pre-tax Contributions that do not exceed 4 percent of the aggregate Salaries of all Members for that Plan Year, which additional match may be expressed in terms of a "cents per dollar" match for each Member. Such additional matching contribution shall be credited to the Member's Savings Incentive Account. Notwithstanding the foregoing, a Member shall not share in the Supplemental Employer Matching Contribution provided for in this paragraph (b) for a Plan Year to the extent he has withdrawn Pre-tax Contributions attributable to that Plan Year.
- (c) Matching Contributions. The contributions described in this subsection 5.1 shall be referred to collectively as Matching Contributions.

5.2. Employment on Last Day of Period. In order to receive a matching allocation under subsections 5.1(a) or (b), a Member must be in the employ of the Employer on the last day of the relevant Plan quarter or on the last day of the Plan Year, as the case may be, unless he:

- (a) terminated his employment with the Employer during the relevant Plan quarter or Plan Year on account of death, or on account of retirement under any provisions of the Continental Employees Pension Plan (but not including any termination of employment which may entitle an Employee to a vested deferred pension under the provisions of Section 6 of said Pension Plan); or
- (b) was required to terminate employment with the Employer during the relevant Plan quarter or Plan Year because his or her spouse is employed by a member of the Employer Group; or
- (c) commenced receiving long-term disability benefits during the relevant Plan quarter or Plan Year pursuant to the provisions of the Continental Employees Disability Income Program; or
- (d) transferred his employment during such Plan Year, at the request of the Employer, to a Related Company that is not an Employer, and is employed by such Related Company on the last day of the relevant Plan quarter or the Plan Year, even if such employment is of such nature as to cause him to be an Excluded Employee; or
- (e) effective January 1, 1990, terminated his employment with the Employer (i) involuntarily because of a reduction in force; or (ii) pursuant to an individual, voluntary outplacement.

5.3. Limitations on Amount of Employer Contributions. In no event shall the sum of any Pre-Tax and Matching Contributions made by an Employer for any Plan Year exceed the limitations imposed by section 404 of the Code on the maximum amount deductible on account thereof by the Employer for that year.

5.4. Payment of Employer Contributions. Basic Employer Matching Contributions made under subsection 5.1(a) for each Plan quarter shall be transmitted to the Trustee as soon as reasonably practicable after the end of such quarter and, effective May 1, 1990, if required by the provisions of subsection 5.1, as soon as practicable after any other relevant Accounting Date. Supplemental Employer Matching Contributions made under subsection 5.1(b) for any Plan Year shall be paid to the Trustee, without interest, as soon as is reasonably practicable after the end of the Plan Year, but in no event later than the time prescribed by law including any extensions thereof for filing the Employer's federal income tax return for the fiscal year corresponding to such Plan Year.

5.5. Forfeiture of Matching Contributions. Notwithstanding any other provision of the Plan, any portion of a Matching Contribution attributable to Pre-tax Contributions that are distributed as excess deferrals, excess contributions or excess aggregate contributions in accordance with subsections 8.4, 8.6, 8.8, or 8.11 shall be forfeited and applied in accordance with subsection 11.6.

## SECTION 6

### Investment of the Trust Fund

6.1. Investment Funds. One or more "Investment Funds" may be established under the Trust from time to time by the Retirement Plans Investment Committee described in the Trust Agreement, in accordance with the provisions of the Trust Agreement, for the investment of Members' Accounts, including, but not limited to, (a) a "Company Stock Fund" which shall be invested in common stock of CBC or any other security which is a "qualifying employer security" as that term is defined in section 407 of ERISA, and which complies with all of the requirements prescribed by ERISA with respect to any such investment; and (b) a "Loan Fund" for each Member which shall consist only of such Member's promissory notes, if any, evidencing loans made to such Member in accordance with the provisions of subsection 10.1.

6.2. Investment Fund Accounting. The Committee shall maintain or cause to be maintained separate subaccounts for each Member in each of the Investment Funds to reflect separately his interests in each such Fund and the portion thereof that is attributable to each of his Accounts.

6.3. Investment Fund Elections. At the time that a Member enrolls in the Plan and as of the first day of each calendar month, each Member may specify the percentage, in multiples of 1 percent, of contributions subsequently credited to his Accounts that are to be invested in each of the Investment Funds (other than a Loan Fund). Separate elections with respect to different types of contributions may not be made. During any period in which no direction has been provided to the Committee, contributions credited to a Member shall be invested in the Investment Funds as determined by the Committee.

6.4. Transfers Between Investment Funds. As of the first day of a calendar month a Member may elect to transfer, in multiples of 1 percent, the value of his Accounts (determined as of the last day of the prior month) held in any Investment Fund (other than a Loan Fund) to any other Investment Fund then made available to such Member. A Member may make different elections

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under subsection 6.3 with respect to his future contributions and under this subsection 6.4 with respect to his existing Accounts.

6.5. Committee Rules and Restrictions. Any Investment Fund election under subsections 6.3 or 6.4 shall not be valid unless made in the manner and at the times as the Committee shall provide pursuant to uniform and nondiscriminatory rules and procedures established by the Committee from time to time.

6.6. Section 404(c). The Plan, the Plan's Investment Funds and the various election provisions described or referred to herein are designed and intended to be operated in accordance with the requirements of section 404(c) of ERISA and the Department of Labor's regulations thereunder.

## SECTION 7

### Plan Accounting

7.1. Members' Accounts. The Committee shall maintain (or cause to be maintained) the following "Accounts" in the name of each Member:

- (a) Savings Incentive Account. An umbrella Savings Incentive Account shall consist of the following Accounts:
  - (i) Pre-tax Contributions made pursuant to subsection 4.1 and the income, losses, appreciation and depreciation attributable thereto;
  - (ii) Matching Contributions made pursuant to subsection 5.1 and the income, losses, appreciation and depreciation attributable thereto; and
  - (iii) amounts deferred under the Cash and Deferred Plan prior to July 1, 1985 and held in that plan's Deferred Employer Contributions Account and the income, losses, appreciation and depreciation attributable thereto.
- (b) Employer Contributions Account. An Employer Contributions Account shall consist of the following amounts:
  - (i) amounts held in a Member's "Employers Contribution Account", if any, established under the Continental Illinois Employees Profit Sharing Trust as it existed prior to the amendment and restatement thereof, and the income, losses,

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appreciation and depreciation attributable thereto. Such amounts shall be maintained and administered pursuant to the provisions of this Plan; and

- (ii) Rollover Contributions described in subsection 4.6, if any, made by any Member and the income, losses, appreciation and depreciation attributable thereto.
- (c) Voluntary Contributions Account. A Voluntary Contributions Account shall consist of the following amounts:
  - (i) contributions held in the Voluntary Contributions Account under the Cash and Deferred Plan prior to July 1, 1985;
  - (ii) voluntary after-tax contributions made to this Plan, or recharacterized as such, under the terms of the Plan as in effect prior to 1987; and
  - (iii) amounts held in a "Members Contributions Account," if any, established under the Continental Illinois Employees Profit Sharing Trust as it existed prior to the amendment and restatement thereof. Such amount shall be maintained and administered pursuant to the provisions of this Plan.
- (d) Transfer from Merged or Consolidated Plans. The account balances of any defined contribution plan that are transferred to this Plan as a result of a merger or consolidation of such plan with this Plan shall be treated as follows:
  - (i) an account balance representing pre-tax elective deferrals under section 401(k) of the Code, any employer matching contributions attributable thereto and any earnings and adjustments thereon shall be credited to the applicable Accounts of the Savings Incentive Account for the Accounting Date as of which such balance was transferred;
  - (ii) an account balance representing any other employer contributions and any earnings and adjustments thereon shall be credited to an Employer Contributions Account for the Accounting Date as of which such balance was transferred; and
  - (iii) an account balance representing employee voluntary after-tax contributions and any earnings and

adjustments thereon shall be credited to the Voluntary Contributions Account for the Accounting Date as of which such balance was transferred.

The Accounts provided for in this subsection 7.1 shall be for accounting purposes only, and there shall be no segregation of assets within the Investment Funds among the separate Accounts. Reference to the "balance" in a Member's Accounts means the aggregate of the balances in the subaccounts maintained in the Investment Funds attributable to these Accounts.

7.2. Adjustment of Member's Accounts. As of each Accounting Date (referred to in this subsection 7.2 as a "Current Accounting Date") prior to or coincident with his Distribution Date (as described in subsection 11.1), each Account in each Investment Fund (including a Member's Loan Fund Account, if any,) shall be adjusted in the following manner and order:

- (a) first, there shall be charged to the proper subaccount for each Account of each Member under each of the Investment Funds all payments, withdrawals, distributions, loans and transfers to other Investment Funds made on or after the last preceding Accounting Date that have not been charged previously;
- (b) next, there shall be credited to the proper subaccounts, if not previously so credited, transfers from other Investment Funds made since the last preceding Accounting Date;
- (c) next, there shall be credited to the proper subaccounts, if

not previously so credited, (i) one-half of any Pre-tax Contributions received by the Trustee since the last preceding Accounting Date pursuant to subsection 4.1 and (ii) one-half of any principal and interest loan payments made by payroll deduction (which shall be credited in accordance with subsection 10.1(e);

- (d) next, the credit balances of the subaccounts of all such Members under each of the Investment Funds, other than the Loan Fund, shall be adjusted upward or downward, pro rata, according to such credit balances, determined pursuant to the foregoing provisions of this subsection 7.2, so that the aggregate of the credit balances of all subaccounts in each Investment Fund after such adjustment equal the Adjusted Net Worth (as defined below) of such Investment Fund as of the Current Accounting Date;

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- (e) next, there shall be allocated and credited to each Member's Loan Fund subaccounts any loan made to such Member and any interest which has accrued thereon since the last preceding Accounting Date in accordance with subsection 10.1(b);
- (f) next, there shall be credited, if not previously so credited, Matching Contributions made pursuant to subsections 5.1(a) and (b); loan payments received in a form other than by payroll deduction; any contribution received as a rollover or trustee to trustee transfer pursuant to subsection 4.6 and 7.1(d); and any remaining contributions and loan payments not otherwise credited pursuant to paragraphs (c) and (d) above.

The "Adjusted Net Worth" of an Investment Fund (other than the Loan Fund) as at any date means the then net worth of that Investment Fund computed on an accrual basis, as determined by the Trustee, in accordance with the provisions of the Trust and on the basis of fair market valuation as of that date, exclusive of amounts not taken into consideration in determining the fractions referred to in paragraph (c) above. In the event that any Accounting Date shall not be a business day, then any valuation to be made hereunder by the Trustee as of such Accounting Date shall be made as of the next preceding business day.

7.3. Statement of Accounts. As soon as is reasonably practicable after each Plan Year quarterly Accounting Date, the Committee shall deliver or cause to be delivered to each person for whom an Account is maintained a statement reflecting the condition of his Accounts as of that date.

#### SECTION 8

##### Limitations on Compensation, Contributions and Allocations

8.1. Reduction of Contribution Rates. To conform the operation of the Plan to sections 401(a)(4), 401(k)(3), 401(m)(2), 402(g) and 415(c) of the Code, the Committee may unilaterally modify or revoke any Pre-tax Contribution election made by a Member pursuant to Section 4.1 or may reduce (to zero if necessary) the level of Matching Contributions to be made on behalf of Highly Compensated Members for any month pursuant to subsection 5.1.

8.2. Compensation for Limitation/Testing Purposes. "Compensation" for purposes of this Section 8 shall mean:

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- (a) for Plan Years prior to 1991 the Member's wages, salary, commissions, bonuses, reimbursements, expense allowances and other amounts received (in cash or in kind) during the Plan Year from any Employer or Related Company for personal services actually rendered in the course of employment and includable in gross income, including taxable fringe benefits, nonqualified stock options taxable in the year of grant, amounts taxable under a section 83(b) election and nondeductible moving expenses, but excluding distributions



from any deferred compensation plan (qualified or nonqualified), amounts realized from the exercise of (or disposition of stock acquired under) any nonqualified stock option or other benefits given special tax treatment and, for Plan Years after 1990, the Member's wages, for federal income tax withholding purposes, as shown on any Form W-2 issued to him for the Plan Year by an Employer or Related Company; plus

- (b) any elective contributions made on the Member's behalf for the Plan Year to a plan sponsored by an Employer or a Related Company that are not currently includable in income pursuant to sections 125 or 402(a)(8) of the Code,

up to a maximum limit (i) for each Plan Year beginning after 1988 and before January 1, 1994, of \$200,000 or such other amount as may be permitted under Code section 401(a)(17) or any successor thereto, and (ii) for each Plan Year beginning on or after January 1, 1994, \$150,000 or such other amount as may be permitted under Code Section 401(a)(17) or any successor thereto; taking into account for purposes of the limitations at (i) and (ii) any proration of such amount required under applicable Treasury regulations in situations where "family members" (as defined in sections 401(a)(17) and 414(q)(6) of the Code) and their Compensation must be aggregated, or where Compensation is computed with respect to a period of less than a full year (other than on account of mid-year commencement or cessation of active participation in the Plan). "Compensation" under this subsection 8.2 shall be determined without regard to any rules under Code section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or services performed.

8.3. Limitations on Annual Additions. Notwithstanding any other provisions of the Plan to the contrary, a Member's Annual Additions (as defined below) for any Plan Year shall not exceed an amount equal to the lesser of:

- (a) \$30,000 (or, if greater, 1/4 of the dollar limitation in effect under section 415(b)(1)(A) of the Code); or

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- (b) 25 percent of the Member's Compensation for that Plan Year (determined without regard to either clause (b) of subsection 8.2 or the limitation under section 401(a)(17) of the Code), calculated as if each Section 415 Affiliate (defined below) were a Related Company,

reduced by any Annual Additions for the Member for the Plan Year under any other defined contribution plan of an Employer or a Related Company or Section 415 Affiliate, provided that, if any other such plan has a similar provision, the reduction shall be pro rata. The term "Annual Additions" means, with respect to any Member for any Plan Year the sum of all contributions (excluding Rollover Contributions) and forfeitures allocated to a Member's Accounts under the Plan for such year pursuant to subsection 7.2, excluding Pre-Tax Contributions that are distributed as excess deferrals in accordance with subsection 8.6, but including any Pre-Tax or Matching Contributions distributed in accordance with subsections 8.8, 8.10 or 8.11. The term Annual Additions shall also include (i) employer contributions allocated for a Plan Year to any individual medical account under a pension or annuity plan from which benefits described in section 401(h) are payable and (ii) any amount allocated for a Plan Year to the separate account of a Member for payment of post-retirement medical benefits under a funded welfare benefit plan (as described in section 419A(d)(2) of the Code), either of which is maintained by an Employer or a Related Company or a Section 415 Affiliate. "Section 415 Affiliate" means any entity that would be a Related Company if the ownership test of section 414 of the Code was "more than 50 percent" rather than "at least 80 percent". The provisions of this subsection 8.3 shall be effective January 1, 1987.

8.4. Excess Annual Additions. If, as a result of a reasonable error in estimating a Member's Compensation, a reasonable error in determining the amount of Pre-tax Contributions that may be made, or such other mitigating circumstances as the Commissioner of Internal Revenue shall prescribe, the Annual Additions for a Member for a Plan Year exceed the limitations set forth in subsection 8.3, the excess amounts shall be treated, as necessary, in accordance with Treas. Reg. Section 1.415-6(b)(6)(iii) after any Pre-tax Contributions are first returned. Any Pre-Tax Contributions returned under this subsection 8.4 shall be disregarded for tax purposes of 8.6, 8.7 and 8.11.

8.5. Combined Plan Limitation. If a Member also participates in any defined benefit plan (as defined in section 415(k) of the Code) maintained by an Employer or a Related Company or Section 415 Affiliate, the aggregate benefits payable to, or on account of, the Member under such plan together with

this Plan shall be determined in a manner consistent with section 415(e) of the Code. The benefit provided for the Member under

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the defined benefit plan shall be adjusted to the extent necessary so that the sum of the "defined benefit fraction" and the "defined contribution fraction" (as such terms are defined in section 415(e) of the Code and applicable regulations thereunder) calculated with regard to such Member does not exceed 1.0. For purposes of this subsection 8.5, all qualified defined benefit plans (whether or not terminated) of the Employers, Related Companies and Section 415 Affiliates shall be treated as one defined benefit plan.

8.6. \$7,000 Limitation. In no event shall the Pre-tax Contributions for a Member under the Plan (together with elective deferrals under any other cash-or-deferred arrangement maintained by an Employer or a Related Company) for any taxable year exceed \$7,000 or such larger amount as may be permitted under section 402(g) of the Code. If during any taxable year a Member is also a member in another cash or deferred arrangement and if his elective deferrals under such other arrangement together with his Pre-tax Contributions exceed the maximum amount permitted for the Member for that year under section 402(g) of the Code, the Member, not later than March 1 following the close of such taxable year, may request the Committee to direct the Trustee to distribute all or a portion of such excess to him, with allocable gains or losses for that Plan Year (determined in accordance with any reasonable method adopted by the Committee for that Plan Year that either (i) conforms to the accounting provisions of Section 7 and is consistently applied to the distribution of excess contributions under this subsection 8.6 and subsections 8.8, 8.10 and 8.11 to all affected Members, or (ii) satisfies any alternative method set forth in applicable Treasury regulations). Any such request shall be in writing and shall include adequate proof of the existence of such excess, as determined by the Committee in its sole discretion, taking into account any Pre-tax Contributions previously distributed to the Member pursuant to subsection 8.8. If the Committee is so notified, such excess amount shall be distributed to the Member no later than the April 15 following the close of the Member's taxable year. In addition, if the applicable limitation for a Plan Year happens to be exceeded with respect to this Plan alone, or this Plan and another plan or plans of the Employers and Related Companies, the Committee shall direct such excess Pre-tax Contributions (with allocable gains or losses) to be distributed to the Member as soon as practicable after the Committee is notified of the excess deferrals by the Company, an Employer of the Member, or otherwise discovers the error (but no later than the April 15 following the close of the Member's taxable year). Notwithstanding the foregoing provisions of this subsection 8.6, the amount to be distributed under this subsection 8.6 shall be reduced by the dollar amount of any Pre-Tax Contributions previously distributed to the same Member pursuant to subsection 8.8, provided, however, that for purposes of subsection 8.3, the correction under this

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subsection 8.6 shall be deemed to have occurred before the correction under subsection 8.8. The provisions of this subsection 8.6 shall be effective January 1, 1987.

8.7. Section 401(k)(3) Testing. Effective January 1, 1987, for any Plan Year, the average of the Deferral Percentages (as defined below) of each Eligible Employee who is Highly Compensated (the "Highly Compensated Group Deferral Percentage") shall not exceed the average of the Deferral Percentages of each Eligible Employee who is not Highly Compensated (the "Non-highly Compensated Group Deferral Percentage") be more than either (i) a factor of 1.25 or (ii) both a factor of 2 and a difference of 2. "Deferral Percentage" for any Eligible Employee for a Plan Year shall be determined by dividing his Pre-tax Contributions for the year by his Compensation for the year, subject to the following special rules:

- (a) any employee eligible to participate in the Plan at any time during a Plan Year in accordance with subsection 2.1 (without regard to any suspension imposed by any other provisions hereunder) shall be counted, regardless of whether any Pre-tax Contributions are made on his behalf for the year;
- (b) the Deferral Percentage for any Highly Compensated Member who is eligible to participate in the Plan and who is also

eligible to make other elective deferrals under one or more other cash or deferred arrangements described in section 401(k) of the Code maintained by an Employer or a Related Company for a plan year that ends with or within the same calendar year as the Plan Year (other than a plan subject to mandatory disaggregation under applicable Treasury regulations), shall be determined as if all such elective deferrals were made on his behalf under the Plan;

- (c) for purposes of determining the Deferral Percentage of a Highly Compensated Member who is a 5-percent owner (as defined in section 416(i)(1)(B) of the Code) of an Employer or a Related Company or one of the ten most highly-paid employees of all the Employers and Related Companies, the Pre-tax Contributions and Compensation of such Member shall include the Pre-tax Contributions and Compensation for the Plan Year of his family members (as defined in section 414(q)(6) of the Code), and any such family members shall be disregarded as separate employees in determining the Highly Compensated and Non-highly Compensated Group Deferral Percentages;

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- (d) excess Pre-Tax Contributions distributed to a Member under subsection 8.6 shall be counted in determining such Member's Deferral Percentage except in the case of a distribution to a non-Highly Compensated Member required to comply with section 401(a)(30) of the Code;
- (e) if this Plan is aggregated with one or more other plans for purposes of section 410(b) of the Code (other than the average benefit percentage test), then this subsection 8.7 shall be applied as if all such plans were a single plan; provided, however, that for Plan Years beginning after 1989, such plans may be aggregated only if they have the same plan year.

All Members, if any, who are members of a collective bargaining unit shall be disregarded under this subsection 8.7.

Application of the provisions of this subsection 8.7 shall be made in accordance with the requirements of section 401(k)(3) of the Code and applicable regulations thereunder.

8.8. Correction Under Section 401(k) Test. Effective January 1, 1987, in the event that the Highly Compensated Group Deferral Percentage for any Plan Year does not initially satisfy one of the tests referred to in subsection 8.7, the Committee shall direct the Trustee to distribute to Highly Compensated Members enough of their Pre-tax Contributions under the leveling method described in applicable Treasury regulations, with any allocable gains or losses for such Plan Year determined in accordance with any reasonable method adopted by the Committee for that Plan Year that either (i) conforms to the accounting provisions of Section 7 and is consistently applied to making corrective distributions under this subsection 8.8 and subsections 8.6, 8.10 and 8.11 to all affected Members or (ii) satisfies any alternative method set forth in applicable Treasury regulations, so that the Highly Compensated Group Deferral Percentage meets one of the tests referred to in subsection 8.7. The amounts to be distributed to any Member pursuant to this subsection 8.8 shall be reduced by the amount of any Pre-tax Contributions distributed to him for such Plan Year pursuant to subsection 8.6. The Committee shall take such actions no later than the close of the Plan Year following the Plan Year for which the excess Pre-tax Contributions were made.

8.9. Code Section 401(m)(2) Testing. Effective January 1, 1987, for any Plan Year, the average of the Contribution Percentages (as defined below) of each Eligible Employee who is Highly Compensated (the "Highly Compensated Group Contribution Percentage") shall not exceed the average of the Contribution Percentages of each Eligible Employee who is not Highly Compensated (the "Non-highly Compensated Group Contribution

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Percentage") by more than (i) a factor of 1.25 or (ii) both a factor of 2 and a difference of 2. "Contribution Percentage" for any Eligible Employee for a

Plan Year shall be determined by dividing his Matching Contributions for the year by his Compensation for the year, subject to the following special rules:

- (a) any employee eligible to participate in the Plan at any time during a Plan Year in accordance with subsection 2.1 (without regard to any suspension imposed by any provision hereunder) shall be counted, regardless of whether any Matching Contributions are made for him for the year;
- (b) the Contribution Percentage for any Highly Compensated Member who is eligible to participate in the Plan and who is also eligible to participate in one or more other qualified plans maintained by an Employer or a Related Company with a Plan Year that ends with or within the Plan Year (other than a plan subject to mandatory disaggregation under applicable Treasury regulations) with after-tax or matching contributions shall be determined as if all such contributions were made under the Plan;
- (c) for purposes of determining the Contribution Percentage of a Highly Compensated Member who is a 5-percent owner (as defined in section 416(i)(1)(B) of the Code) of an Employer or a Related Company or one of the ten most highly-paid employees of all the Employers and Related Companies, the Matching Contributions and Compensation of such Member shall include the Matching Contributions and Compensation for the Plan Year of his family members (as defined in section 414(q)(6) of the Code), and any such family members shall be disregarded as separate employees in determining the Highly Compensated and Non-highly Compensated Group Contribution Percentages; and
- (d) if this plan is aggregated with one or more other plans for purposes of section 410(b) of the Code (other than the average benefit percentage test), then this subsection 8.9 shall be applied as if all such plans were a single plan; provided, however, that for Plan Years beginning after 1989, such plans may be aggregated only if they have the same plan year.

All Members, if any, who are Members of a collective bargaining unit shall be disregarded under this subsection 8.9.

Application of the provisions of this subsection 8.9 shall be made in accordance with the requirements of section 401(m)(2) of the Code and the regulations thereunder.

8.10. Correction Under Section 401(m) Test. Effective January 1, 1987, in the event that the Highly Compensated Group Contribution Percentage for any Plan Year does not initially satisfy one of the tests referred to in subsection 8.9, the Committee shall direct the Trustee to distribute to Highly Compensated Members enough of their Matching Contributions under the leveling method described in applicable Treasury regulations, with any allocable gains or losses for such Plan Year determined in accordance with any reasonable method adopted by the Committee for that Plan Year that either (i) conforms to the accounting provisions of Section 7 and is consistently applied to making corrective distributions under this Section 8 and (ii) satisfies any alternative method set forth in applicable Treasury regulations so that the Highly Compensated Group Contribution Percentage meets one of the tests referred to in subsection 8.9. Notwithstanding the foregoing provisions of this subsection 8.10, any Matching Contributions that are attributable to excess Pre-tax Contributions distributed in accordance with subsection 8.6 or 8.8 shall be forfeited (and treated in the same manner as any other forfeiture under the Plan). The Committee shall make any necessary distribution no later than the close of the Plan Year following the Plan Year in which such excess contributions were contributed.

8.11. Multiple Use of Alternative Limitation. Notwithstanding any other provision of this Section 8, for Plan Years beginning after 1988, if the 1.25 factors referred to in subsections 8.7 and 8.9 are both exceeded for a Plan Year, the leveling method of correction prescribed in subsection 8.10 shall be continued until the combined limitation set forth in Treas. Reg. Section 1.401(m)-2(b) is satisfied for such Plan Year.

8.12. Highly Compensated. Effective January 1, 1987, an employee or Member shall be "Highly Compensated" for any Plan Year if during that Plan Year or the preceding Plan Year, he:

- (a) was at any time a 5 percent owner (as defined in section 416(i)(1)(B) of the Code) of an Employer or a Related Company;
- (b) received Compensation in excess of \$75,000 (indexed for cost-of-living adjustments under section 415(d) of the Code);
- (c) received Compensation in excess of \$50,000 (indexed for cost-of-living adjustments under section 415(d) of the

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Code), and was in the top-paid group of employees (as defined below) for such year; or

- (d) was at any time an officer and received Compensation greater than 50 percent of the amount in effect under section 415(b)(1)(A) of the Code for such year, provided that the officers taken into account under this paragraph (d) shall be limited to 50;

provided, however, that an employee in category (b), (c) or (d) above for the current Plan Year who does not fall within at least one such category for the preceding Plan Year shall not be considered Highly Compensated for the current Plan Year unless he is also among the 100 most highly-paid employees of all the Employers and Related Companies for such current year. An employee shall be considered to be in the "top-paid group" of employees for any year if such employee is in the group consisting of the top 20 percent of the active employees of all the Employers and Related Companies when ranked on the basis of Compensation paid during such year. In determining the total number of active employees in a year, the following provisions shall apply:

- (i) the term "employee" shall include a leased employee who is treated as an employee pursuant to the provisions of section 414(n)(2) of the Code, other than any individual who is covered by a safe-harbor plan described in section 414(n)(5) of the Code; and
- (ii) the following employees shall be disregarded: employees who have not attained age 21 by the end of the year; employees who by the end of the year have not completed 6 months of service (including service in the immediately preceding year); employees who normally work less than 17-1/2 hours per week; employees who normally work less than 6 months during any year; and non-resident aliens with no U.S. source income.

8.13. Plan Disaggregation. Notwithstanding the foregoing provisions of this Section 8, to the extent permitted by regulation or other applicable guidance issued by the Internal Revenue Service, testing under subsections 8.7, 8.9 and 8.11 and correction under subsections 8.8, 8.10 and 8.11 may be performed separately with respect to different groups of Eligible Employees under the Plan as determined by the Plan Administrator, provided that each such group meets the requirements of applicable regulations under section 401(a)(4) of the Code.

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## SECTION 9

### Vesting and Termination

9.1. Vesting. Each Member shall have a fully vested, nonforfeitable interest in his Accounts at all times.

9.2. Termination Date. A Member's "Termination Date" shall be the date on which his employment with the Employers and Related Companies terminates for any reason.

9.3. Distribution Only Upon Separation From Service. Notwithstanding any other provision of the Plan to the contrary, a Member may not commence distribution of his Savings Incentive Account pursuant to Section 11, even though his employment with the Employers and Related Companies has terminated,

unless or until he also has a "separation from service" within the meaning of section 401(k)(2)(B) of the Code. The foregoing restriction shall not apply, however, if the Member's termination of employment occurs in connection with the sale by an Employer to an unrelated corporation of at least 85 percent of the assets of a trade or business, or the sale of its interest in a subsidiary to an unrelated entity, provided (a) the Member remains employed in such trade or business or by such subsidiary after the sale, (b) the Employer continues to maintain the Plan after the sale, (c) no transfer of the Member's Accounts occurs or is scheduled to occur after the sale pursuant to subsection 13.3 to a plan of such subsidiary or of the purchaser of such assets (or any entity affiliated therewith), and (d) the Member receives distribution of his Accounts under the Plan in a lump sum by the end of the second calendar year after the year in which the sale occurs.

## SECTION 10

### Loans and Withdrawals of Contributions While Employed

10.1. Loans to Members. The Committee, upon request by a Member in such form and manner as the Committee may require, may authorize a loan to be made to the Member from his vested interest in the Trust in accordance with the following provisions of this subsection 10.1, provided, however, that effective January 1, 1994, a Member shall have the right to apply to the Committee for a loan only if at the time such application is filed (i) the Member is in the active employment of a member of the Employer Group; or (ii) after termination of employment but only in the case of a Member who is a party in interest with respect to the Plan (as such term is defined in ERISA Section 3(14)):

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- (a) Effective January 1, 1987, no loan shall be made to a Member if, immediately after such loan, the sum of the outstanding balances (including principal and interest) of all loans made to him under this Plan and under any other qualified retirement plans maintained by the Related Companies would exceed \$50,000, reduced by the amount, if any, by which (i) exceeds (ii) where:
- (i) equals the highest outstanding balance of all loans to the Member from the plans during the one-year period ending on the day immediately before the date on which the loan is made; and
  - (ii) equals the outstanding balance of loans from the plans to the Member on the date on which such loan is made;
- and no loan shall be made to a Member if the aggregate amount of that loan and the outstanding balance of any other loans to the Member from the Plan (and any other plans) would exceed one-half of the total vested balance of the Member's Accounts under the Plan as of the date the loan is made.
- (b) Each loan shall be evidenced by a written note providing for:
- (i) a reasonable repayment period of not more than 5 years from the date of the loan (or such longer period as the Committee may permit for a loan used to acquire a dwelling which, within a reasonable period of time, will be used as the Member's principal residence);
  - (ii) a reasonable rate of interest;
  - (iii) substantially equal payments of principal and interest over the term of the loan no less frequently than quarterly; and
  - (iv) such other terms and conditions as the Committee shall determine.
- (c) A Loan Fund shall be established and maintained for each Member to whom a loan is granted, and shall be credited with an amount equal to the principal amount of the loan. The principal amount shall be withdrawn first from a Member's Voluntary Contributions Account, if any, then, to the extent

Employer Contributions Account, if any, and then, to the extent necessary, from his Savings Incentive Account. The principal amount shall be withdrawn pro rata from each Investment Fund in which the Member's Accounts are then invested.

- (d) Promissory notes and related documentation shall be held by the Administrator.
- (e) Payments of principal and interest to the Trustee with respect to any loan to a Member:
  - (i) shall reduce the outstanding balance with respect to that loan;
  - (ii) shall reduce the balance of the Loan Fund holding the promissory note reflecting that loan;
  - (iii) shall be credited to the Member's Accounts pro rata based upon the outstanding loan balance in each Account; and
  - (iv) shall increase the amount invested in the Investment Funds (other than the Loan Fund) in accordance with the Member's investment elections then in effect.
- (f) A Member's obligation to repay a loan (or loans) from the Plan shall be secured by the Member's vested interest in the Plan.
- (g) Generally, loan repayments shall be made by payroll deductions each pay period, commencing the last pay period of the month in which the loan is issued. However, during any period when payroll deduction is not possible or is not permitted under applicable law, repayment will be made by personal check.
- (h) The loan may be prepaid in full at any time without penalty.
- (i) Any loan to a Member shall provide that, upon the Member's Termination Date, if the Member does not elect, at that time, to repay the loan in full, loan repayments will be made on a monthly basis by personal check. Notwithstanding any other provision of the Plan to the contrary, if the outstanding balance of principal and interest on any loan is not paid at the expiration of its term, a default shall occur and the Trustee shall apply all or a portion of the Member's

vested interest in the Plan in satisfaction of such outstanding obligation, but only to the extent such vested interest (or portion thereof) is then distributable under applicable provisions of the Code and the terms of the Plan. If necessary to satisfy the entire outstanding obligation, such application of the Member's vested interest may be executed in a series of actions as amounts credited to the Member's Accounts become distributable.

- (j) If distribution is to be made to a Beneficiary in accordance with subsection 11.2, any outstanding promissory note of the Member shall be canceled and the unpaid balance of the loan, together with any accrued interest thereon, shall be treated as a distribution to or on behalf of the Member immediately prior to commencement of distribution to the Beneficiary.
- (k) The Committee may from time to time establish and amend rules and regulations pertaining to the administration of loans and the circumstances under which loans will be granted. Such rules and regulations may, among other things, pertain to:
  - (i) the date by which a loan application must be received;
  - (ii) minimum dollar amount of loan; (iii) limiting loan

repayment to payroll deduction; (iv) date of disbursement of loan proceeds; and (v) maximum number of loans permitted.

- (1) Any loan under the Continental Illinois Employees Profit Sharing Trust or the Cash and Deferred Plan requiring Committee approval which was approved by the Committee prior to July 1, 1985, shall be governed by the provisions of those agreements as in effect at the time of such approval.

10.2. Withdrawals During Employment. A Member whose Termination Date has not yet occurred may elect to withdraw all or part of his interest in his Accounts (other than any amount credited to the Loan Fund), as of any Accounting Date in such manner as the Committee shall require, as provided and in the order set forth below:

- (a) up to 100 percent of the voluntary after-tax contributions (excluding any earnings thereon) made by

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the Member to his Voluntary Contributions Account prior to January 1, 1987;

- (b) up to 100 percent of the earnings credited to his Voluntary Contributions Account;
- (c) up to 100 percent of his Employer Contributions Account;
- (d) in the event of a Hardship, up to 100 percent of the Pre-tax Contributions made on his behalf under subsection 4.1.

Notwithstanding the foregoing, an individual who has attained the age of 59-1/2 may withdraw amounts from the accounts described in paragraphs (a)-(d) in any order and may make withdrawals of all amounts in his Savings Incentive Account. No withdrawal in an amount less than \$500 shall be permitted. The Committee may from time to time establish and amend such further rules and regulations pertaining to the administration of withdrawals, as necessary, including the date by which requests for withdrawals must be received. Each Member who elects to make a withdrawal shall receive the information described at subsection 11.1(d) within the time periods described therein. If the value of a Member's Accounts (including any loans outstanding) exceeds \$3,500 as of the date of his withdrawal request (or at the time of any prior distribution or withdrawal) his election, if any, to receive a distribution of such amounts prior to attainment of age 65 shall not be effective unless made in writing on such form as the Committee shall provide no more than 90 days before the date such payment is scheduled to be made and after receipt of the materials described at subsection 11.1(d).

10.3. Hardship Withdrawals. A withdrawal will not be considered to be made on account of "Hardship" unless the following requirements are met:

- (a) The withdrawal is requested because of an immediate and heavy financial need of the Member, and will be so deemed if the Member represents that the withdrawal is made on account of:
  - (i) expenses for medical care described in section 213(d) of the Code incurred by the Member, the Member's spouse or any dependent of the Member (as defined in section 152 of the Code) or necessary for such persons to obtain such medical care;
  - (ii) the purchase (excluding mortgage payments) of a principal residence of the Member;

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- (iii) payment of tuition and related educational fees for the next 12 months of post-secondary education for the Member, or his spouse, children or dependents;
- (iv) the need to prevent the eviction of the Member from his principal residence or foreclosure on the mortgage of the Member's principal residence; or



(v) any other circumstances of immediate and heavy financial need identified as such in revenue rulings, notices or other documents of the Internal Revenue Service of general applicability.

(b) The withdrawal must also be necessary to satisfy the immediate and heavy financial need of the Member, and will be so deemed if all of the following requirements are satisfied:

(i) the Member represents that the withdrawal is not in excess of the amount of an immediate and heavy financial need (taking into account any applicable income or penalty taxes resulting from the withdrawal);

(ii) the Member has obtained all distributions (other than hardship withdrawals under this subsection 10.3) and all nontaxable loans currently available under the Plan and all other plans maintained by the Related Companies;

(iii) Notwithstanding any other provision of the Plan, Pre-tax Contributions and Matching Contributions by or on behalf of the Member shall be suspended for a period of 12 months after the Member makes a Hardship withdrawal under this subsection 10.3, and the Member shall be prohibited from making any contributions for the same period to any other deferred compensation plan of an Employer or Related Company (whether or not qualified); and

(iv) in the Member's taxable year immediately following the taxable year of the Hardship withdrawal, the Pre-tax Contributions contributed on behalf of the Member shall not exceed the applicable limit under subsection 8.6 for such next taxable year less the amount of Pre-tax Contributions contributed on behalf of the Member for the taxable year of the Hardship withdrawal.

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A Member shall not fail to be treated as an Eligible Employee for purposes of subsections 8.7 and 8.9 merely because of the application of subparagraph 10.3(b) (iv) above.

10.4. Forms of Loan and Withdrawal. For purposes of subsection 10.1, all Accounts shall be valued as of the Accounting Date immediately preceding the date upon which the loan application is filed or date a loan is requested via Benefits Express. All loan proceeds shall be paid in cash. For purposes of subsection 10.2, all Accounts shall be valued as of the Accounting Date on the last day of the month in which the withdrawal is requested. Withdrawals pursuant to subsection 10.2 shall be paid in cash.

## SECTION 11

### Distributions

11.1. Distributions to Members After Termination of Employment. If a Termination Date occurs with respect to a Member (for a reason other than his death), the balance of his Accounts shall be distributed in accordance with the following provisions of this subsection 11.1, subject to the provisions of subsection 11.3:

(a) Such amounts, less any outstanding loan balance distributable in accordance with subsection 10.1(i), shall be distributed to the Member on (or as soon as practicable after) the Distribution Date he elects, in the form of a cash payment in a lump sum. "Distribution Date" shall mean the Accounting Date as of which a payment in any form is made pursuant to this Section, which date shall be no earlier than the month in which the Member's Termination Date occurs and no later than the December Accounting Date for the Plan Year in which occurs the later of the date the Member attains age 65 or his Termination Date.

- (b) Notwithstanding the provisions of Subsection 11.1(a), a Member's election, if any, to receive a distribution of such amounts as of a Distribution Date prior to his attainment of age 65, shall not be effective unless in connection therewith the Member files a written consent to such early distribution on such form as the Committee shall prescribe no more than 90 days before the date as of

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which such payment is to be made. A Member's consent to a distribution prior to age 65 shall not be effective unless given after the Member has received the materials described at subsection 11.1(c) within the time period described therein.

- (c) Each Member who has incurred a Termination Date and is eligible to receive a distribution hereunder shall be given a general explanation of information regarding the Member's right to defer receipt of the distribution under subsection 11.1(b), if applicable, and information relating to subsection 11.10. Such information must be provided to a Member no more than 90 days before the date as of which payment of the Member's benefit is scheduled to be made and must provide the Member with a 30 day period after receipt of such materials in which to decide whether to elect a direct rollover under subsection 11.10 or, in the case of a Member described at subsection 11.1(b), a distribution prior to attainment of age 65.

11.2. Distributions to Beneficiaries. Subject to subsection 11.4, if a Member dies while any portion of his Accounts remain undistributed, the balance of his Accounts determined in accordance with subsection 11.5, less any outstanding loan balance distributable in accordance with paragraph 10.1(i), shall be distributed as soon as practicable after the Accounting Date following the date of his death, to his Beneficiary (as defined in subsection 11.4) in a lump sum cash payment.

11.3. Limits on Commencement and Duration of Distributions. The following distributions rules shall be applied in accordance with sections 401(a)(9) and 401(a)(14) of the Code and applicable regulations thereunder, including the minimum distribution incidental benefit requirement of Treas. Reg. Section 1.401(a)(9)-2,

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and shall supersede any other provision of the Plan to the contrary:

- (a) In no event shall distribution commence later than 60 days after the close of the Plan Year in which the latest of the following events occurs: the Member's attainment of age 65; or the Member's Termination Date; and
- (b) Notwithstanding any other provision herein to the contrary, distribution of the Member's Accounts shall commence by lump sum cash payment of his entire Account balances no later than his "Required Beginning Date", that is, April 1 of the calendar year following the calendar year in which he attains age 70-1/2, (and each December 31 thereafter with respect to subsequently allocated amounts) unless the Member attained age 70-1/2 prior to January 1, 1988 (during a Plan Year when he was not a 5 percent or more owner, as described in Code section 416), in which case his Required Beginning Date will be delayed until his Termination Date.

11.4. Beneficiary Designations. The term "Beneficiary" shall mean the Member's surviving spouse. However, if the Member is not married, or if the Member is married but his spouse consents to the designation of a person other than the spouse, the term Beneficiary shall mean such person or persons as the Member designates (contingently or jointly) to receive the balance of his Accounts upon his death. Such designation may be made, revoked or changed (without the consent of any previously-designated Beneficiary except his spouse) only by an instrument (in the form prescribed by the Committee) signed by the Member and received by the Committee prior to his death. A spouse's

consent to the designation of a Beneficiary other than the spouse shall be in writing, shall acknowledge the effect of such designation, shall be witnessed by a Plan representative or a notary public and shall be effective only with respect to such consenting spouse. In default of such designation, or at any time when there is no surviving spouse and no surviving Beneficiary designated by the Member, payment shall be made in the following order:

- (a) the entire amount to the surviving spouse, i.e., the individual to whom the Member was legally married at the time of his death; or
- (b) in equal shares to the Member's surviving descendants (including descendants by adoption), per stirpes; or
- (c) in equal shares to the Member's surviving parents, or the entire amount to a single surviving parent; or

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- (d) in equal shares to the Member's surviving brothers and sisters, except that if any brother or sister does not survive such member but there is any descendant of them who survives such person, then the share the deceased brother or sister would have received had he or she survived such Member shall be distributed to his or her descendants, per stirpes; or
- (e) to the legal representative of the estate of such Member.

For purposes of the Plan, "spouse" means the person to whom the Member is legally married at the relevant time. Notwithstanding the foregoing provisions of this subsection 11.4, no spousal consent to the designation of a person other than, or in addition to, the spouse as Beneficiary shall be required if it is established to the satisfaction of the Committee that the spouse's consent may not or need not be obtained because there is no spouse, because the spouse cannot be located or because of such other circumstances as may be prescribed in applicable Treasury regulations.

11.5. Valuation Pursuant to Distribution. For purposes of any distribution under this Section 11, a Member's Accounts shall be valued, and the amount to be distributed to such Member determined, as of the Accounting Date which is his Distribution Date. Such distribution shall also include an amount equal to any Pre-tax or Matching Contributions allocable to his Account as of such Distribution Date but not yet allocated.

11.6. Application of Forfeitures. Any forfeitures of Matching Contributions and earnings thereon during a Plan Year pursuant to subsection 5.5 shall be used to reduce the amount of Matching Contributions otherwise required of the Employer that originally made the forfeited Matching Contributions for the Plan Year in which such forfeiture occurs.

11.7. Facility of Payment. Notwithstanding the provisions of subsections 11.1, 11.2 and 11.11 if, in the Committee's opinion, a Member or Beneficiary is under a legal disability or is in any way incapacitated so as to be unable to manage his financial affairs, the Committee may direct the Trustee to make payment to a relative or friend of such person for his benefit until claim is made by a conservator or other person legally charged with the care of his person or his estate. Thereafter, any benefits under the Plan to which such Member or Beneficiary is entitled shall be paid to such conservator or other person legally charged with the care of his person or his estate.

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11.8. Interests Not Transferable. The interests of Members and other persons entitled to benefits under the Plan are not subject to the claims of their creditors and may not be voluntarily or involuntarily assigned, alienated or encumbered, except in the case of loans made under the Plan and qualified domestic relations orders that relate to the provision of child support, alimony or marital rights of a spouse, child or other dependent and which meet such other requirements as may be imposed by section 414(p) of the Code or regulations issued thereunder. Notwithstanding any other provision of the Plan to the contrary, effective with respect to final qualified domestic relations orders received by the Committee on or after July 1, 1993, such domestic relations order may permit distribution of the entire portion of the Account

balance of a Member awarded to his alternate payee, in a lump sum payment as soon as practicable after the Committee determines that such order is qualified, without regard to whether the Member would himself be entitled under the terms of the Plan to withdraw or receive a distribution of such vested amount at that time.

11.9. Absence of Guaranty. None of the Committee, the Trustee, or the Employers in any way guarantee the Trust Fund from loss or depreciation. The Employers do not guarantee any payment to any person. The liability of the Trustee to make any payment is limited to the available assets of the Trust Fund.

11.10. Direct Rollover Option. Effective with respect to distributions made on or after January 1, 1993, to the extent required under the applicable provisions of section 401(a)(31) of the Code and regulations issued thereunder, any Member, the surviving spouse of a Member and any spouse or former spouse who is an alternate payee under a qualified domestic relations order receiving an "eligible rollover distribution" from the Plan (as defined in Code section 401(a)(31)), may direct the Committee to transfer such distributable amount, or a portion thereof, to an "eligible retirement plan" (as defined in Code section 401(a)(31)), as a direct rollover, in accordance with uniform rules established by the Committee. In no event may the amount transferred to an eligible retirement plan be less than \$500 or the entire amount of the distribution if less.

11.11. Missing Members or Beneficiaries. Each Member and each designated Beneficiary must file with the Committee from time to time in writing his post office address and each change of post office address. Any communication, statement or notice addressed to a Member or designated Beneficiary at his last post office address filed with the Committee, or, in the case of a Member, if no address is filed with the Committee, then at his last post office address as shown on the Employers' records, will be binding on the Member and his designated Beneficiary for all purposes of the Plan. None of the Committee, the Employers nor

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the Trustee will be required to search for or locate a Member or designated Beneficiary.

11.12. Disability Distribution. Notwithstanding any other provision of the Plan to the contrary, a Member who is determined by the Medical Director of CBC to be disabled, within the meaning of section 401(k)(2)(B) of the Code, may elect immediate distribution of the balance of his Accounts without regard to whether his Termination Date has occurred.

## SECTION 12

### The Committee

12.1. Membership. The Plan shall be administered by a Committee (referred to in the Plan as "the Committee") consisting of not less than three nor more than seven Employees of CBC or any Employer who shall jointly and severally serve at the will of the Chief Human Resources Officer of CBC (the "CHRO"), without compensation for their services. The members of the Committee may resign or be removed pursuant to the provisions of subsection 12.9. The CHRO may, from time to time, appoint one or more alternate members of the Committee to serve and act as a member of the Committee during the absence of a member or specified member of the Committee, and in such order of priority, if any, as he shall determine. Any alternate member of the Committee who shall, in accordance with the terms of his appointment, at any time act as a member of the Committee, shall, while so acting, be deemed in all respects to be a member of the Committee and to have all the rights, powers, duties and immunities of such a member.

Except as otherwise specifically provided in this Section 12, in controlling and managing the operation and administration of the Plan, the Committee shall act by a majority of its then members, by meeting or by writing signed without meeting, and shall have the following discretionary authority, powers, rights and duties in addition to those vested in it elsewhere in the Plan or Trust:

- (a) to adopt and amend such rules and regulations which are consistent with the terms of the Plan and in the Committee's opinion, may be necessary or advisable for the proper and efficient administration of the Plan;

- (b) to enforce the Plan in accordance with its terms and with such applicable rules and regulations as may be adopted by the Committee;
- (c) to determine conclusively all questions arising under the Plan, including interpretation of the provisions of

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the Plan and of any designation of any beneficiary and determination of the rights, eligibility or identities of employees, Members, beneficiaries and their respective benefits, and the value of their respective interests in the Trust, and to remedy any ambiguities, inconsistencies or omissions of whatever kind; provided, however, that a member of the Committee may not participate in any matter relating solely to himself;

- (d) to maintain and keep adequate records (or cause the Trustee or others to do so) concerning the Plan, its Accounts and its proceedings and acts in such form and detail as the Committee may decide;
- (e) to direct all payments of benefits under the Plan;
- (f) to perform the functions of a "plan administrator" as defined in section 414(g) of the Code, for purposes of Section 7 and for purposes of establishing and implementing procedures to determine the qualified status of domestic relations orders (in accordance with the requirements of section 414(p) of the Code) and to administer distributions under such qualified orders;
- (g) to employ agents, attorneys, accountants or other persons (who may also be employed by or represent the Employers) for such purposes as the Committee considers necessary or desirable to discharge its duties;
- (h) to establish a claims procedure in accordance with section 503 of ERISA;
- (i) to rely upon the Employers to notify it in writing of all facts which may be necessary to determine the proper allocation and crediting of contributions to Accounts of Members and to determine the basis upon which any distributions are to be made, including but not being limited to such facts concerning employees, Members or their beneficiaries as credited service, Salaries, death and dates of death, incapacity, financial necessity, legal disability, granting or termination of leaves of absence, and termination of employment; and to act solely upon the basis of such notification and such facts received from the Employers;
- (j) to determine whether to consent to any loan to a Member;

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- (k) to rely on any document or signature believed by the Committee to be genuine;
- (l) to select an Administrator for the Plan and a Chairman of the Committee and such other officers as desired, including a Secretary who may, but need not be, a member of the Committee;
- (m) to execute any instrument required by signing one instrument or concurrent instruments; to authorize any one or more of its members, or its Secretary, to sign on its behalf, notices, authorizations, directions, consents, approvals, waivers or other documents in connection with the administration of the Plan;
- (n) to perform any actions that the Trust Agreement contemplates that the Committee shall perform; and

- (o) to do and perform any and all acts in the administration of the Plan necessary to its fulfillment, and no enumeration of specific powers and duties herein made shall be construed as a limitation upon this general power.

The certificate of a majority of the members of the Committee or the Chairman or Secretary of the Committee or any agent selected by the Committee that the Committee has taken or authorized any action shall be conclusive in favor of any person relying on the certificate.

12.2. Allocation and Delegation of Committee Responsibilities and Powers. In exercising its authority to control and manage the operation and administration of the Plan, the Committee may allocate all or any part of its responsibilities and powers to any one or more of its members, but only upon the unanimous vote of all members of the Committee. The Committee may also delegate all or any part of its responsibilities and powers to any person or persons selected by it, including, without limitation, CBC, any Employer, the Secretary, or the Administrator. Any such allocation or delegation and the acceptance thereof by the Committee member or delegate shall be in writing and may be revoked at any time. Any member or delegate exercising Committee responsibilities and powers under this subsection shall periodically report to the Committee on its exercise thereof and the discharge of such responsibilities. Neither CBC nor any Employer, nor their employees, committees and agents, shall incur any liability for any act taken or omitted by any of them in good faith in connection with any such delegation.

12.3. Uniform Rules. In managing the Plan, the Committee shall uniformly apply rules and regulations adopted by it to all persons similarly situated.

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12.4. Information to be Furnished to Committee. The Employers and Related Companies shall furnish the Committee such data and information as may be required for it to discharge its duties. The records of the Employers and Related Companies as to an employee's or Member's period of employment, termination of employment and the reason therefor, Leave of Absence, reemployment and Salary shall be conclusive on all persons unless determined to be incorrect. Members and other persons entitled to benefits under the Plan must furnish to the Committee such evidence, data or information as the Committee considers desirable to carry out the Plan.

12.5. Committee's Decision Final. Any interpretation of the Plan and any decision on any matter within the discretion of the Committee made by the Committee shall be binding on all persons. A misstatement or other mistake of fact shall be corrected when it becomes known, and the Committee shall make such adjustment on account thereof as it considers equitable and practicable.

12.6. Exercise of Committee's Duties. Notwithstanding any other provisions of the Plan, the Committee shall discharge its duties hereunder solely in the interests of the Members and other persons entitled to benefits under the Plan, and:

- (a) for the exclusive purpose of providing benefits to Members and other persons entitled to benefits under the Plan; and
- (b) with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

12.7. Remuneration and Expenses. No remuneration shall be paid from the Plan to any Committee member as such. However, the reasonable expenses (including the fees and expenses of persons employed by it in accordance with paragraph 12.1(g)) of a Committee member incurred in the performance of a Committee function may be reimbursed by the Trust unless reimbursed by the Employers.

12.8. Indemnification of the Committee. CBC shall indemnify each member of the Committee, [the Secretary] and the Administrator for and hold them harmless against any and all liabilities, losses, costs and expenses (including legal fees and expenses) of whatsoever kind and nature which may be imposed on, incurred by or asserted against any such person at any time by reason of his service under this Plan if such person did not act dishonestly or in willful or negligent violation of the law or

regulation under which such liability, loss, cost or expense arises.

12.9. Resignation or Removal of Committee Member. A Committee member may be removed by the CHRO or may resign by giving written notice to the CHRO.

12.10. Appointment of Successor Committee Members. The CHRO may fill any vacancy in the membership of the Committee and shall give prompt written notice thereof to the other Committee members, the other Employers and the Trustee. While there is a vacancy in the membership of the Committee, the remaining Committee members shall have the same powers as the full Committee until the vacancy is filled.

12.11. Information to Trustee Concerning Committee. At the time of appointment of any member or alternate member of the Committee, CBC shall furnish the Trustee with the name and specimen signature of such member or alternative member, and the Committee from time to time shall furnish the Trustee with the name and specimen signature of each member, alternate member or other agent of the Committee upon whose statement of the decision or direction of the Committee the Trustee is authorized to rely. Until notified of the change of any member, alternate member or agent of the Committee, the Trustee shall act upon the assumption that there has been no change. The Trustee may conclusively assume that any alternate member of the Committee at any time purporting to act as a member of the Committee is fully empowered to act as such member.

### SECTION 13

#### Amendment and Termination

13.1. Amendment. While the Company expects to continue the Plan, it necessarily reserves the right, subject to the provisions of the Trust Agreement, to terminate the Plan or to amend it from time to time. Subject to the provisions of this Section 13, the Chairman of CBC may amend the Plan in whole or in part, which amendment may be given such retroactive application as he may determine, provided that no such amendment shall affect allocations or distributions made prior to such amendment, or reduce a Member's interest in the Plan to less than an amount equal to the amount he would have been entitled to receive if he had resigned from the employ of the Employers and the Related Companies on the day of the amendment and no amendment will eliminate an optional form of benefit with respect to a Member or Beneficiary except as otherwise permitted by law. Notwithstanding the foregoing, any amendment to terminate the

Plan pursuant to subsection 13.3 must be adopted by the Human Resources Committee of the Board of Directors of the Company.

13.2. Method of Making Amendment. Each amendment of the Plan shall be made by written instrument executed by the Chairman of CBC.

13.3. Termination. The Plan will terminate as to all of the Employers on any day specified by the Company if advance written notice of the termination is given to the other Employers. Employees of any Employer shall cease active participation in the Plan (and will be treated as inactive Members in accordance with subsection 2.2) on the first to occur of the following:

- (a) the date on which that Employer, by appropriate action communicated in writing to the Company, ceases to be a contributing sponsor of the Plan;
- (b) the date that Employer is judicially declared bankrupt or insolvent; or
- (c) the dissolution, merger, consolidation, reorganization or sale of that Employer, or the sale by that Employer of all or substantially all of its assets, except that, subject to the provisions of this subsection 13.3, with the consent of the Company, in any such event arrangements may be made whereby the Plan will be continued by any successor to that Employer

or any purchaser of all or substantially all of that Employer's assets, in which case the successor or purchaser will be substituted for the Employer under the Plan.

13.4. Merger and Consolidation of the Plan, Transfer of Plan Assets. The Committee in its discretion may direct the Trustee to transfer all or a portion of the assets of this Plan to another defined contribution plan of the Employers or Related Companies which is qualified under section 401(a) of the Code or, in the event of the sale of stock of an Employer or all or a portion of the assets of an Employer, to a qualified plan of an employer which is not a Related Company. In the case of any merger or consolidation with, or transfer of assets and liabilities to, any other plan, provision shall be made so that each affected Member in the Plan on the date thereof (if the Plan, as applied to that Member, then terminated) would receive a benefit immediately after the merger, consolidation or transfer which is equal to or greater than the benefit he would have been entitled to receive immediately prior to the merger, consolidation or transfer if the Plan, as applied to him, had then terminated.

13.5. Vesting and Distribution on Termination and Partial Termination. Upon termination or partial termination of the Plan, or complete discontinuation of contributions to the Plan, each Member shall continue to be fully vested in all of his Accounts, and all benefits under the Plan shall continue to be paid in accordance with Sections 10 and 11 as such section may be amended from time to time.

13.6. Notice of Amendment, Termination or Partial Termination. Affected Members will be notified of an amendment, termination or partial termination of the Plan as required by law.

IN WITNESS WHEREOF, Continental Bank Corporation has caused this instrument to be executed and its corporate seal hereunto affixed by its duly authorized officers this 24th day of August 1994.

CONTINENTAL BANK CORPORATION

By: /s/ THOMAS THEOBALD

-----  
Title: Chairman

Attest:

By: /s/ KEVIN HALLAGAN

-----  
Title: \_\_\_\_\_  
(Corporate Seal)

SUPPLEMENT A  
TO  
The Continental Employees Savings Incentive Plan  
(Top-Heavy Status)

<TABLE>	<C>
<S>	
Application	A-1. This Supplement A to The Continental Employees Savings Incentive Plan (the "Plan") shall be applicable on and after the date on which the Plan becomes Top-Heavy (as described in subsection A-4).
Definitions	A-2. Unless the context clearly implies or indicates to the contrary, a word, term or phrase used or defined in the Plan is similarly used or defined for purposes of this Supplement A.
Affected Member	A-3. For purposes of this Supplement A, the term "Affected Member" means each Member who is employed by an Employer or a Related Company during any Plan Year for which the Plan is Top-Heavy, that provided for any such Plan Year, the term "Affected Member" shall include any Eligible Employee of an Employer who is not a Member solely because he failed to make contributions under subsection 4.1 for that year.
Top-Heavy	A-4. The Plan shall be "Top-Heavy" for any Plan Year if, as of the Determination Date for that year (as described in paragraph (a) next below), the present value of the benefits attributable to Key Employees (as defined in subsection A-5) under all Aggregation Plans (as defined in subsection



A-8) exceeds 60 percent of the present value of all benefits under such plan. The foregoing determination shall be made in accordance with the provisions of section 416 of the Code. Subject to the preceding sentence:

- (a) The Determination Date with respect to any plan for purposes of determining Top-Heavy status for any plan year of that plan shall be the last day of the preceding plan year or, in the case of the first plan

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year of that plan, the last day of that year. The present value of benefits as of any Determination Date shall be determined as of the accounting date or valuation date coincident with or next preceding the Determination Date. If the plan years of all Aggregation Plans do not coincide, the Top-Heavy status of the Plan on any Determination Date shall be determined by aggregating the present value of Plan benefits on that date with the present value of the benefits under each other Aggregation Plan determined as of the Determination Date of such other Aggregation Plan which occurs in the same calendar year as the Plan's Determination Date.

- (b) Benefits under any plan as of any Determination Date shall include the amount of any distributions from that plan made during the plan year which includes the Determination Date (including distributions under a terminated plan which, if it had not been terminated, would have been required to be included in an aggregation group) or during any of the preceding four plan years, but shall not include any amounts attributable to employee contributions which are deductible under section 219 of the Code, any amounts attributable to employee-initiated rollovers or transfers made after December 31, 1983 from a plan maintained by an unrelated employer, or, in case of a defined contribution plan, any amounts attributable to contributions made after the Determination Date unless such contributions are required by section 412 of the Code or are made for the plan's first plan year.

- (c) Benefits attributable to a member shall include benefits paid or

</TABLE>

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payable to a beneficiary of the member, but shall not include benefits paid or payable to any member who has not performed services for an Employer or Related Company during any of the five plan years ending on the applicable Determination Date; provided, however, that if a member performs no services for five years and then performs services, the benefits attributable to such member shall be included.

- (d) The accrued benefit of any member who is a Non-Key Employee with respect to a plan but who was a Key Employee with respect to such plan for any prior plan year shall not be taken into account.
- (e) The accrued benefit of a Non-Key Employee shall be determined under the method which is used for accrual purposes for all plans of the Employer and Related Companies; or, if there is not such a method, as if the benefit accrued not more rapidly than the slowest accrual rate permitted under section 411(b)(1)(C) of the Code.
- (f) The present value of benefits under all defined benefit plans shall be determined on the basis of a 6 percent per annum interest factor and the 1984 Unisex Pension Mortality Table, with a one-year setback.

Key Employee  
- - - - -

A-5. The term "Key Employee" means an employee or deceased employee (or beneficiary of such deceased employee) who is a Key Employee within the meaning ascribed to that term by section 416(i) of the Code. Subject to the preceding sentence, the term Key Employee includes any employee or deceased employee (or beneficiary of such deceased employee) who at any time during the plan year which includes the Determination Date or

</TABLE>

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during any of the four preceding plan years was:

- (a) an officer of any Employer or Related Company with Compensation in excess of 50 percent of the amount in effect under section 415(b)(1)(A) of the Code for the calendar year in which that year ends; provided, however, that the maximum number of employees who shall be considered Key Employees under this paragraph (a) shall be 50.
- (b) one of the 10 employees owning the largest interests in any Employer or any Related Company (disregarding any ownership interest which is less than 1/2 of one percent), excluding any employee for any plan year whose Compensation did not exceed the applicable amount in effect under section 415(c)(1)(A) of the Code for the calendar year in which that year ends;
- (c) a 5 percent owner of any Employer or of any Related Company; or
- (d) a 1 percent owner of any Employer or any Related Company having Compensation in excess of \$150,000.

Compensation  
- -----

A-6. The term "Compensation" for purposes of this Supplement A generally means W-2 compensation for the calendar year ending with or within that plan year, not exceeding (i) for years after 1988 and before 1994, \$200,000 or such other amount as may be permitted for any year under Code section 401(a)(17) and (ii) for years after 1993, \$150,000 or such other amount as may be permitted under Code Section 401(a)(17). However, for Plan Years beginning on or after January 1, 1989, solely for purposes of determining who is a Key Employee, the term "Compensation" means compensation as defined in Code section 414(q)(7).

</TABLE>

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Non-Key Employee  
- -----

A-7. The term "Non-Key Employee" means any employee (or beneficiary of a deceased employee) who is not a Key Employee.

Aggregation Plan  
- -----

A-8. The term "Aggregation Plan" means the Plan and each other retirement plan (including any terminated plan) maintained by an Employer or Related Company which is qualified under section 401(a) of the Code and which:

- (a) during the plan year which includes the applicable Determination Date, or during any of the preceding four plan years, includes a Key Employee as a member;
- (b) during the plan year which includes the applicable Determination Date or, during any of the preceding four plan years, enables the Plan or any plan in which a Key Employee participates to meet the requirements of section 401(a)(4) or 410 of the Code; or
- (c) at the election of the Employer, would meet the requirements of sections 401(a)(4) and 410 if it were considered together with the Plan and all other plans described in paragraphs (a) and (b) next above.

Required  
Aggregation  
Plan  
- -----

A-9. The term "Required Aggregation Plan" means a plan described in either paragraph (a) or (b) of subsection A-8.

Permissive  
Aggregation  
Plan  
- -----

A-10. The term "Permissive Aggregation Plan" means a plan described in paragraph (c) of subsection A-8.

Vesting  
- -----

A-11. The Account balances of each Member shall be 100 percent vested.

Minimum  
Contribution  
- -----

A-12. For any Plan Year during which the Plan is Top-Heavy, the minimum amount of Employer contributions and forfeitures, excluding elective contributions as defined in Code section 401(k) and

</TABLE>

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<C>

employer matching contributions as defined in Code section 401(m), allocated to the Accounts of each Affected Member who is employed by an Employer or Related Company on the last day of that year, who is a Non-Key Employee and who is not entitled to a minimum benefit for that year under any defined benefit Aggregation Plan which is top-heavy shall, when expressed as a percentage of the Affected Member's Compensation, be equal to the lesser of:

- (a) 3 percent; or
- (b) the percentage at which Employer contributions (including Employer contributions made pursuant to a cash or deferred arrangement) and Forfeitures are allocated to the Accounts of the Key Employee for whom such percentage is greatest.

For purposes of the preceding sentence, compensation earned while a member of a group of employees to which the Plan has not been extended shall be disregarded. Paragraph (b) next above shall not be applicable for any Plan Year if the Plan enables a defined benefit plan described in paragraph A-8(a) or A-8(b) to meet the requirements of section 401(a)(4) or 410 for that year. Employer contributions for any Plan Year during which the Plan is Top-Heavy shall be allocated first to non-Key Employees until the requirements of this subsection A-12 have been met and, to the extent necessary to comply with the provisions of this subsection A-12, additional contributions shall be required of the Employers.

Aggregate  
Benefit Limit  
- -----  
</TABLE>

A-13. (a) Subject to the provisions of paragraph (b) of this subsection A-13, for any Plan Year during which the Plan is Top-Heavy, paragraphs (2)(B) and (3)(B) of section 415(e) of the Code shall be applied by substituting "1.0" for "1.25".

APPENDIX A  
TO  
The Continental Employees  
Savings Incentive Plan

EMPLOYERS

- Continental Bank Corporation
- Continental Bank International Finance Corporation
- Continental Illinois Trust Company of Florida,  
National Association
- Continental Illinois Service Corporation
- Continental Illinois Commercial Corporation
- Continental Brokerage Services, Inc.
- Continental Partners Group, Inc.
- Continental Service Group

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APPENDIX B  
TO  
The Continental Employees  
Savings Incentive Plan

DEFINED TERMS

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1.1	-	CBC
6.1	-	Company Stock Fund
12.1	-	Chief Human Resources Officer

1.1	-	Code
12.1	-	Committee
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8.7	-	Deferred Percentage
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1.1	-	Effective Date
2.2	-	Eligible Employee
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2.1	-	Entry Date
2.2	-	Excluded Employee
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8.12	-	Highly Compensated
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8.7	-	Highly Compensated Group Deferral Percentage
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CONTINENTAL EMPLOYEES SAVINGS INCENTIVE TRUST

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7.10.	Ancillary Trustee

</TABLE>

CONTINENTAL EMPLOYEES SAVINGS INCENTIVE TRUST

This Agreement is made and entered into this 24th day of August, 1994 by and between Continental Bank Corporation, a Delaware corporation (hereinafter referred to as "CBC") and Continental Trust Company, as trustee (hereinafter referred to as the "Trustee").

WHEREAS, CBC established the Continental Employees Savings Incentive Plan and Trust, effective as of July 1, 1985, which Plan and Trust has been amended from time to time thereafter; and

WHEREAS, CBC wishes to amend and restate said Plan and Trust as separate documents, and this agreement constitutes an amendment and restatement of the trust provisions of said Plan and Trust;

NOW, THEREFORE, CBC and the Trustee hereby agree as follows:

## SECTION 1

### ESTABLISHMENT OF TRUST

1.1. Name. The trust created by this agreement shall be known as the Continental Employees Savings Incentive Trust (the "Trust"), which Trust forms a part of the Continental Employees Savings Incentive Plan (the "Plan").

1.2. Use of Terms. Words and phrases used and defined in the Plan are similarly used and defined for purposes of the Trust.

1.3. Plan Contributions. The Trustee shall be accountable for all contributions made under the Plan received by it, but shall have no duty to require any such contributions to be made or to be delivered to it or to determine that any amounts received are authorized under the Plan or are in the correct amount.

1.4. Effective Date. The provisions of the Trust as amended and restated herein shall be effective as of January 1, 1994, except as may otherwise be specifically provided herein. Any provision with an earlier effective date shall be treated as an amendment of the Trust as previously in effect.

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## SECTION 2

### TRUST FUND ADMINISTRATION

2.1. Trust Fund. The "Trust Fund" shall consist of all property held by the Trustee or its agents under the Trust as of any date.

2.2. Administrative Committee. The Plan provides for the appointment of an Administrative Committee to administer the Plan. The administrator of the Plan shall be selected by the Administrative Committee and, except as otherwise expressly provided in the Plan, shall have the rights, duties and obligations of an "administrator" as that term is defined in Section 3(16)(A) of the Employee Retirement Income Security Act of 1974 as amended from time to time ("ERISA") and of a "plan administrator" as that term is defined in Section 414(g) of the Internal Revenue Code of 1986 as amended from time to time (the "Code"). The members of the Administrative Committee shall be "named fiduciaries" of the Plan and Trust, as described in Section 402 of ERISA.

2.3. Retirement Plans Investment Committee. In addition to the Administrative Committee, there shall be a Retirement Plans Investment Committee (the "Investment Committee"), which shall have the duties and responsibilities set forth in this trust agreement, and which shall act in accordance with its Rules of Organization and Procedure. The members of the Investment Committee shall be "named fiduciaries" of the Trust, as described in Section 402 of ERISA.

The Administrative Committee and the Investment Committee are sometimes hereinafter referred to collectively as the "Committees".

2.4. Information to Trustee Concerning Committees. At the time of appointment of any member or alternate member of the Committees, CBC shall furnish the Trustee with the name and specimen signature of such member or alternate member, and the Committees from time to time shall furnish the Trustee with the name and specimen signature of each member, alternate member or other agent of the Committees upon whose statement of the decision or direction of the Committees the Trustee is authorized to rely. Until notified of the change of any member, alternate member or agent of the Committees, the Trustee shall act upon the assumption that there has been no change. The Trustee may conclusively assume that any alternate member of the Committees at any time purporting to act as a member of the Committees is fully empowered to act as such member.

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2.5. Fiduciary Responsibility. The Trustee, the Committees, the plan administrator, any investment manager appointed pursuant to the provisions of

Section 3.4, and any other person acting as a fiduciary with respect to the Plan or Trust shall discharge their duties thereunder solely in the interests of the Members and their beneficiaries, and

- (a) for the exclusive purpose of providing benefits to Plan Members and their beneficiaries and defraying reasonable expenses of administering the Plan and Trust;
- (b) with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and
- (c) to the extent of such fiduciary's responsibility for investment of the Trust Fund, by diversifying such investments so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

### SECTION 3

#### INVESTMENT OF TRUST FUND

3.1. Investment Funds. The Investment Committee may from time to time direct the Trustee to establish one or more Investment Funds within the Trust Fund (or to eliminate or temporarily suspend the operation of an existing Investment Fund), bearing such names, and having such investment objectives and guidelines as the Investment Committee may determine and communicate to the Trustee. The Trustee will invest contributions and Plan Account balances among the Investment Funds in such proportions and at such times as directed by the Administrative Committee, but shall have no duty to verify or confirm the accuracy of such directions and shall not be responsible for any loss resulting from following such directions.

3.2. Company Stock Fund. The Investment Committee may establish a "Company Stock Fund" which shall be invested in common stock of CBC or any other security which is a "qualifying employer security," as that term is defined in Section 407 of ERISA; provided, however that any such investment complies with all the requirements prescribed by ERISA with respect to such investment. Such securities may be contributed by the Employer, or may be purchased from or sold to the Employer or on the open market or

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in any other manner or from or to any person as may be permitted by applicable law.

3.3. Participant-Directed Investments. The establishment of the Trust's Investment Funds, the investment changes authorized by the Plan, and the investment information provided to Members and their beneficiaries, are designed to comply with the requirements of Section 404(c) of ERISA and regulations issued thereunder by the Department of Labor to permit Members and their beneficiaries to direct the investment of their own Accounts in a manner that is informed and appropriate for their investment objectives. Section 404(c) of ERISA provides that if Members or their beneficiaries exercise investment control over their own Accounts, Plan and Trust fiduciaries may not be liable for losses that result directly from investment instructions given by Members or their beneficiaries.

3.4. Investment Managers. Notwithstanding any other provision of this trust agreement, the Investment Committee, as named fiduciary, may direct the segregation of all or any portion of the Trust Fund or any Investment Fund into one or more accounts to be known as Investment Manager Accounts, and if it does so, shall also appoint one or more investment managers to manage the portion or portions of the Trust Fund or Investment Fund so segregated. Any investment manager so appointed shall be an "investment manager" as that term is defined in Section 3(38) of ERISA. Concurrently with its acceptance of its appointment hereunder, an investment manager shall (1) certify in writing to the Investment Committee and to the Trustee that it is an "investment manager" as defined in ERISA, (2) acknowledge in writing to the Investment Committee and to the Trustee that it is a "fiduciary" as that term is defined in Section 3(21)(A) of ERISA, and (3) certify in writing to the Investment Committee and the Trustee that it has received a copy of this trust agreement.

With respect to any assets held in an Investment Manager Account, and subject to the terms of this trust agreement, the investment manager shall have

the power, without prior consultation with the Trustee, to manage, acquire or dispose of any asset held in such Investment Manager Account, and to direct the Trustee with respect to the acquisition, retention, disposition or management of such assets. The investment manager, if so authorized by the Investment Committee, may have or retain the physical custody or indicia of ownership of any asset. The Trustee shall follow all directions of the investment manager regarding the Investment Manager Account, and shall not be liable to the Employer, the Investment Committee or to any

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Member or beneficiary of the Trust Fund for so doing or for failing to take any action in the absence of directions from the investment manager. The Trustee shall not be liable for any act or omission of an investment manager, or be under any obligation to invest, review or otherwise manage any asset of the Trust Fund which is held in an Investment Manager Account. Notwithstanding the foregoing, the Trustee shall not be relieved of any liability imposed upon it by ERISA.

Directions of an investment manager to the Trustee shall be in writing or may be made orally and confirmed in writing as soon as practicable thereafter. The Trustee may assume that the establishment of an Investment Manager Account and the appointment of an investment manager pursuant to the terms of this provision continue in force until receipt of written notice to the contrary from the Investment Committee.

Pending receipt of directions from an investment manager for any Investment Manager Account, any cash received by the Trustee from time to time for such Investment Manager Account may be retained by the Trustee in cash.

The Trustee is authorized and directed to pay from the Trust Fund all fees, charges and expenses incurred in the operation and administration of any Investment Manager Account to the extent they are not paid by the Employer.

#### SECTION 4

##### POWERS AND DUTIES OF TRUSTEE

4.1. Trustee's Powers. Subject to Section 3, the Trustee shall have the following powers, rights and duties in addition to those vested in it elsewhere in the Trust or by law:

- (a) to invest in property or interests in property of any kind, real or personal, wherever located, including but not limited to common and preferred stocks, fixed income securities, demand notes or any other forms of commercial paper, convertible securities, options, financial instrument futures, contracts issued by insurance companies or banks, mutual funds (including but not limited to mutual funds with respect to which the Trustee or any of its affiliates may provide investment advisory, recordkeeping or other services), promissory notes of Members and others, and any collective or pooled fund referred to in Section 4.1(b); provided, however, that any investment in contracts issued by insurance companies or banks shall be made only with such insurance companies or banks and

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upon such terms and conditions as the Investment Committee or an investment manager shall direct;

- (b) to invest the assets of the Trust Fund or any Investment Fund in any collective investment trust then qualified for tax-exemption under Section 401(a) of the Internal Revenue Code, or amendments thereof, which is then maintained by the bank, trust company or other financial institution or entity then acting as a Trustee, co-Trustee, agent for the Trustee hereunder, or as an investment manager. The provisions of the document governing such collective investment trust, as amended from time to time, shall govern any investment therein and are hereby made a part of this agreement;



- (c) to invest all or any portion of any Investment Fund in qualifying employer securities (as that term is defined in Section 407 of ERISA); provided that any such investment complies with all requirements prescribed by ERISA with respect to such investment;
- (d) pending payment of expenses or benefits or investment or distribution of available funds, or transfer of Trust Fund assets to an Investment Fund, the Trustee may retain any portion of the Trust Fund or any Investment Fund in cash (without liability for interest), or may invest in short-term government obligations, commercial paper, demand notes, time deposits (including those in the banking departments of any bank affiliated with the Trustee), collective funds or other similar types of short-term fixed income obligations or interests therein;
- (e) to retain, control, manage, improve, develop, repair and operate any assets of the Trust Fund;
- (f) to sell, convey, transfer, exchange, partition, grant options with respect to, lease for any term (even though such term extends beyond the duration of the Trust or commences in the future), enter into agreements and orders with respect to, mortgage, pledge, or otherwise deal with or dispose of, any assets of the Trust Fund in such manner, for such consideration and upon such terms and conditions, as the Trustee in its discretion shall determine;
- (g) to employ such agents, advisors, consultants and counsel (who may be counsel for CBC or any Designated Affiliate) as the Trustee may deem reasonably necessary

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or desirable, or as the Administrative Committee or the Investment Committee may direct in order to assist them in performing their duties under the Plan and Trust, and to pay such agents, advisors, consultants and counsel reasonable compensation from the Trust Fund;

- (h) to settle, compromise or abandon any claim or demand in favor of or against the Trust Fund;
- (i) to borrow money for the Trust Fund (either from any bank affiliated with the Trustee or from others) with or without giving security from the Trust Fund;
- (j) except as provided in Section 4.2, to vote any corporate stock either in person or by proxy for any purpose and to exercise any conversion privilege, subscription right or any other right or option given to the Trustee as the owner of any security which may be an asset of the Trust Fund and to make any payments incidental thereto; to consent to, take any action in connection with, and receive and retain any securities resulting from, any reorganization, consolidation, merger, readjustment of the financial structure, sale, lease or other disposition of the assets of any corporation or other organization, any securities of which may be an asset of the Trust Fund, including but not limited to the execution of any documents necessary to the registration of such securities;
- (k) to organize or incorporate (or participate in the organization or incorporation of) under the laws of any jurisdiction, one or more corporations or other entities for the purpose of acquiring and holding title to any property which the Trustee is authorized to acquire for the Trust Fund and to exercise with respect thereto any of the powers, rights, and duties it has with respect to other assets of the Trust Fund;
- (l) to cause any asset of the Trust Fund to be issued, held or registered in the name of a nominee, including the nominee of a corporate depository, or in such form that title will pass by delivery, provided the records of the Trustee shall indicate the true ownership of such asset;
- (m) when directed by the Administrative Committee, to make loans

to Members and beneficiaries under the Plan from the Trust Fund in such amounts and under such conditions as are specified by the Administrative Committee without inquiring as to whether the loan is proper under the terms of the Plan or under any applicable state or federal law; the Administrator shall be responsible for issuing and maintaining custody of promissory notes and other documentation pertaining to such loans, and all related loan disclosure and recordkeeping matters;

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- (n) to lend Trust Fund assets on a secured or unsecured basis for any purpose the Trustee may deem suitable or desirable, and to permit any loaned securities to be transferred into the name of and voted by the borrower or others, and to hold any collateral received in connection with such loan in bulk or pursuant to any master loan agreement in which the Trust Fund may hold an unallocated interest in such collateral together with other funds for which Continental Trust Company or a successor thereof is acting as trustee, agent or advisor; provided that the lending of securities and the taking of any compensation in connection therewith (whether from the Trust Fund or otherwise) shall comply with Department of Labor Prohibited Transaction Class Exemptions 81-6 and 82-63 to the extent applicable;
- (o) when directed by the Administrative Committee, to accept a "Rollover Contribution" as that term is defined in Section 4.6 of the Plan; and
- (p) to exercise all powers and rights of an individual owner with respect to any property of the Trust Fund and to do all other acts in its judgment necessary or desirable for the proper administration of the Trust Fund, although such powers, rights and acts are not specifically enumerated in the Trust.

#### 4.2. Provisions Related to Company Stock Fund.

- (a) Voting Rights. In all matters submitted to a vote of the stockholders of CBC, the Trustee shall vote shares of CBC common stock held in the Company Stock Fund in such manner as is specified in written directions received from Members. Each Member shall be entitled to so direct the Trustee with respect to the vote of the number of shares (including fractional shares), if any, which represents his proportionate interest in said Stock Fund as of the most recent Accounting Date. All such Members shall be provided with such information and notices with respect to such vote as are required of CBC by applicable law, at the same time and in the same manner as is required for other stockholders. To the extent that a Member fails to direct the Trustee to vote such shares, the Trustee shall vote such shares in the same proportion as it votes shares for which it has received directions from Members.
- (b) Tender and Exchanges. In the event of an offer, including a tender offer, for the purchase or exchange of the stock of CBC, or in the event of the merger of CBC with another corporation pursuant to which the stock of CBC

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is to be exchanged for the stock of such other corporation or for cash, the Administrative Committee shall direct the Trustee as to the number of shares (including fractional shares, if any) in the Company Stock Fund that may be sold or tendered, or, in the event of such merger, the relative amounts of CBC stock in the Company Stock Fund to be converted into stock of such other corporation or cash.

4.3. Records and Accounts of Trustee. The Trustee shall maintain accurate and detailed records and accounts of all transactions of the Trust, except those that under the provisions hereof or of the Plan are to be

maintained by the Committees. All records and accounts of the Trustee shall be available at all reasonable times for inspection or audit by the auditors of CBC. All accounts of the Trustee shall be kept on an accrual basis.

4.4. Reports. As soon as practicable following the close of each Plan Year or at such other times as the Plan may provide or CBC may request, the Trustee shall file with CBC a written report setting forth all transactions with respect to the Trust Fund and each Investment Fund during such year and listing the assets of the Trust Fund and each Investment Fund and the fair market valuation thereof as of the close of such year. The Trustee shall file with CBC such other reports for such periods as it desires or which CBC requests.

4.5. Approval of Reports. Upon the receipt by the Trustee of CBC's written approval of any such report, or upon the expiration of six months after delivery of any such report to CBC, such report (as originally stated if no objection has been theretofore filed by CBC, or as theretofore adjusted pursuant to agreement between CBC and the Trustee) shall be deemed to be approved by CBC except as to matters, if any, covered by written objections theretofore delivered to the Trustee by CBC regarding which the Trustee has not given an explanation, or made adjustments, satisfactory to CBC, and the Trustee shall be released and discharged as to all items, matters and things set forth or reflected in such report which are not covered by such written objections as if such report had been settled and allowed by a decree of a court having jurisdiction regarding such report and of the Trustee and the Committees. The Trustee, nevertheless, shall have the right to have its accounts and reports settled by judicial proceedings if it so elects.

4.6. Reliance Upon Advice of Counsel. The Trustee may consult with legal counsel, who may be counsel for CBC or any Designated Affiliate, with respect to any of its rights, duties or obligations hereunder and shall be fully protected in acting or refraining from acting in accordance with the advice of such counsel.

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4.7. Compensation and Expenses. The Trustee is authorized to pay from the Trust Fund such reasonable compensation for its services hereunder as may be agreed to by the Employer, and all expenses and taxes of the Trustee and of the Committees (including fees of their attorneys and agents) incurred in connection with the exercise of their powers, duties and functions under the Plan and Trust, to the extent such compensation, expenses and taxes are not paid by the Employer.

4.8. Protection of Persons Dealing with Trustee. No person dealing with the Trustee shall be required or entitled to see to the application of any money paid or property delivered to the Trustee, or to determine whether or not the Trustee is acting pursuant to authorities granted to it hereunder or to authorizations or directions herein required.

4.9. Withholding of Taxes. The Trustee may withhold or require the withholding from any distribution pursuant to the Plan such amount as the Trustee may reasonably estimate is necessary to cover any taxes for which the Trustee may be liable or required to withhold, or that are or may be assessed with regard to such distribution, and may pay such taxes from the amount so withheld. Upon discharge or settlement of obligations with respect to such taxes, the balance, if any, of any such amount so withheld in the Accounts of a Member shall be distributed to the distributee from whose distribution it was withheld or, if such distributee is then deceased, as directed by the Administrative Committee pursuant to Section 11 of the Plan. Prior to the making or any distribution hereunder, the Trustee may require such releases or other documents from any taxing authority or may require such indemnity and surety bond as it reasonably deems necessary or advisable for its protection.

## SECTION 5

### REMOVAL OR RESIGNATION OF TRUSTEE

5.1. Removal or Resignation of Trustee. The Trustee may be removed by the Board of Directors of CBC effective upon delivery to it of written notice to that effect. The Trustee may resign and such resignation shall become effective thirty (30) days after the delivery of a notice thereof to CBC.

5.2. Successor Trustee. In the event of the resignation, removal or refusal or inability to act of any Trustee, the Board of Directors of CBC shall appoint a successor Trustee or Trustees. Within sixty (60) days after notice of such resignation or removal of the Trustee, the Trustee shall file with CBC

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character required by Section 4.4 covering the period since its last such accounting, and CBC shall indicate approval or disapproval of such statement by instrument in writing delivered to the Trustee. In the absence of disapproval, exception or objection by CBC delivered to the Trustee within ninety (90) days after CBC shall have received such account, the account shall be deemed to have been approved by CBC, and, in that event or upon written approval by CBC, said removed or resigning Trustee shall be finally released and discharged hereunder.

The title to all property held hereunder shall vest in any successor Trustee acting pursuant to the provisions hereof without the execution or filing of any further instrument, but any resigning or removed Trustee shall execute all instruments and do all acts necessary to vest such title in the successor Trustee. Each successor Trustee shall have, exercise, and enjoy all powers, both discretionary and ministerial, herein conferred upon his or its predecessor. No successor Trustee shall be obliged to examine the accounts, records and acts of any previous Trustee, and such successor Trustee in no way or manner shall be responsible for any action or omission to act on the part of any previous Trustee.

#### SECTION 6

##### AMENDMENT, DISCONTINUANCE OR TERMINATION

6.1. Authority to Amend, Discontinue, or Terminate. Subject to the provisions of Sections 6.2, 6.3 and 6.5, the Chairman of CBC may amend the Trust in whole or in part, which amendment may be given such retroactive application as he may determine, provided that no such amendment shall affect allocations or distributions made prior to such amendment, and further provided that Sections 5.1 and 5.2 may be amended only as expressly authorized by the Compensation Committee of the Board of Directors of CBC.

6.2. Restrictions on Amendment. No amendment to the Trust may be made which shall:

- (a) diminish the amount of any balance of any Member's Accounts which would be distributable to such Member or his beneficiary if such Member had resigned from the employment of a member of the Employer Group immediately prior to such amendment;

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- (b) authorize or cause a diversion or use of any part of the Trust Fund in a manner prohibited by Section 6.5; or
- (c) change the duties, liabilities or immunities of the Trustee without its written consent.

6.3. Method of Making Amendment. Each amendment of this Trust shall be made by written instrument executed by the Chairman of CBC. A copy of such amendment and of any authorizations required by Section 6.1 shall be delivered to the Trustee. Acceptance by the Trustee shall be required with respect to any amendment which changes its duties, liabilities or immunities.

6.4. Effect of Discontinuance or Termination. If CBC permanently discontinues contributions under the Plan, the date of such discontinuance shall, unless such date is an Accounting Date, be considered a special Accounting Date and all adjustments required as of that date shall be made. In the event CBC terminates the Trust or permanently discontinues contributions under the Plan, the Trustee shall continue to hold, invest, administer, and distribute the Trust Fund pursuant to the provisions of the Trust and as directed by the Committees until no assets of the Trust Fund remain in its possession.

6.5. Diversion of Fund Prohibited. At no time (either by operation of law, amendment or termination of the Trust, the happening of any contingency, collateral agreement or otherwise) shall any part of the Trust Fund (other than such part as is required to pay compensation, taxes and expenses) be used for, or diverted to, purposes other than for the exclusive benefit of Members or

SECTION 7

MISCELLANEOUS

7.1. Tax Exemption of Trust. The Trust is hereby designated as constituting a part of a plan intended to qualify and to be tax exempt under Section 401(a) and Section 501(a), respectively, of the Code. Until advised otherwise, the Trustee may conclusively assume that the Trust is so qualified and tax exempt.

7.2. Payment by Employer of Expenses of Committees and Trustee. The Employer may pay any expenses (including fees of any person employed pursuant to Section 4.1(g)) of the Committees

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and of the Trustee in connection with the exercise of their powers, duties and functions under the Plan and Trust.

7.3. Rights Only as Specified. Membership in the Plan will not give any Employee any right or claim to any benefit under the Plan or Trust unless such right or claim has specifically accrued under the terms of the Plan or Trust. Neither the Committees, nor the Trustee, nor the Employer in any way guarantee the Trust Fund from loss or depreciation.

7.4. Limitation on Transfer of Interests. Except as hereinafter provided in this Section 7.4 and in Section 7.6, or as otherwise may be permitted by applicable law, the interest under the Plan and Trust of any Member or any beneficiary is not in any way subject to his debts or other obligations and may not be voluntarily or involuntarily sold, transferred, assigned, encumbered, commuted or anticipated, or voluntarily or involuntarily taken for the satisfaction of debts, other obligations or claims (including claims for alimony, support or separate maintenance) against him. Notwithstanding the foregoing:

- (a) The Trustee may at any time apply, to the extent required, all or any part of the balance of a Member's Accounts to the payment of any amount owing by such Member to the Trustee as the result of a loan made pursuant to Section 10 of the Plan; and
- (b) The Trustee shall comply with the requirements of any domestic relations order which the plan administrator has determined to be a "qualified domestic relations order," as defined in Section 414(p) of the Code and Section 206(d) of ERISA.

7.5. Method of Employer Action. Any action required or permitted to be taken by CBC or any Designated Affiliate that is not required herein to be evidenced by a resolution of its Board of Directors or a committee thereof, may be taken in its behalf by the Chairman of CBC or his delegate. The Chairman may delegate to such Employee or Employees as he may select, any or all of his responsibilities hereunder.

7.6. Legal Actions. CBC and the Committees shall have the authority, either jointly or severally, to enforce the Plan and Trust on behalf of any and all persons having or claiming any interest in the Trust Fund. The Committees, CBC and the Trustee shall be the only necessary parties in any legal action or equitable proceeding pertaining to the Plan and Trust or any interest therein or the administration thereof, or for instructions to the Trustee. If a Member shall bring legal action against the Trustee, the Committees, the Trust Fund, an

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Employer or any employee or agent thereof, the result of which shall be adverse to the party bringing suit, the cost to the Trustee, the Committees, or the Trust Fund for defending such suit shall be charged, to such extent as is possible and legally permissible, directly to the Accounts of such Member, and only the excess, if any, of such costs over and above the balance of the Member's Accounts shall be included in expenses of the Trust Fund.

7.7. Controlling Law. The Trust shall be construed and administered according to Illinois law, except to the extent preempted by federal law.

7.8. Counterparts. The Trust may be executed in any number of counterparts, each of which shall be considered an original, and no other counterpart need be produced.

7.9. Indemnification of the Trustee. CBC hereby agrees to indemnify the Trustee for and to hold it harmless against any and all liabilities, losses, costs or expenses (including legal fees and expenses) of whatsoever kind and nature which may be imposed on, incurred by or asserted against the Trustee at any time by reason of the Trustee's service under this Agreement if the Trustee did not act dishonestly or in willful or negligent violation of the law or regulation under which such liability, loss, cost or expense arises.

7.10. Ancillary Trustee. The Trustee may, with the consent of the Investment Committee, appoint one or more individuals or corporations as Ancillary Trustee. An Ancillary Trustee, concurrently with its appointment becoming effective, shall, to the exclusion of the Trustee, be vested with title to and management of such assets of the Trust Fund specifically designated in such appointment. The Ancillary Trustee shall have no rights, powers, titles or discretions with respect to any assets of the Trust Fund other than those designated in its appointment. As to such designated assets, each provision of the Trust applicable to the Trustee shall apply to the Ancillary Trustee, except that designated assets may not be sold without the consent of the Trustee. The Trustee and the Ancillary Trustee shall not be liable or responsible for the acts or omissions of the other. The Ancillary Trustee may be removed by the Trustee with the consent of the Investment Committee, or may resign at any time by written notice to the Trustee. Reasonable fees and expenses of the Ancillary Trustee may be paid from the Trust Fund if not paid by the Employer.

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IN WITNESS WHEREOF, CBC and the Trustee have caused the Trust to be signed and their corporate seals hereto affixed by their respective authorized officers this 24th day of August, 1994.

CONTINENTAL BANK CORPORATION

ATTEST:

By /s/ Thomas C. Theobald  
\_\_\_\_\_  
Chairman

By /s/ Kevin J. Hallagan  
\_\_\_\_\_  
(SEAL)

CONTINENTAL TRUST COMPANY

ATTEST:

By /s/ John Mistretta  
\_\_\_\_\_  
Vice President

By /s/ David Manuszak  
\_\_\_\_\_  
(SEAL)

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EXHIBIT 5.1

August 24, 1994

Members of the Board of Directors  
BankAmerica Corporation  
Bank of America Center  
555 California Street  
San Francisco, CA 94104

Dear Board Members:

I am the Executive Vice President and General Counsel of BankAmerica Corporation ("BAC") and in that capacity I have acted as counsel for BAC in connection with the registration under the Securities Act of 1933, as amended, of 4,646,961 shares of BAC common stock, \$1.5625 par value (the "Common Stock"), pursuant to the Registration Statement on Form S-8 (the "Registration Statement") to be filed by BAC with the Securities and Exchange Commission.

I have examined or caused to be examined such corporate records, certificates and other documents and such questions of law as I have considered necessary or appropriate for the purposes of this opinion. On the basis of such examination, it is my opinion that the Common Stock, when issued in the manner contemplated by the Registration Statement, will be duly authorized, validly issued, fully paid and nonassessable.

I hereby consent to the inclusion of this opinion as an exhibit to the Registration Statement.

Sincerely,

/s/ MICHAEL J. HALLORAN

Michael J. Halloran  
Executive Vice President  
and General Counsel

## CONSENT OF INDEPENDENT ACCOUNTANTS

We hereby consent to the incorporation by reference in this Registration Statement on Form S-8 to be filed on August 25, 1994 of our report dated January 18, 1994, except as to Note 1, which is as of January 28, 1994, relating to the consolidated financial statements of Continental Bank Corporation, which is included in Continental Bank Corporation's Annual Report on Form 10-K for the year ended December 31, 1993, and which is incorporated by reference in the Current Report on Form 8-K dated March 21, 1994 of BankAmerica Corporation. We also consent to the reference to our firm as experts in accounting and auditing in Item 5 of such Form 8-K.

/s/ PRICE WATERHOUSE LLP

Chicago, Illinois  
August 25, 1994



## CONSENT OF INDEPENDENT AUDITORS

We consent to the incorporation by reference in the Registration Statement on Form S-8 dated August 25, 1994 pertaining to the Continental Illinois Corporation 1979 Stock Option Plan; Continental Bank Corporation 1982 Performance, Restricted Stock and Stock Option Plan; 1987 Option Agreement; Continental Bank Corporation 1991 Equity Performance Incentive Plan; and the Continental Employees Savings Incentive Plan of our report dated January 18, 1994, except for Note 2, as to which the date is January 27, 1994, with respect to the consolidated financial statements of BankAmerica Corporation incorporated by reference in its Annual Report on Form 10-K for the year ended December 31, 1993, filed with the Securities and Exchange Commission.

/s/ ERNST & YOUNG LLP

San Francisco, California  
August 22, 1994

## POWER OF ATTORNEY

The undersigned, a Director of BankAmerica Corporation, hereby constitutes and appoints Cheryl Sorokin, Jeffrey R. Lopic, Steven D. Krieg and Judith A. Boyle, and each of them, his or her attorneys-in-fact, each with full power of substitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign registration statements under the Securities Act of 1933 relating to employee benefit plans of this Corporation and/or any participating subsidiaries, including, but not limited to, the BankAmerishare Plan, the Management Incentive Stock Plan, the 1992 and 1987 Management Stock Plans, Stock Option Plan B, and any and all amendments (including post-effective amendments) thereto.

This power of attorney, unless earlier revoked or terminated, will terminate on January 31, 1995.

Dated: February 7, 1994

/s/ JOSEPH F. ALIBRANDI

-----  
Joseph F. Alibrandi

[Directors-Employee Benefit Plan]

## POWER OF ATTORNEY

The undersigned, a Director of BankAmerica Corporation, hereby constitutes and appoints Cheryl Sorokin, Jeffrey R. Lopic, Steven D. Krieg and Judith A. Boyle, and each of them, his or her attorneys-in-fact, each with full power of substitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign registration statements under the Securities Act of 1933 relating to employee benefit plans of this Corporation and/or any participating subsidiaries, including, but not limited to, the BankAmerishare Plan, the Management Incentive Stock Plan, the 1992 and 1987 Management Stock Plans, Stock Option Plan B, and any and all amendments (including post-effective amendments) thereto.

This power of attorney, unless earlier revoked or terminated, will terminate on January 31, 1995.

Dated: February 7, 1994

/s/ PETER B. BEDFORD

-----  
Peter B. Bedford

[Directors-Employee Benefit Plan]

3

POWER OF ATTORNEY

The undersigned, a Director of BankAmerica Corporation, hereby constitutes and appoints Cheryl Sorokin, Jeffrey R. Lopic, Steven D. Krieg and Judith A. Boyle, and each of them, his or her attorneys-in-fact, each with full power of substitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign registration statements under the Securities Act of 1933 relating to employee benefit plans of this Corporation and/or any participating subsidiaries, including, but not limited to, the BankAmerishare Plan, the Management Incentive Stock Plan, the 1992 and 1987 Management Stock Plans, Stock Option Plan B, and any and all amendments (including post-effective amendments) thereto.

This power of attorney, unless earlier revoked or terminated, will terminate on January 31, 1995.

Dated: February 7, 1994

/s/ ANDREW F. BRIMMER

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Andrew F. Brimmer

[Directors-Employee Benefit Plan]

4

POWER OF ATTORNEY

The undersigned, a Director of BankAmerica Corporation, hereby constitutes and appoints Cheryl Sorokin, Jeffrey R. Lopic, Steven D. Krieg and Judith A. Boyle, and each of them, his or her attorneys-in-fact, each with full power of substitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign registration statements under the Securities Act of 1933 relating to employee benefit plans of this Corporation and/or any participating subsidiaries, including, but not limited to, the BankAmerishare Plan, the Management Incentive Stock Plan, the 1992 and 1987 Management Stock Plans, Stock Option Plan B, and any and all amendments (including post-effective amendments) thereto.

This power of attorney, unless earlier revoked or terminated, will

terminate on January 31, 1995.

Dated: February 7, 1994

/s/ RICHARD A. CLARKE

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Richard A. Clarke

[Directors-Employee Benefit Plan]

5

POWER OF ATTORNEY

The undersigned, a Vice Chairman of the Board, Chief Financial Officer and Treasurer of BankAmerica Corporation, hereby constitutes and appoints Cheryl Sorokin, Jeffrey R. Lopic, Steven D. Krieg and Judith A. Boyle, and each of them, his attorneys-in-fact, each with full power of substitution, for him and in his name, place and stead, in any and all capacities, to sign registration statements under the Securities Act of 1933 relating to employee benefit plans of this Corporation and/or any participating subsidiaries, including, but not limited to, the BankAmerishare Plan, the Management Incentive Stock Plan, the 1992 and 1987 Management Stock Plans, Stock Option Plan B, and all amendments (including post-effective amendments) thereto.

This power of attorney, unless earlier revoked or terminated, will terminate on January 31, 1995.

Dated: February 7, 1994

/s/ LEWIS W. COLEMAN

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Lewis C. Coleman

[Principal Financial Officer-Employee Benefit Plans]

6

POWER OF ATTORNEY

The undersigned, a Director of BankAmerica Corporation, hereby constitutes and appoints Cheryl Sorokin, Jeffrey R. Lopic, Steven D. Krieg and Judith A. Boyle, and each of them, his or her attorneys-in-fact, each with full power of substitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign registration statements under the Securities Act of 1933 relating to employee benefit plans of this Corporation and/or any participating subsidiaries, including, but not limited to, the BankAmerishare

Plan, the Management Incentive Stock Plan, the 1992 and 1987 Management Stock Plans, Stock Option Plan B, and any and all amendments (including post-effective amendments) thereto.

This power of attorney, unless earlier revoked or terminated, will terminate on January 31, 1995.

Dated: February 7, 1994

/s/ TIMM F. CRULL

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Timm F. Crull

[Directors-Employee Benefit Plan]

7

POWER OF ATTORNEY

The undersigned, a Director of BankAmerica Corporation, hereby constitutes and appoints Cheryl Sorokin, Jeffrey R. Lapic, Steven D. Krieg and Judith A. Boyle, and each of them, his or her attorneys-in-fact, each with full power of substitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign registration statements under the Securities Act of 1933 relating to employee benefit plans of this Corporation and/or any participating subsidiaries, including, but not limited to, the BankAmerishare Plan, the Management Incentive Stock Plan, the 1992 and 1987 Management Stock Plans, Stock Option Plan B, and any and all amendments (including post-effective amendments) thereto.

This power of attorney, unless earlier revoked or terminated, will terminate on January 31, 1995.

Dated: February 7, 1994

/s/ KATHLEEN FELDSTEIN

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Kathleen Feldstein

[Directors-Employee Benefit Plan]

8

POWER OF ATTORNEY

The undersigned, a Director of BankAmerica Corporation, hereby

constitutes and appoints Cheryl Sorokin, Jeffrey R. Lopic, Steven D. Krieg and Judith A. Boyle, and each of them, his or her attorneys-in-fact, each with full power of substitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign registration statements under the Securities Act of 1933 relating to employee benefit plans of this Corporation and/or any participating subsidiaries, including, but not limited to, the BankAmerishare Plan, the Management Incentive Stock Plan, the 1992 and 1987 Management Stock Plans, Stock Option Plan B, and any and all amendments (including post-effective amendments) thereto.

This power of attorney, unless earlier revoked or terminated, will terminate on January 31, 1995.

Dated: February 7, 1994

/s/ DONALD E. GUINN

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Donald E. Guinn

[Directors-Employee Benefit Plan]

9

POWER OF ATTORNEY

The undersigned, a Director of BankAmerica Corporation, hereby constitutes and appoints Cheryl Sorokin, Jeffrey R. Lopic, Steven D. Krieg and Judith A. Boyle, and each of them, his or her attorneys-in-fact, each with full power of substitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign registration statements under the Securities Act of 1933 relating to employee benefit plans of this Corporation and/or any participating subsidiaries, including, but not limited to, the BankAmerishare Plan, the Management Incentive Stock Plan, the 1992 and 1987 Management Stock Plans, Stock Option Plan B, and any and all amendments (including post-effective amendments) thereto.

This power of attorney, unless earlier revoked or terminated, will terminate on January 31, 1995.

Dated: February 7, 1994

/s/ PHILIP M. HAWLEY

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Philip M. Hawley

[Directors-Employee Benefit Plan]

## POWER OF ATTORNEY

The undersigned, a Director of BankAmerica Corporation, hereby constitutes and appoints Cheryl Sorokin, Jeffrey R. Lopic, Steven D. Krieg and Judith A. Boyle, and each of them, his or her attorneys-in-fact, each with full power of substitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign registration statements under the Securities Act of 1933 relating to employee benefit plans of this Corporation and/or any participating subsidiaries, including, but not limited to, the BankAmerishare Plan, the Management Incentive Stock Plan, the 1992 and 1987 Management Stock Plans, Stock Option Plan B, and any and all amendments (including post-effective amendments) thereto.

This power of attorney, unless earlier revoked or terminated, will terminate on January 31, 1995.

Dated: February 7, 1994

/s/ FRANK L. HOPE, JR.

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Frank L. Hope, Jr.

[Directors-Employee Benefit Plan]

## POWER OF ATTORNEY

The undersigned, a Director of BankAmerica Corporation, hereby constitutes and appoints Cheryl Sorokin, Jeffrey R. Lopic, Steven D. Krieg and Judith A. Boyle, and each of them, his or her attorneys-in-fact, each with full power of substitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign registration statements under the Securities Act of 1933 relating to employee benefit plans of this Corporation and/or any participating subsidiaries, including, but not limited to, the BankAmerishare Plan, the Management Incentive Stock Plan, the 1992 and 1987 Management Stock Plans, Stock Option Plan B, and any and all amendments (including post-effective amendments) thereto.

This power of attorney, unless earlier revoked or terminated, will terminate on January 31, 1995.

Dated: February 7, 1994

/s/ IGNACIO E. LOZANO, JR.

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Ignacio E. Lozano, Jr.

[Directors-Employee Benefit Plan]

12

POWER OF ATTORNEY

The undersigned, a Director of BankAmerica Corporation, hereby constitutes and appoints Cheryl Sorokin, Jeffrey R. Lopic, Steven D. Krieg and Judith A. Boyle, and each of them, his or her attorneys-in-fact, each with full power of substitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign registration statements under the Securities Act of 1933 relating to employee benefit plans of this Corporation and/or any participating subsidiaries, including, but not limited to, the BankAmerishare Plan, the Management Incentive Stock Plan, the 1992 and 1987 Management Stock Plans, Stock Option Plan B, and any and all amendments (including post-effective amendments) thereto.

This power of attorney, unless earlier revoked or terminated, will terminate on January 31, 1995.

Dated: February 7, 1994

/s/ CORNELL C. MAIER

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Cornell C. Maier

[Directors-Employee Benefit Plan]

13

POWER OF ATTORNEY

The undersigned, a Director of BankAmerica Corporation, hereby constitutes and appoints Cheryl Sorokin, Jeffrey R. Lopic, Steven D. Krieg and Judith A. Boyle, and each of them, his or her attorneys-in-fact, each with full power of substitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign registration statements under the Securities Act of 1933 relating to employee benefit plans of this Corporation and/or any participating subsidiaries, including, but not limited to, the BankAmerishare Plan, the Management Incentive Stock Plan, the 1992 and 1987 Management Stock Plans, Stock Option Plan B, and any and all amendments (including post-effective amendments) thereto.



This power of attorney, unless earlier revoked or terminated, will terminate on January 31, 1995.

Dated: February 7, 1994

/s/ WALTER E. MASSEY

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Walter E. Massey

[Directors-Employee Benefit Plan]

14

POWER OF ATTORNEY

The undersigned, Chairman of the Board and Chief Executive Officer of BankAmerica Corporation, hereby constitutes and appoints Cheryl Sorokin, Jeffrey R. Lopic, Steven D. Krieg and Judith A. Boyle, and each of them, his attorneys-in-fact, each with full power of substitution, for him and in his name, place and stead, in any and all capacities, to sign registration statements under the Securities Act of 1933 relating to employee benefit plans of this Corporation and/or any participating subsidiaries, including, but not limited to, the BankAmerishare Plan, the Management Incentive Stock Plan, the 1992 and 1987 Management Stock Plans, Stock Option Plan B, and all amendments (including post-effective amendments) thereto.

This power of attorney, unless earlier revoked or terminated, will terminate on January 31, 1995.

Dated: February 7, 1994

/s/ RICHARD M. ROSENBERG

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Richard M. Rosenberg

[Principal Executive Officer-Employee Benefit Plans]

15

POWER OF ATTORNEY

The undersigned, a Director of BankAmerica Corporation, hereby constitutes and appoints Cheryl Sorokin, Jeffrey R. Lopic, Steven D. Krieg and Judith A. Boyle, and each of them, his or her attorneys-in-fact, each with full power of substitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign registration statements under the Securities Act of 1933 relating to employee benefit plans of this Corporation and/or any

participating subsidiaries, including, but not limited to, the BankAmerishare Plan, the Management Incentive Stock Plan, the 1992 and 1987 Management Stock Plans, Stock Option Plan B, and any and all amendments (including post-effective amendments) thereto.

This power of attorney, unless earlier revoked or terminated, will terminate on January 31, 1995.

Dated: February 7, 1994

/s/ A. MICHAEL SPENCE

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A. Michael Spence

[Directors-Employee Benefit Plan]