

# SECURITIES AND EXCHANGE COMMISSION

## FORM S-3

Registration statement for specified transactions by certain issuers

Filing Date: **2005-05-02**  
SEC Accession No. **0000950134-05-008676**

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

### FILER

#### USB Capital IX

CIK:**1325543** | IRS No.: **206524064** | State of Incorp.:**DE** | Fiscal Year End: **1231**  
Type: **S-3** | Act: **33** | File No.: **333-124535-02** | Film No.: **05790577**

Mailing Address	Business Address
800 NICOLLET MALL MINNEAPOLIS MN 55402-4302	800 NICOLLET MALL MINNEAPOLIS MN 55402-4302 651-466-3000

#### US BANCORP IDE\

CIK:**36104** | IRS No.: **410255900** | State of Incorp.:**DE** | Fiscal Year End: **1231**  
Type: **S-3** | Act: **33** | File No.: **333-124535** | Film No.: **05790578**  
SIC: **6021** National commercial banks

Mailing Address	Business Address
U.S.BANCORP 800 NICOLLET MALL MINNEAPOLIS MN 55402	U.S.BANCORP 800 NICOLLET MALL MINNEAPOLIS MN 55402 (612)973-1111

#### USB Capital X

CIK:**1325548** | IRS No.: **206524068** | State of Incorp.:**DE** | Fiscal Year End: **1231**  
Type: **S-3** | Act: **33** | File No.: **333-124535-05** | Film No.: **05790581**

Mailing Address	Business Address
800 NICOLLET MALL MINNEAPOLIS MN 55402-4302	800 NICOLLET MALL MINNEAPOLIS MN 55402-4302 651-466-3000

#### USB Capital VII

CIK:**1325524** | IRS No.: **412006189** | State of Incorp.:**DE** | Fiscal Year End: **1231**  
Type: **S-3** | Act: **33** | File No.: **333-124535-07** | Film No.: **05790583**

Mailing Address	Business Address
800 NICOLLET MALL MINNEAPOLIS MN 55402-4302	800 NICOLLET MALL MINNEAPOLIS MN 55402-4302 651-466-3000

#### USB Capital XVI

CIK:**1325528** | IRS No.: **206524141** | State of Incorp.:**DE** | Fiscal Year End: **1231**  
Type: **S-3** | Act: **33** | File No.: **333-124535-08** | Film No.: **05790584**

Mailing Address	Business Address
800 NICOLLET MALL MINNEAPOLIS MN 55402-4302	800 NICOLLET MALL MINNEAPOLIS MN 55402-4302 651-466-3000

#### USB Capital XV

CIK:**1325537** | IRS No.: **206524127** | State of Incorp.:**DE** | Fiscal Year End: **1231**  
Type: **S-3** | Act: **33** | File No.: **333-124535-09** | Film No.: **05790585**

Mailing Address	Business Address
800 NICOLLET MALL MINNEAPOLIS MN 55402-4302	800 NICOLLET MALL MINNEAPOLIS MN 55402-4302 651-466-3000

#### USB Capital XIV

CIK:**1325536** | IRS No.: **206524119** | State of Incorp.:**DE** | Fiscal Year End: **1231**  
Type: **S-3** | Act: **33** | File No.: **333-124535-10** | Film No.: **05790586**

Mailing Address	Business Address
800 NICOLLET MALL MINNEAPOLIS MN 55402-4302	800 NICOLLET MALL MINNEAPOLIS MN 55402-4302 651-466-3000

#### USB Capital VIII

CIK:**1325526** | IRS No.: **206524057** | State of Incorp.:**DE** | Fiscal Year End: **1231**  
Type: **S-3** | Act: **33** | File No.: **333-124535-01** | Film No.: **05790576**

Mailing Address	Business Address
800 NICOLLET MALL MINNEAPOLIS MN 55402-4302	800 NICOLLET MALL MINNEAPOLIS MN 55402-4302 651-466-3000

## USB Capital XIII

CIK:**1325527** | IRS No.: **206524111** | State of Incorporation: **DE** | Fiscal Year End: **1231**  
Type: **S-3** | Act: **33** | File No.: **333-124535-06** | Film No.: **05790582**

### Mailing Address

800 NICOLLET MALL  
MINNEAPOLIS MN 55402-4302

### Business Address

800 NICOLLET MALL  
MINNEAPOLIS MN 55402-4302  
651-466-3000

## USB Capital XI

CIK:**1325546** | IRS No.: **206524073** | State of Incorporation: **DE** | Fiscal Year End: **1231**  
Type: **S-3** | Act: **33** | File No.: **333-124535-03** | Film No.: **05790579**

### Mailing Address

800 NICOLLET MALL  
MINNEAPOLIS MN 55402-4302

### Business Address

800 NICOLLET MALL  
MINNEAPOLIS MN 55402-4302  
651-466-3000

## USB Capital XII

CIK:**1325547** | IRS No.: **206524079** | State of Incorporation: **DE** | Fiscal Year End: **1231**  
Type: **S-3** | Act: **33** | File No.: **333-124535-04** | Film No.: **05790580**

### Mailing Address

800 NICOLLET MALL  
MINNEAPOLIS MN 55402-4302

### Business Address

800 NICOLLET MALL  
MINNEAPOLIS MN 55402-4302  
651-466-3000



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

**Form S-3**  
**REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933**

**U.S. Bancorp**  
**USB Capital VII**  
**USB Capital VIII**  
**USB Capital IX**  
**USB Capital X**  
**USB Capital XI**  
**USB Capital XII**  
**USB Capital XIII**  
**USB Capital XIV**  
**USB Capital XV**  
**USB Capital XVI**  
*(Exact name of registrant  
as specified in its charter)*

**Delaware**  
**Delaware**  
**Delaware**  
**Delaware**  
**Delaware**  
**Delaware**  
**Delaware**  
**Delaware**  
**Delaware**  
**Delaware**  
**Delaware**  
*(State or other jurisdiction  
of incorporation or organization)*

**41-0255900**  
**41-2006189**  
**20-6524057**  
**20-6524064**  
**20-6524068**  
**20-6524073**  
**20-6524079**  
**20-6524111**  
**20-6524119**  
**20-6524127**  
**20-6524141**  
*(I.R.S. Employer  
Identification No.)*

**800 Nicollet Mall**  
**Minneapolis, Minnesota 55402-4302**  
**(651) 466-3000**  
*(Address, including zip code, and telephone number,  
including area code, of registrant's principal executive offices)*

**Lee R. Mitau, Esq.**  
**800 Nicollet Mall**  
**Minneapolis, Minnesota 55402-4302**  
**(651) 466-3000**  
*(Name, address and telephone number,  
including area code, of agent for service)*

**Copy to:**

**Fred A. Summer, Esq.**  
**Squire, Sanders & Dempsey L.L.P.**  
**41 South High Street**  
**Columbus, Ohio 43215**  
**(614) 365-2700**

**Michael J. Schiavone, Esq.**  
**Shearman & Sterling LLP**  
**599 Lexington Avenue**  
**New York, New York 10022**  
**(212) 848-4000**

Approximate date of commencement of proposed sale to the public: From time to time after the effective date of this registration statement.

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

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered in connection with dividend or interest reinvestment plans, check the following box. ☒

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

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

If delivery of the prospectus is expected to be made pursuant to Rule 434, please check the box. ☐

**CALCULATION OF REGISTRATION FEE**

Title of Each Class of Securities to be Registered	Amount to be Registered	Proposed Maximum Offering Price Per Unit(1)	Proposed Maximum Aggregate Offering Price(1)(2)	Amount of Registration Fee
Senior Notes, Subordinated Notes and Junior Subordinated Debt Securities (collectively, "Debt Securities") of U.S. Bancorp(3)(4), Common Stock(5), Preferred Stock (together with Common Stock, "Equity Securities")(5), Depositary Shares, Debt Warrants(4)(6), Equity Warrants(5)(7), Units(8), Capital Securities of USB Capital VII, VIII, IX, X, XI, XII, XIII, XIV, XV and XVI (severally, "Capital Securities") and Guarantees of Capital Securities of USB Capital VII, VIII, IX, X, XI, XII, XIII, XIV, XV and XVI by U.S. Bancorp (the	\$10,000,000,000	100%	\$10,000,000,000(3)	\$1,177,000(10)

“Guarantees” and, together with the Debt Securities, Preferred Stock, Depositary Shares, Debt Warrants, Equity Warrants, Units and Capital Securities, the “Securities”)(9)

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*(footnotes on next page)*

**The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until this Registration Statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.**

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- Not specified as to each class of securities to be registered pursuant to General Instruction II.D of Form S-3. Securities registered hereby may be offered for U.S. dollars or the equivalent thereof in foreign currencies, currency units or composite currencies. Securities registered hereby may be sold separately or together with other securities registered hereby.
- (1) Estimated solely for the purpose of computing the registration fee pursuant to Rule 457(o).
- In the case of Debt Securities issued at an original issue discount, such greater principal amount as shall result in an aggregate offering price of the amount set forth above or, in the case of Debt Securities denominated in a currency other than U.S. dollars or in a composite currency, such U.S. dollar amount as shall result from converting the aggregate public offering price of such Debt Securities in U.S. dollars at the spot exchange rate in effect on the date such Debt Securities are initially offered to the public.
- (3) The Debt Securities to be offered hereunder or Debt Securities purchasable upon exercise of Debt Warrants to purchase Debt Securities offered hereunder will consist of one or more series of Senior Notes or Subordinated Notes, or both, as more fully described herein.
- The Equity Securities to be offered hereunder or the Equity Securities purchasable upon exercise of Equity Warrants to purchase Common Stock or Preferred Stock offered hereunder will consist of such indeterminate number of shares of Common Stock or Preferred Stock as may be issued from time to time at indeterminate prices.
- (5) Debt Warrants will represent rights to purchase Debt Securities registered hereby. Because the Debt Warrants will provide a right only to purchase the Debt Securities offered hereunder, no additional registration fee is required.
- (6) Equity Warrants will represent rights to purchase Equity Securities registered hereby. Because the Equity Warrants will provide a right only to purchase the Equity Securities offered hereunder, no additional registration fee is required.
- (7) Any registered Securities may be sold separately or as units with other registered securities. Units may consist of two or more Securities in any combination, which may or may not be separable from one another. Each unit will be issued under a unit agreement.
- In addition to the Capital Securities Guarantees and the Junior Subordinated Debt Securities, U.S. Bancorp is also registering under this registration statement certain other back-up obligations. Such back-up obligations include its obligations under the Indenture related to the Capital Securities and under the Amended and Restated Trust Agreement of each of the trusts, namely USB Capital VII, VIII, IX, X, XI, XII, XIII, XIV, XV and XVI, pursuant to which U.S. Bancorp will agree, among other things, to pay all debts and obligations (other than with respect to the Trust Securities) of the relevant Trust, and all costs or expenses of the relevant Trust, including all fees, expenses and taxes of such Trust. No separate consideration will be received by U.S. Bancorp for the Capital Securities Guarantees or such other back-up obligations. See "Relationship Among the Capital Securities, the Corresponding Junior Subordinated Debt Securities and the Guarantees" in the form of prospectus relating to the Capital Securities included herein.
- (9) Pursuant to Rule 429, this registration statement also constitutes Post-Effective Amendment No. 1 to Registration Statement No. 333-65358 (the "Prior Registration Statement") of U.S. Bancorp filed on July 18, 2001. Such Post-Effective Amendment No. 1 shall become effective concurrently with the effectiveness of this registration statement. The Post-Effective Amendment will amend the Prior Registration Statement to deregister the securities which remain unsold thereunder. The amount of the filing fee paid with respect to the Securities remaining unsold under the Prior Registration Statement (\$3,700,000,000) was \$925,000 (calculated at the rate in effect at the time the Prior Registration Statement was filed). U.S. Bancorp is entitled to offset the \$925,000 against the filing fee due for this registration statement.
- (10)
-

## EXPLANATORY NOTE

This registration statement contains two forms of prospectuses that we intend to use to offer the following securities:

our debt securities (both senior and subordinated), preferred stock, depository shares, common stock, debt warrants, equity warrants and units; and

capital securities of USB Capital VII, VIII, IX, X, XI, XII, XIII, XIV, XV and XVI, severally, our junior subordinated debt securities and our guarantees of the capital securities issued severally by USB Capital VII, VIII, IX, X, XI, XII, XIII, XIV, XV and XVI.

Each time we offer securities, we will provide you with one of these prospectuses that will contain a general description of the offering and a prospectus supplement that will contain specific information about the terms of that offering.

The complete prospectus for the offering of our debt securities (both senior and subordinated), preferred stock, depository shares, common stock, debt warrants, equity warrants and units follows immediately after this explanatory note, which is then immediately followed by the complete prospectus for the offering of the capital securities of USB Capital VII, VIII, IX, X, XI, XII, XIII, XIV, XV and XVI, severally, our junior subordinated debt securities and guarantees of the capital securities issued severally by USB Capital VII, VIII, IX, X, XI, XII, XIII, XIV, XV and XVI.

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The information in this prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and we are not soliciting offers to buy these securities in any state where the offer or sale is not permitted.

SUBJECT TO COMPLETION, DATED \_\_\_\_\_, 2005

PROSPECTUS



**U.S. Bancorp**  
800 Nicollet Mall  
Minneapolis, Minnesota 55402  
(651) 466-3000

**\$10,000,000,000**

# U.S. Bancorp

**Debt Securities**  
**Preferred Stock**  
**Depositary Shares**  
**Common Stock**  
**Debt Warrants**  
**Equity Warrants**  
**Units**

We will provide the specific terms of these securities in supplements to this prospectus. You should read this prospectus and the applicable prospectus supplement carefully before you invest.

The securities will be our equity securities or our unsecured obligations and will not be savings accounts, deposits or other obligations of any bank or nonbank subsidiary of ours and are not insured by the Federal Deposit Insurance Corporation, the Bank Insurance Fund or any other government agency.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

This prospectus may not be used to sell securities unless accompanied by the applicable prospectus supplement.

The date of this prospectus is \_\_\_\_\_, 2005.

You should rely only on the information incorporated by reference or provided in this prospectus. We have not authorized anyone else to provide you with different information. Neither we nor the underwriters are making an offer of these securities in any state where the offer is not permitted. You should not assume that the information in this prospectus is accurate as of any date other than the date on the front of this document.

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## ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement that we, along with the trusts, USB Capital VII, USB Capital VIII, USB Capital IX, USB Capital X, USB Capital XI, USB Capital XII, USB Capital XIII, USB Capital XIV, USB Capital XV and USB Capital XVI, filed with the SEC using a shelf registration process. Under this shelf registration process, we may sell:

- debt securities;
- preferred stock;
- depository shares;
- common stock;
- debt warrants;
- equity warrants; and
- units

and the trusts may sell:

- capital securities (representing undivided beneficial interests in the trusts) to the public; and
- common securities to us

in one or more offerings.

The trusts will use the proceeds from the sales of the securities to buy a series of our junior subordinated debt securities with terms that correspond to the capital securities.

This prospectus provides you with a general description of the debt securities, preferred stock, depository shares, common stock, debt warrants, equity warrants and units. The description of the capital securities, the junior subordinated debt securities and the guarantee will be included in a separate prospectus in this registration statement. Each time we sell debt securities, preferred stock, depository shares, common stock, debt warrants, equity warrants and units, we will provide an applicable prospectus supplement that will contain specific information about the terms of that offering. The applicable prospectus supplement may also add, update or change information in this prospectus. You should read this prospectus and the applicable prospectus supplement together with the additional information described under the heading “Where You Can Find More Information.”

The registration statement that contains this prospectus (including the exhibits to the registration statement) has additional information about us and the securities offered under this prospectus. That registration statement can be read at the SEC website or at the SEC offices mentioned under the heading “Where You Can Find More Information.”

The words “USB,” “Company,” “we,” “our,” “ours” and “us” refer to U.S. Bancorp and its subsidiaries, unless otherwise stated. We have also defined terms in the glossary section at the back of this prospectus.

## WHERE YOU CAN FIND MORE INFORMATION

We file annual, quarterly and special reports, proxy statements and other information with the SEC. You may read and copy any document that we file at the SEC’s public reference rooms in Washington, D.C., New York, New York and Chicago, Illinois. Please call the SEC at 1-800-SEC-0330 for further information on the public reference rooms. Our SEC filings are also available to the public from the SEC’s website at <http://www.sec.gov>. Our SEC filings are also available at the offices of the New York Stock Exchange. For further information on obtaining copies of our public filings at the New York Stock Exchange, you should call (212) 656-5060.

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The SEC allows us to incorporate by reference the information we file with them, which means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is considered to be part of this prospectus, and later information that we file with the SEC will automatically update and supersede this information. We incorporate by reference the following documents listed below and any future filings made with the SEC under Section 13(a), 13(c), 14, or 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), until we or any underwriters sell all of the securities:

Annual Report on Form 10-K for the year ended December 31, 2004; and

Current Reports on Form 8-K filed on January 18, March 9 (two reports, one of which was on Form 8-K/A) and March 21, 2005; and

the description of USB's common stock contained in Item 1 of the registration statement on Form 8-A dated March 19, 1984, as amended in its entirety by that Form 8 Amendment dated February 26, 1993 and that Form 8-A/A-2 dated October 6, 1994.

You may request a copy of these filings, at no cost, by writing or telephoning us at the following address:

U.S. Bancorp  
800 Nicollet Mall  
Minneapolis, Minnesota 55402  
Attn: Investor Relations Department  
(612) 303-0799 or (866) 775-9668

Unless otherwise indicated, currency amounts in this prospectus and in any applicable prospectus supplement are stated in U.S. dollars.

### **ABOUT U.S. BANCORP**

We are a multi-state financial holding company with \$195 billion in assets at December 31, 2004, headquartered in Minneapolis, Minnesota. We were incorporated in Delaware in 1929 and operate as a financial holding company and a bank holding company under the Bank Holding Company Act of 1956. We provide a full range of financial services, including lending and depository services, cash management, foreign exchange and trust and investment management services. We also engage in credit card services, merchant and automated teller machine processing, mortgage banking, insurance, brokerage, leasing and investment banking. We are the parent company of U.S. Bank.

Our banking subsidiaries are engaged in the general banking business, principally in domestic markets. Our subsidiaries range in size from \$25 million to \$128 billion in deposits at December 31, 2004, and provide a wide range of products and services to individuals, businesses, institutional organizations, governmental entities and other financial institutions. Commercial and consumer lending services are principally offered to customers within our domestic markets, to domestic customers with foreign operations and within certain niche national venues. Lending services include traditional credit products as well as credit card services, financing and import/export trade, asset-backed lending, agricultural finance and other products. Leasing products are offered through bank leasing subsidiaries. Depository services include checking accounts, savings accounts and time certificate contracts. Ancillary services such as foreign exchange, treasury management and receivable lock-box collection are provided to corporate customers. Our bank and trust subsidiaries provide a full range of asset management and fiduciary services for individuals, estates, foundations, businesses and charitable organizations.

Our nonbanking subsidiaries primarily offer investment and insurance products to our customers principally within their markets and mutual fund processing services to a broad range of mutual funds. Banking and investment services are provided through a network of 2,370 banking offices principally operating in 24 states in the Midwest and West. U.S. Bancorp operates a network of 4,620 branded ATMs and provides 24-hour, seven day a week telephone customer service. Mortgage banking services are

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provided through banking offices and loan production offices throughout our markets. Consumer lending products may be originated through banking offices, indirect correspondents, brokers or other lending sources, and a consumer finance division. We are also one of the largest providers of Visa® corporate and purchasing card services and corporate trust services in the United States. A wholly-owned subsidiary, NOVA Information Systems, Inc., provides merchant processing services directly to merchants through a network of banking affiliations. Affiliates of NOVA Information Systems, Inc. provide similar merchant services in Canada and segments of Europe. These foreign operations are not significant to us.

Our common stock is traded on the New York Stock Exchange under the ticker symbol “USB.” Our principal executive offices are located at 800 Nicollet Mall, Minneapolis, Minnesota 55402, and our telephone number is (651) 466-3000.

If you would like to know more about us, see our documents incorporated by reference in this prospectus as described under the section “Where You Can Find More Information.”

### USE OF PROCEEDS

Unless otherwise specified in an applicable prospectus supplement, we will use the net proceeds we receive from the sale of the securities offered by this prospectus and the accompanying prospectus supplement for general corporate purposes, including working capital, capital expenditures, investments in or advances to existing or future indebtedness, repayment of maturing obligations and replacement of outstanding indebtedness. Pending such use, we may temporarily invest the proceeds or use them to reduce short-term indebtedness.

The applicable prospectus supplement provides more details on the use of proceeds of any specific offering.

### RATIO OF EARNINGS TO FIXED CHARGES

The ratio of earnings to fixed charges of USB for each of the periods indicated is as follows:

	Year Ended December 31				
	2004	2003	2002	2001	2000
Ratio of Earnings to Fixed Charges:					
Excluding interest on deposits	5.98	6.40	4.88	2.26	2.76
Including interest on deposits	3.88	3.64	2.79	1.50	1.69

The ratio of earnings to fixed charges is computed by dividing income from continuing operations before income taxes and fixed charges (excluding capitalized interest), as adjusted for some equity method investments, by fixed charges. Fixed charges consist of interest on debt (including capitalized interest), amortization of debt discount and expense and a portion of rentals determined to be representative of interest.

### DESCRIPTION OF DEBT SECURITIES

This section describes the general terms and provisions of the debt securities (other than the junior subordinated debt securities) that are offered by this prospectus. The applicable prospectus supplement will describe the specific terms of the series of debt securities offered under that applicable prospectus supplement and any general terms outlined in this section that will not apply to those debt securities.

The senior debt securities will be issued under an indenture dated October 1, 1991 between us and Citibank, N.A., as trustee. The subordinated debt securities will be issued under an indenture dated October 1, 1991, as amended by a first supplemental indenture dated April 1, 1993, between us and Citibank, N.A., as trustee. The indentures will be qualified under the Trust Indenture Act. The forms of the indentures have been filed as exhibits to the registration statement.

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This section summarizes the material terms and provisions of the indentures and the debt securities. Because this is only a summary, it does not contain all the details found in the full text of the indentures and the debt securities. If you would like additional information, you should read the forms of indentures and the forms of debt securities.

### **General**

We can issue the debt securities from time to time in one or more series. Our board of directors will determine by a resolution the terms of each series of debt securities as provided in an officers' certificate or a supplemental indenture. The applicable prospectus supplement will describe the specific terms of the debt securities offered.

Because we are a holding company, our rights and the rights of our creditors, including the holders of the debt securities offered in this prospectus, to participate in the assets of any subsidiary during its liquidation or reorganization, will be subject to the prior claims of the subsidiary's creditors, unless we are ourselves a creditor with recognized claims against the subsidiary. Any capital loans that we make to any of our banking subsidiaries would be subordinate in right of payment to deposits and to other indebtedness of these banking subsidiaries. Claims from creditors (other than us), on the subsidiaries, may include long-term and medium-term debt and substantial obligations related to deposit liabilities, federal funds purchased, securities sold under repurchase agreements, and other short-term borrowings.

The indentures do not limit the aggregate principal amount of debt securities that we may issue under them, nor the amount of other debt that we may issue.

We may from time to time, without your consent, create and issue additional debt securities having the same terms and conditions as the debt securities offered by this prospectus (or the same except for the offering price, issue date and amount of the first interest payment). We may consolidate the additional debt securities to form a single series with the outstanding debt securities.

The debt securities will be unsecured and those issued under the senior indenture will rank equally with all of our other unsecured and unsubordinated indebtedness. The subordinated notes will be subordinated as described under the section "Subordination of Subordinated Notes."

Unless the applicable prospectus supplement indicates otherwise, we will issue the debt securities of any series only in denominations of \$1,000 or multiples of \$1,000. We may issue these debt securities in the form of one or more global securities, as described below under the section "Global Securities."

There will be no service charge for any transfer or exchange of the debt securities but we may require you to pay a sum sufficient to cover any tax or other governmental charge due in connection with a transfer or exchange of the debt securities, and we may require you to furnish appropriate endorsements and transfer documents.

We may issue debt securities as original issue discount securities to be sold at a substantial discount below their principal amount. If a debt security is an original issue discount security, that means that an amount less than the principal amount of the debt security will be due and payable if there is a declaration of acceleration of the maturity of the debt security under the indentures. The applicable prospectus supplement will describe the U.S. federal income tax consequences and other special factors applicable to any debt securities which should be considered before purchasing any original issue discount securities.

Unless the applicable prospectus supplement indicates otherwise, we will pay the principal of and any premium and interest on the debt securities, and you can register the transfer of the debt securities at the principal corporate trust office of the applicable trustee. In addition, unless the applicable prospectus supplement indicates otherwise, we have the option to pay interest by check mailed to registered holders of the debt securities at their registered addresses.

The applicable prospectus supplement will describe the terms of the offered debt securities, including some or all of the following:

- the title of the offered debt securities;
- whether the offered debt securities are senior or subordinated;
- any limit on the aggregate principal amount of the offered debt securities;
- the price(s) (expressed as a percentage of the aggregate principal amount) at which the offered debt securities will be issued;
- the date(s) on which the offered debt securities will mature and any rights of extension;
- the annual rate(s), if any (which may be fixed or variable), at which the offered debt securities will bear interest, if any, or the formula by which this rate(s) will be determined, and the date from which this interest will accrue;
- the dates on which the interest on the offered debt securities will be payable and the regular related record dates;
- any mandatory or optional sinking fund or analogous provisions;
- the period(s), if any, within which and the price(s) at which the offered debt securities may be redeemed, under any redemption provisions, at our or your option, and other detailed terms of the optional redemption provision;
- the currency, including euro, for the payment of principal and any premium and interest payable on the offered debt securities, if other than in United States dollars;
- the place(s) where the principal and any premium and interest on the offered debt securities will be payable;
- any other event(s) of default related to the offered debt securities in addition to or in lieu of those described under the section “events of default;”
- the denominations in which any offered debt securities will be issuable, if other than denominations of \$1,000 or any amount in excess of it which is an integral multiple of \$1,000;
- whether we may issue debt securities in whole or in part in the form of one or more global securities and, if so, the identity of the depositary for these global securities and the circumstances under which you may exchange these global securities for securities registered in the name of a person other than the depositary or its nominee, and transferred to a person other than the depositary or its nominee; and
- any other terms of the offered debt securities consistent with the provisions of the indentures.

The terms on which any offered debt securities may be convertible into or exchangeable for other securities of USB or another party will be set forth in the prospectus supplement relating to those offered debt securities. The terms will include provisions as to whether conversion or exchange is mandatory, at the option of the holder or at our option. The terms may include provisions under which the number of other securities to be received by the holders of a series of debt securities may be adjusted.

## **Global Securities**

We can issue the debt securities of a series in whole or in part in the form of one or more global securities that will be deposited with, or on behalf of, a depositary identified in the applicable prospectus supplement. Unless the applicable prospectus supplement indicates otherwise, we will issue these global securities in registered form. The applicable prospectus supplement will describe the specific terms of the depositary arrangements relating to a series of debt securities.

## **Subordination of Subordinated Debt Securities**

The payment of the principal and interest on the subordinated debt securities will be subordinate in right of payment to the prior payment in full of all of our senior indebtedness. In some cases of insolvency, payment of principal of and interest on the subordinated debt securities will also be subordinated in right of payment to the prior payment in full of all general obligations. A holder of subordinated debt securities cannot demand or receive payment on the subordinated debt securities unless all amounts of principal of, any premium, and interest due on all of our senior indebtedness have been paid in full or duly provided for and, at the time of this payment or immediately after this payment, is effective:

- no event of default exists permitting the holders of the senior indebtedness to accelerate the maturity of the senior indebtedness; or
- any event which, with notice or lapse of time or both, would become an event of default.

If our assets are paid or distributed in connection with a dissolution, winding-up, liquidation or reorganization, the holders of our senior indebtedness will be entitled to receive payment in full of principal, and any premium and interest under the terms of the senior indebtedness before any payment is made on the subordinated debt securities. If:

- after giving effect to the subordination provisions in favor of the holders of the senior indebtedness, and
- after paying or distributing assets to creditors,

any amount of cash, property or securities remains, and if, at that time, creditors of general obligations have not received full payment on all amounts due or to become due on these general obligations, this excess will first be applied to pay in full all general obligations, before paying or distributing on the subordinated debt securities.

The subordinated indenture defines senior indebtedness as the principal of, premium, if any, and interest on:

- all of our indebtedness for money borrowed, whether outstanding on the date of execution of the subordinated indenture, or created, assumed or incurred after that date (including any senior debt securities under the senior indenture). Indebtedness does not include indebtedness that is expressly stated to rank junior or equal in right of payment to the subordinated debt securities; and
- any deferrals, renewals or extensions of senior indebtedness.

The subordinated indenture defines general obligations as all of our obligations to pay claims of general creditors, other than:

- obligations on senior indebtedness; and
- obligations on subordinated debt securities and our indebtedness for money borrowed ranking equally or subordinate to the subordinated debt securities. If, however, the Board of Governors of the Federal Reserve System (or other competent regulatory agency or authority) promulgates any rule or issues any interpretation that defines general creditor(s) the main purpose of which is to establish a criteria for determining whether the subordinated debt of a bank holding company is to be included in its capital, then the term general obligations will mean obligations to general creditors as described in that rule or interpretation.

The term claim when used in the previous definition has the meaning stated in section 101(5) of the Bankruptcy Code.

The term indebtedness for money borrowed means any obligation of ours or any obligation guaranteed by us to repay money borrowed, whether or not evidenced by bonds, debt securities, notes or other written instruments, and any deferred obligation to pay the purchase price of property or assets.



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Due to the subordination described above, if we experience bankruptcy, insolvency or reorganization, the holders of senior indebtedness can receive more, ratably, and holders of the subordinated debt securities can receive less, ratably, than our creditors who are not holders of senior indebtedness or of the subordinated debt securities. This subordination will not prevent any event of default on the subordinated debt securities from occurring. Unless the applicable prospectus supplement(s) indicates otherwise, the subordinated indenture does not provide any right to accelerate the payment of the principal of the subordinated debt securities if payment of the principal or interest, or performance of any agreement in the subordinated debt securities or subordinated indenture is in default. See “Events of Default” below.

The subordination provisions of the subordinated indenture described in this prospectus are provided to holders of senior indebtedness and are not intended for creditors of general obligations. The trustee and we can amend the subordinated indenture to reduce or eliminate the rights of creditors of general obligations without their consent or the consent of the holders of subordinated debt securities. The provisions of the subordinated indenture stating that the subordinated debt securities will be subordinated in favor of creditors of general obligations will be immediately and automatically terminated if the following arises:

the Board of Governors of the Federal Reserve System (or other competent regulatory agency or authority) promulgates any rule or regulation, or issues any interpretation that:

permits us to include the subordinated debt securities in our capital if the debt securities were subordinated in right of payment to senior indebtedness without regard to any of our other obligations; or

eliminates the requirement that subordinated debt of a bank holding company must be subordinated in right of payment to its “general creditors” to be included in capital; or

causes the subordinated debt securities to be excluded from capital, without regard to the subordination provisions described above; or

results in us no longer being subject to the capital requirements of bank regulatory authorities.

### **Restrictive Covenants**

Subject to the provisions described under the section “Consolidation, Merger and Sale of Assets,” the senior indenture prohibits:

the issue, sale or other disposition of shares of or securities convertible into, or options, warrants or rights to subscribe for or purchase shares of, voting stock of a principal subsidiary bank;

the merger or consolidation of a principal subsidiary bank with or into any other corporation; or

the sale or other disposition of all or substantially all of the assets of a principal subsidiary bank

if, after giving effect to the transaction and issuing the maximum number of shares of voting stock that can be issued after the conversion or exercise of the convertible securities, options, warrants or rights, we would own, directly or indirectly, 80% or less of the shares of voting stock of the principal subsidiary bank or of the successor bank which acquires the assets.

In the senior indenture, we also agreed that we will not create, assume, incur or cause to exist any pledge, encumbrance or lien, as security for indebtedness for money borrowed on:

any shares of or securities convertible into voting stock of a principal subsidiary bank that we own directly or indirectly; or

options, warrants or rights to subscribe for or purchase shares of, voting stock of a principal subsidiary bank that we own directly or indirectly,

without providing that the senior debt securities of all series will be equally secured if, after treating the pledge, encumbrance or lien as a transfer to the secured party, and after giving effect to the issuance of

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the maximum number of shares of voting stock issuable after conversion or exercise of the convertible securities, options, warrants or rights, we would own, directly or indirectly 80% or less of the shares of voting stock of the principal subsidiary bank.

The indentures define the term principal subsidiary bank as U.S. Bank National Association.

Unless the applicable prospectus supplement indicates otherwise, the subordinated indenture does not contain either of the restrictive covenants stated above, nor does it contain any other provision which restricts us from:

- incurring or becoming liable on any secured or unsecured senior indebtedness or general obligations; or
- paying dividends or making other distributions on our capital stock; or
- purchasing or redeeming our capital stock; or
- creating any liens on our property for any purpose.

Unless the applicable prospectus supplement indicates otherwise, neither indenture contains covenants specifically designed to protect holders from a highly leveraged transaction in which we are involved.

### **Events of Default**

Unless otherwise provided in any supplemental indenture or officers' certificate relating to a specific series of debt securities, the only events defined in the senior indenture as events of default for any series of senior debt securities, are:

- our failure to pay any interest on any senior debt securities of a series when due, which failure continues for 30 days;
- our failure to pay any principal of or premium on any senior debt securities of a series when due;
- our failure to make any sinking fund payment, when due, for any senior debt securities of a series;
- our failure to perform any other covenant in the senior indenture (other than a covenant included in the senior indenture solely for the benefit of a series of senior debt securities other than that series), which failure continues for 60 days after written notice;
- default in the payment of indebtedness for money borrowed under any indenture or instrument under which we have or a principal subsidiary bank has outstanding indebtedness in an amount in excess of \$5,000,000 which has become due and has not been paid, or whose maturity has been accelerated and the default has not been cured or acceleration annulled within 60 days after written notice;
- some events of bankruptcy, insolvency or reorganization which involve us or a principal subsidiary bank; and
- any other event of default related to the senior debt securities of that series.

Unless otherwise provided, the only events defined in the subordinated indenture as events of default for any series of subordinated debt securities are:

- some events of bankruptcy, insolvency or reorganization that involve us;
- some events involving the receivership, conservatorship or liquidation of a principal subsidiary bank; and
- any other event of default provided for the subordinated debt securities of that series.

If an event of default occurs and is continuing on any series of debt securities outstanding under either indenture, then either the applicable trustee or the holders of at least 25% in aggregate principal amount of the outstanding debt securities of that series may declare the principal amount (or, if any of the

debt securities of that series are original issue discount debt securities, the lesser portion of the principal amount of those debt securities) of all of the debt securities of that series to be due and payable immediately, by notice as provided in the applicable indenture. At any time after a declaration of acceleration has been made on the debt securities of any series, but before the applicable trustee has obtained a judgment for payment, the holders of a majority in aggregate principal amount of the outstanding debt securities of that series may, under some circumstances, rescind and annul this acceleration.

Subject to provisions in each indenture relating to the duties of the trustee during a default, no trustee will be under any obligation to exercise any of its rights or powers under the applicable indenture at the request or direction of any of the holders of any series of debt securities then outstanding under that indenture, unless the holders offer to the trustee reasonable indemnity. The holders of a majority in aggregate principal amount of the outstanding debt securities of any series will have the right to direct the time, method and place of conducting any proceeding for any remedy available to the applicable trustee, or exercising any trust or power conferred on the trustee.

We must furnish to each trustee, annually, a statement regarding our performance on some of our obligations under the applicable indenture and any default in our performance.

### **Modification and Waiver**

Except as otherwise specifically provided in the applicable indenture, modifications and amendments of an indenture generally will be permitted only with the consent of the holders of at least a majority in aggregate principal amount of the outstanding debt securities of each series affected by the modification or amendment. However, none of the following modifications are effective against any holder without the consent of the holders of each outstanding debt security affected by the modification or amendment:

- changing the stated maturity of the principal of or any installment of principal or interest on any debt security;
- reducing the principal amount of, or premium or interest on any debt security;
- changing any of our obligations to pay additional amounts;
- reducing the amount of principal of an original issue discount debt security that would be due and payable at declaration of acceleration of its maturity;
- changing the place for payment where, or coin or currency in which, any principal of, or premium or interest on, any debt security is payable;
- impairing the right to take legal action to enforce any payment of or related to any debt security;
- reducing the percentage in principal amount of outstanding debt securities of any series required to modify, amend, or waive compliance with some provisions of the indenture or to waive some defaults;
- modifying the subordination provisions of the subordinated indenture in a manner adverse to the holders; or
- modifying any of the above provisions.

The holders of at least a majority in aggregate principal amount of the outstanding debt securities of each series can waive, as far as that series is concerned, our compliance with some restrictive provisions of the applicable indenture.

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The holders of at least a majority in aggregate principal amount of the outstanding debt securities of each series may waive any past default under the applicable indenture, except:

- a default in the payment of principal of, or premium, or interest on any senior debt security; or
- a default in a covenant or provision of the applicable indenture that cannot be modified or amended without the consent of the holder of each outstanding debt security of the series affected.

Each indenture provides that, in determining whether holders of the requisite principal amount of the outstanding debt securities have given any request, demand, authorization, direction, notice, consent or waiver, or whether a quorum is present at a meeting of holders of debt securities:

the principal amount of an original issue discount debt security considered to be outstanding will be the amount of the principal of that original issue discount debt security that would be due and payable as of the date that the principal is determined at declaration of acceleration of the maturity of that original issue discount debt security; and

the principal amount of a debt security denominated in a foreign currency or currency unit that is deemed to be outstanding will be the U.S. dollar equivalent, determined on the date of original issuance for that debt security, of the principal amount (or, in the case of an original issue discount debt security, the U.S. dollar equivalent, determined on the date of original issuance for that debt security, of the amount determined as provided in the bullet point above).

### **Consolidation, Merger and Sale of Assets**

Without the consent of the holders of any outstanding debt securities, we cannot consolidate with or merge into another corporation, partnership or trust, or convey, transfer or lease substantially all of our properties and our assets, to a corporation, partnership or trust organized or validly existing under the laws of any domestic jurisdiction unless:

- the successor entity assumes our obligations on the debt securities and under the indentures;
- immediately after the transaction, we would not be in default under the indentures and no event which, after notice or the lapse of time, would become an event of default under the indentures, shall have occurred and be continuing; and
- other conditions are met.

### **Regarding Citibank, N.A.**

Some of our subsidiaries and us maintain deposits with and conduct other banking transactions with Citibank, N.A. in the ordinary course of business.

## **DESCRIPTION OF PREFERRED STOCK**

This prospectus describes the general terms and provisions of the preferred stock that are offered by this prospectus. The applicable prospectus supplement will describe the specific terms of the series of the preferred stock offered under that prospectus supplement and any general terms outlined in this section that will not apply to that series of preferred stock.

We have filed a form of certificate of designation, preferences and rights of preferred stock as an exhibit to the registration statement.

This section summarizes the material terms and provisions of the preferred stock. Because this is a summary, it does not contain all of the details found in the full text of the certificate of designation and our restated certificate of incorporation. If you would like additional information, you should read the certificate of designation and our restated certificate of incorporation.

## General

Our restated certificate of incorporation provides that our board of directors can issue, without stockholder action, a maximum of 10,000,000 shares of preferred stock. This amount includes shares issued or reserved for issuance, in one or more series and with those terms, times and consideration as the board of directors determines. Our board of directors can determine the following:

- the number of shares and their designation or title;
- rights as to dividends;
- whether and on what terms the shares are redeemable;
- whether and on what terms the shares shall have a purchase, retirement or sinking fund;
- whether and on what terms the shares are convertible;
- the voting rights, if any, of the preferred stock being offered;
- restrictions, if any, on the issuance or reissuance of any additional preferred stock;
- the rights of holders on our dissolution, or distribution of our assets; and
- any other preferences and relative, participating, optional or other special rights, and qualifications, limitations or restrictions of the series.

As described under the section “Description of Depositary Shares,” we may choose to offer depositary shares evidenced by depositary receipts, each representing a fractional interest in a share of the particular series of the preferred stock issued and deposited with a depositary.

Under interpretations adopted by the Federal Reserve Board, if the holders of any series of preferred stock become entitled to vote for the election of directors because dividends on that series are in arrears as described under the section “Voting Rights” below, that series may then be considered a class of voting securities. A holder of 25% or more of a series, or a holder of 5% or more of a series may if it otherwise exercises a controlling influence over us, may then be subject to regulation as a bank holding company under the Bank Holding Company Act. In addition, at the time that the series are deemed a class of voting securities, any other bank holding company may be required to obtain the prior approval of the Federal Reserve Board in order to acquire 5% or more of that series, and any person other than a bank holding company may be required to obtain the prior approval of the Federal Reserve Board to acquire 10% or more of that series.

The preferred stock will have the dividend, liquidation, redemption and voting rights stated in this section unless the applicable prospectus supplement indicates otherwise. You should read the applicable prospectus supplement relating to the particular series of the preferred stock being offered for specific terms, including:

- the title, stated value and liquidation preferences of the preferred stock and the number of shares offered;
- the initial public offering price at which the preferred stock will be issued;
- the dividend rate(s) (or method of calculation), the dividend periods, the dates on which dividends shall be payable and whether these dividends will be cumulative or noncumulative and, if cumulative, the dates at which the dividends shall begin to cumulate;
- any redemption or sinking fund provisions;
- whether we have elected to offer depositary shares as described under the section “Description of Depositary Shares;” and
- any additional dividend, liquidation, redemption, sinking fund and other rights, preferences, privileges, limitations and restrictions.

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When we issue shares of preferred stock, the series will be fully paid and nonassessable, meaning, the full purchase price of the outstanding shares of preferred stock will have been paid and the holders of the shares will not be assessed any additional monies for the shares. Unless the applicable prospectus supplement indicates otherwise, each series of the preferred stock will rank equally with any outstanding shares of our preferred stock and each other series of the preferred stock, and will rank senior to our junior preferred stock described below. The preferred stock will have no preemptive rights to subscribe for any additional securities which are issued by us, meaning, the holders of shares of preferred stock will have no right to buy any portion of the issued securities.

### **Dividends**

The holders of the preferred stock of each series will be entitled to receive cash dividends out of funds legally available, when, as and if declared by the board of directors or a duly authorized committee of the board of directors, at the rates and on the dates stated in the applicable prospectus supplement. These rates may be fixed, or variable, or both. If the dividend rate is variable, the applicable prospectus supplement will describe the formula used to determine the dividend rate for each dividend period. We will pay dividends to the holders of record as they appear on our stock books on the record dates determined by our board of directors or authorized committee. Unless the applicable prospectus supplement indicates otherwise, dividends on any series of preferred stock will be cumulative.

Our board of directors will not declare and pay a dividend on any of our stock ranking as to dividends, equal with or junior to the preferred stock unless full dividends on the preferred stock have been declared and paid (or declared and sufficient money was set aside for payment).

Until dividends are paid in full or declared and set aside for payment on any series of preferred stock and ranking equal with the preferred stock as to dividends:

we will declare all dividends pro rata among the preferred stock of each series, so that the amount of dividends declared per share on each series will have the same relationship to each other that accrued dividends per share on each series of preferred stock and other preferred stock bear to each other;

other than the pro rata dividends, we will not declare or pay or set aside for payment dividends, or declare or make any other distribution on any security ranking junior to or equal with the preferred stock offered under this prospectus as to dividends or at liquidation (except dividends or distributions paid for in shares of, or options, warrants or rights to subscribe or purchase shares of securities ranking junior to or equal with the preferred stock as to dividends and at liquidation);

we will not redeem, purchase or otherwise acquire for any consideration (or any monies be paid to or set aside in a sinking fund) any securities ranking junior to or equal with the preferred stock as to dividends or at liquidation (except by conversion into or exchange for our stock which ranks junior to the preferred stock as to dividends and at liquidation).

We will not pay interest, or money in lieu of interest, for any dividend payment(s) on any series of the preferred stock that are in arrears.

### **Voting Rights**

Unless the applicable prospectus supplement indicates otherwise, or unless required by law, holders of preferred stock will not have any voting rights.

If, at the time of any annual meeting of shareholders for the election of directors, the amount of accrued but unpaid dividends on any of our preferred stock is equal to at least six quarterly dividends on that series of preferred stock, we will increase the number of directors by two and the holders of all outstanding series of our preferred stock, voting as a single class, without regard to series, will be entitled to elect two additional directors until all dividends in default on all of our preferred stock have been paid or declared and set aside for payment.

The affirmative vote or consent of holders of at least two-thirds of the outstanding shares of any series of our preferred stock, voting as a class, is required for any amendment to our restated certificate of incorporation (including any certificate of designation or similar document relating to any series of preferred stock) which will adversely affect the powers, preferences, privileges or rights of the series of preferred stock. The affirmative vote or consent of holders of at least two-thirds of the outstanding shares of any series of preferred stock, voting as a single class without regard to the series, is required to issue, authorize, or increase the authorized amount of, or issue or authorize any obligation or security convertible into or evidencing a right to purchase the additional class or series of stock ranking prior to the series of preferred stock as to dividends or upon liquidation.

### **Redemption**

A series of the preferred stock may be redeemable, in whole or in part, at our option, and may be subject to mandatory redemption under a sinking fund or otherwise as described in the applicable prospectus supplement. The preferred stock that we redeem will be restored to the status of authorized but unissued shares of preferred stock which we may issue in the future.

If a series of preferred stock is subject to mandatory redemption, the applicable prospectus supplement will specify the number of shares that we will redeem in each year and the redemption price per share, together with an amount equal to all accrued and unpaid dividends on those shares to the redemption date. The applicable prospectus supplement will state whether the redemption price can be paid in cash or other property. If the redemption price is to be paid only from the net proceeds of issuing our capital stock, the terms of the series of preferred stock may provide that, if the capital stock has not been issued or if the net proceeds are not sufficient to pay the full redemption price then due, the shares relating to series of the preferred stock shall automatically and mandatorily be converted into shares of our capital stock under the conversion provisions of the applicable prospectus supplement.

If fewer than all of the outstanding shares of any series of the preferred stock are to be redeemed, our board of directors will determine the number of shares to be redeemed. We will redeem those shares pro rata from the holders of record in proportion to the number of shares held by holders (with adjustments to avoid redemption of fractional shares).

Even though the terms of a series of preferred stock may permit redemption of the preferred stock in whole or in part, if any dividends, including accumulated dividends, on that series are past due, we will not redeem any preferred stock of that series unless we simultaneously redeem all outstanding preferred stock of that series, and we do not purchase or otherwise acquire any preferred stock of that series. This does not prohibit the purchase or acquisition of preferred stock under a purchase or exchange offer if this offer is made to all holders of the series of the preferred stock on the same terms.

We will give notice of a redemption between 30 to 60 days before the date fixed for redemption. We will mail the notice to each record holder of the shares to be redeemed, at their address as it appears on our stock books. Each notice will state:

the redemption date;

the number of shares and series of the preferred stock to be redeemed;

the redemption price;

the place(s) where a holder can surrender the certificates for the preferred stock for payment of the redemption price; and

that dividends on the shares to be redeemed will cease to accrue on the redemption date.

If we redeem fewer than all shares of any series of the preferred stock held by any holder, we will also specify in the notice the number of shares to be redeemed from the holder.

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If we have provided notice of redemption, then, beginning on the redemption date for the shares of the series of the preferred stock called for redemption (unless we default in providing money for payment of the redemption price):

dividends on the shares of preferred stock called for redemption will cease to accrue;

those shares will no longer be considered outstanding; and

the holders will no longer have any rights as stockholders except to receive the redemption price.

When the holders properly surrender the redeemed shares, we will pay the redemption price mentioned above out of funds provided by us. If we redeem fewer than all of the shares represented by any certificate, we will issue a new certificate representing the unredeemed shares without cost to the holder.

### **Conversion and Exchange**

If any series of offered preferred stock is convertible into or exchangeable for any other class or series of our capital stock, the applicable prospectus supplement relating to that series will include the terms and conditions governing the conversions and exchanges.

### **Rights at Liquidation**

If we voluntarily or involuntarily liquidate, dissolve or wind up our business, the holders of shares of each series of preferred stock and any other securities that have rights equal to that series of preferred stock under these circumstances, will be entitled to receive out of our assets that are available for distribution to stockholders:

liquidation distributions in the amount stated in the applicable prospectus supplement; and

all accrued and unpaid dividends (whether or not earned or declared),

before any distribution to holders of common stock or of any securities ranking junior to the series of preferred stock.

Neither the sale of all or any part of our property and business, nor our merger into or consolidation with any other corporation nor the merger or consolidation of any other corporation with or into us, will be deemed to be a dissolution, liquidation or winding up.

If our assets are insufficient to pay all amounts to which holders of preferred stock are entitled, we will make no distribution on the preferred stock or on any other securities ranking equal to the preferred stock unless we make a pro rata distribution to those holders. After we pay the full amount of the liquidation distribution to which the holders are entitled, the holders will have no right or claim to any of our remaining assets.

## **DESCRIPTION OF DEPOSITARY SHARES**

This section describes the general terms and provisions of the depositary shares. The applicable prospectus supplement will describe the specific terms of the series of the depositary shares offered under that applicable prospectus supplement and any general terms outlined in this section that will not apply to those depositary shares.

We have filed a form of deposit agreement, including the form of depositary receipt, as an exhibit to the registration statement.

This section summarizes the material terms and provisions of the deposit agreement, the depositary shares and the depositary receipts. Because this is a summary it does not contain all of the details found in the full text of the deposit agreement, the depositary shares and the depositary receipts. If you would like



additional information, you should read the form of deposit agreement, the form of the depositary shares and the form of depositary receipts relating to the applicable series of preferred stock.

## **General**

We may offer fractional, rather than full shares of preferred stock. If we exercise this option, we will provide for the issuance by a depositary to the public of depositary receipts evidencing depositary shares, each of which will represent a fractional interest (to be stated in the applicable prospectus supplement relating to a particular series of the preferred stock) in a share of a particular series of the preferred stock.

We will deposit the shares of any series of the preferred stock underlying the depositary shares under a separate deposit agreement between us and a bank or trust company selected by us, known as a Depositary, having its principal office in the United States, and having a combined capital and surplus of at least \$50 million. The applicable prospectus supplement will provide the name and address of the Depositary. Subject to the terms of the deposit agreement, each owner of a depositary share will have a fractional interest in all the rights and preferences of the preferred stock underlying the depositary share. These rights include any dividend, voting, redemption, conversion and liquidation rights.

While the final depositary receipts are being prepared, we may order the Depositary, in writing, to issue temporary depositary receipts substantially identical to the final depositary receipts although not in final form. This will entitle the holders to all the rights relating to the final depositary receipts. Final depositary receipts will be prepared without unreasonable delay, and the holders of the temporary depositary receipts can exchange them for the final depositary receipts at our expense.

## **Withdrawal of Preferred Stock**

If you surrender depositary receipts at the principal corporate trust office of the Depositary (unless the related depositary shares have previously been called for redemption), you are entitled to receive at that office, should you so request, the number of shares of preferred stock and any money or other property represented by the depositary shares. We will not issue partial shares of preferred stock. If you deliver a number of depositary receipts evidencing a number of depositary shares that represent more than a whole number of depositary shares of preferred stock to be withdrawn, the Depositary will issue you a new depositary receipt evidencing the excess number of depositary shares at the same time that the preferred stock is withdrawn. Holders of preferred stock will no longer be entitled to deposit these shares under the deposit agreement or to receive depositary shares in exchange for those withdrawn shares of preferred stock. We cannot assure you that a market will exist for the withdrawn preferred stock.

## **Dividends and Other Distributions**

The Depositary will distribute all cash dividends or other cash distributions received for the preferred stock (less any taxes required to be withheld) to the record holders of depositary shares representing the preferred stock in proportion to the number of depositary shares that the holders own on the relevant record date. The Depositary will distribute only the amount that can be distributed without attributing to any holder of depositary shares a fraction of one cent. The balance not distributed will be added to and treated as part of the next sum that the Depositary receives for distribution to record holders of depositary shares.

If there is a distribution other than in cash, the Depositary will distribute property to the record holders of depositary shares that are entitled to it, unless the Depositary determines that it is not feasible to make this distribution. If this occurs, the Depositary may, with our approval, sell the property and distribute the net proceeds from the sale to the holders of depositary shares.

The deposit agreement will also contain provisions relating to the manner in which any subscription or similar rights that we offer to holders of the preferred stock will be made available to holders of depositary shares.

## **Conversion and Exchange**

Unless the applicable prospectus supplement indicates otherwise, the series of preferred stock underlying the depositary shares will not be convertible or exchangeable into any other class or series of our capital stock.

## **Redemption of Deposited Preferred Stock**

If a series of preferred stock underlying the depositary shares is subject to redemption, we will redeem the depositary shares from the redemption proceeds received by the Depositary, in whole or in part, on the series of preferred stock held by the Depositary. The Depositary will mail notice of redemption between 30 and 60 days before the date fixed for redemption to the record holders of the depositary shares to be redeemed at the address appearing in the Depositary's records. The redemption price per depositary share will bear the same relationship to the redemption price per share of preferred stock that the depositary share bears to the underlying preferred stock. When we redeem preferred stock held by the Depositary, the Depositary will redeem as of the same redemption date, the number of depositary shares representing the preferred stock redeemed. If less than all the depositary shares are to be redeemed, the depositary shares to be redeemed will be selected by lot or pro rata as we may determine.

From and after the date fixed for redemption, the depositary shares called for redemption will no longer be outstanding. When the depositary shares are no longer outstanding, all rights of the holders of depositary shares will cease, except the right to receive money or property that the holders of the depositary shares were entitled to receive on redemption. The payments will be made when holders surrender their depositary receipts to the Depositary.

## **Voting of Deposited Preferred Stock**

Upon receipt of notice of any meeting at which the holders of the preferred stock are entitled to vote, the Depositary will mail the information contained in the notice to the record holders of the depositary shares relating to the preferred stock. Each record holder of the depositary shares on the record date (which will be the same date as the record date for the preferred stock) will be entitled to instruct the Depositary on how the preferred stock underlying the holder's depositary shares should be voted. The Depositary will try, if practicable, to vote the number of shares of preferred stock underlying the depositary shares according to the instructions received, and we will take all action that the Depositary may consider necessary to enable the Depositary to do so. The Depositary will not vote any preferred stock if it does not receive specific instructions from the holders of depositary shares relating to the preferred stock.

## **Taxation**

Owners of depositary shares will be treated for U.S. federal income tax purposes as if they were owners of the preferred stock represented by the depositary shares. Accordingly, for U.S. federal income tax purposes, they will have the income and deductions to which they would have been entitled if they were holders of the preferred stock. In addition:

no gain or loss will be recognized for federal income tax purposes when preferred stock is withdrawn in exchange for depositary shares as provided in the deposit agreement;

the tax basis of each share of preferred stock to an exchanging owner of depositary shares will, at the exchange, be the same as the aggregate tax basis of the depositary shares exchanged; and

the holding period for the preferred stock in the hands of an exchanging owner of depositary shares who held the depositary shares as a capital asset at the time of the exchange, will include the period during which the person owned the depositary shares.

## **Amendment and Termination of the Deposit Agreement**

The form of depositary receipt evidencing the depositary shares and any provision of the deposit agreement may be amended at any time by an agreement between us and the Depositary. However, any amendment that materially and adversely alters the rights of the existing holders of depositary shares will not be effective unless approved by the record holders of at least a majority of the depositary shares then outstanding. A deposit agreement may be terminated by either the Depositary or us only if:

all outstanding depositary shares relating to the deposit agreement have been redeemed; or

there has been a final distribution on the preferred stock of the relevant series in connection with our liquidation, dissolution or winding up and the distribution has been distributed to the holders of the related depositary receipts evidencing the depositary shares.

## **Charges of Depositary**

We will pay all transfer and other taxes and governmental charges arising solely from the existence of the depositary arrangements. We will pay charges of the Depositary associated with the initial deposit and any redemption of the preferred stock. Holders of depositary shares will pay transfer and other taxes and governmental charges, and any other charges that are stated to be their responsibility in the deposit agreement.

## **Resignation and Removal of Depositary**

The Depositary may resign at any time by delivering notice to us. We may also remove the Depositary at any time. Resignations or removals will be effective when a successor Depositary is appointed, and when the successor accepts the appointment. The successor Depositary must be appointed within 60 days after delivery of the notice of resignation or removal and must be a bank or trust company having its principal office in the United States and a combined capital and surplus of at least \$50 million.

## **Miscellaneous**

The Depositary will forward to the holders of depositary shares all reports and communications that it receives from us, and that we are required to furnish to the holders of the preferred stock.

Neither the Depositary nor us will be liable if the Depositary is prevented or delayed by law or any circumstance beyond its control in performing its obligations under the deposit agreement. Our obligations and that of the Depositary under the deposit agreement will be limited to performance in good faith of the duties described in the deposit agreement. Neither the Depositary nor us will be obligated to prosecute or defend any legal proceeding connected with any depositary shares or preferred stock unless satisfactory indemnity is furnished to the Depositary and us. The Depositary and us may rely on written advice of counsel or accountants, or information provided by persons presenting preferred stock for deposit, holders of depositary shares or other persons believed to be competent and on documents believed to be genuine.

## **DESCRIPTION OF COMMON STOCK**

### **General**

USB is authorized to issue up to 4 billion shares of common stock, par value \$.01 per share. As of December 31, 2004, there were 1,857.6 million shares of USB common stock issued and outstanding. Our common stock is listed on the New York Stock Exchange under the symbol "USB."

### **Voting and Other Rights**

Each share of USB common stock is entitled to one vote per share, and, in general, a majority of votes cast with respect to a matter will be sufficient to authorize action upon routine matters. Directors are to be elected by a majority of the votes cast, and stockholders do not have the right to cumulate their

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votes in the election of directors. For that reason, holders of a majority of the shares of common stock of USB entitled to vote in any election of directors may elect all of the directors standing for election. In general, however:

amendments to the certificate of incorporation will be approved if the votes cast within a voting group favoring the action exceed the votes cast within the voting group opposing the action; and

a merger or dissolution of USB, or the sale of all or substantially all of its assets, must be approved by the affirmative vote of the holders of a majority of the voting power of the outstanding voting shares and the affirmative vote of the holders of a majority of the outstanding shares of each class entitled to vote on the matter as a class.

### **No Preemptive or Conversion Rights**

Our common stock will not entitle its holders to any preemptive rights, redemption privileges, sinking fund privileges or conversion rights.

### **Assets upon Dissolution**

In the event of liquidation, holders of USB common stock would be entitled to receive proportionately any assets legally available for distribution to our shareholders with respect to shares held by them, subject to any prior rights of any preferred stock of USB then outstanding.

### **Distributions**

Holders of USB common stock will be entitled to receive the dividends or distributions that our board of directors may declare out of funds legally available for these payments. The payment of distributions by us is subject to the restrictions of Delaware law applicable to the declaration of distributions by a corporation. Under Delaware law, a corporation may not pay a dividend out of net profits if the capital stock of the corporation is less than the stated amount of capital represented by the issued and outstanding stock of all classes having a preference upon the distribution of the corporation's assets. In addition, the payment of distributions to shareholders is subject to any prior rights of outstanding preferred stock.

As a bank holding company, our ability to pay distributions will be affected by the ability of our banking subsidiaries to pay dividends. The ability of these banking subsidiaries, as well as us, to pay dividends in the future currently is, and could be further, influenced by bank regulatory requirements and capital guidelines.

### **Restrictions on Ownership**

The Bank Holding Company Act generally would prohibit any company that is not engaged in banking activities and activities that are permissible for a bank holding company or a financial holding company from acquiring control of USB. Control is generally defined as ownership of 25% or more of the voting stock or other exercise of a controlling influence. In addition, any existing bank holding company would require the prior approval of the Federal Reserve Board before acquiring 5% or more of the voting stock of USB. In addition, the Change in Bank Control Act of 1978, as amended, prohibits a person or group of persons from acquiring "control" of a bank holding company unless the Federal Reserve Board has been notified and has not objected to the transaction. Under a rebuttable presumption established by the Federal Reserve Board, the acquisition of 10% or more of a class of voting stock of a bank holding company with a class of securities registered under Section 12 of the Exchange Act, such as USB, would, under the circumstances set forth in the presumption, constitute acquisition of control of the bank holding company.

### **Shareholder Rights Plan**

We have a shareholder rights plan that could discourage unwanted or hostile takeover attempts that are not approved by our board. On February 27, 2001, our board declared a dividend of one preferred

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share purchase right for each outstanding share of our common stock as of March 9, 2001. The rights currently trade with, and are inseparable from, the common stock.

Each right allows its holder to purchase from us one one-thousandth of a share of our Series A Junior Participating Preferred Stock for \$100, once the rights become exercisable. This portion of a preferred share will give the shareholder approximately the same dividend and liquidation rights as would one share of common stock. Prior to exercise, a right does not give its holder any dividend, voting or liquidation rights.

The rights will not be exercisable until the earlier of:

10 days after a public announcement that a person or group has obtained beneficial ownership of 10% or more of our outstanding common stock; or

10 business days after a person or group begins a tender or exchange offer that, if completed, would result in that person or group becoming the beneficial owner of 10% or more of our outstanding common stock.

The date when the rights become exercisable is referred to in the rights plan as the “distribution date.” After that date, the rights will separate from the common stock and will be evidenced by book-entry credits or by rights certificates that we will mail to all eligible holders of common stock. A person or member of a group that has obtained beneficial ownership of 10% or more of our outstanding common stock may not exercise any rights even after the distribution date.

A person or group that acquires beneficial ownership of 10% or more of our outstanding common stock is called an “acquiring person.”

*Flip In.* If a person or group becomes an acquiring person, all holders of rights other than the acquiring person may purchase shares of our common stock at half their market value.

*Flip Over.* If, after a person or group becomes an acquiring person, we are acquired by another entity in a merger or similar transaction, all holders of rights other than the acquiring person may purchase shares of the acquiring company at half their market value.

Our board may redeem the rights for \$.01 per right at any time before a person or group becomes an acquiring person. If the board redeems any rights, it must redeem all of the rights. Once the rights are redeemed, the only right of the holders of rights will be to receive the redemption price of \$.01 per right.

Our board may adjust the purchase price of the preferred shares, the number of preferred shares issuable and the number of outstanding rights to prevent dilution that may occur from a stock dividend, a stock split or a reclassification of the preferred shares or common stock. No adjustments to the exercise price of less than 1% will be made.

The terms of the rights plan may be amended by our board without the consent of the holders of the rights. However, after a person or group becomes an acquiring person, the board may not amend the plan in a way that adversely affects the holders of the rights.

## DESCRIPTION OF DEBT WARRANTS

This section describes the general terms and provisions of the debt warrants. The applicable prospectus supplement will describe the specific terms of the debt warrants offered under that applicable prospectus supplement and any general terms outlined in this section that will not apply to those debt warrants.

We have filed a form of debt warrant agreement, including the form of debt warrant certificate, as an exhibit to the registration statement.

This section summarizes the material terms and provisions of the debt warrants. Because this is a summary, it does not contain all of the details found in the full text of the debt warrant agreement and the debt warrant certificate. If you would like additional information, you should read the form of debt warrant agreement and the debt warrant certificate relating to the applicable series of debt securities.

We may issue debt warrants independently or together with debt securities. The debt warrants will be issued under debt warrant agreements between us and a bank or trust company, as warrant agent, all as stated in the applicable prospectus supplement. The warrant agent will act solely as our agent in connection with the debt warrants and will not assume any obligation or relationship of agency or trust for or with any holders or beneficial owners of debt warrants.

### General

The applicable prospectus supplement will describe the terms of the debt warrants offered in this prospectus, including the following, if applicable:

- the offering price;

- the currencies in which the debt warrants are being offered;

- the title of the debt warrants;

- the designation, aggregate principal amount and terms of the debt securities for which the debt warrants are exercisable and the procedures and conditions relating to the exercise of those debt warrants;

- the designation and terms of any related debt securities with which the debt warrants are to be issued and the number of the debt warrants offered with each debt security;

- the date, if any, on and after which the holder of the debt warrants can transfer them separately from the related debt securities;

- the principal amount of debt securities that can be purchased if a holder exercises each debt warrant and the price at which the principal amount can be purchased upon exercise;

- the date on which the right to exercise the debt warrants will commence and the date on which this right will expire;

- if the debt securities that can be purchased at the exercise of a debt warrant are original issue discount debt securities, a discussion of the applicable U.S. federal income tax consequences; and

- whether the debt warrant certificates representing the debt warrants will be issued in registered or bearer form, and if registered, where they are transferred and registered.

The holder can exchange debt warrant certificates for new debt warrant certificates of different authorized denominations, and can exercise his or her debt warrants at the corporate trust office of the warrant agent or any other office indicated in the applicable prospectus supplement. Holders of debt warrants will not have any of the rights of holders of the debt securities that can be purchased if a holder exercises the debt warrant and will not be entitled to payments of principal of, and any premium or interest on, the underlying debt securities before they exercise their debt warrants.

## Exercise of Debt Warrants

Each debt warrant entitles the holder of that debt warrant to purchase the principal amount of debt securities at the price stated, or determinable in the applicable prospectus supplement. A holder can exercise debt warrants during the period(s) stated in the applicable prospectus supplement. After the close of business on the expiration date, unexercised debt warrants will become void. We will, as soon as practicable, forward to you the debt securities purchased upon exercise. If less than all of the debt warrants represented by the debt warrant certificates are exercised, a new debt warrant certificate will be issued for the remaining debt warrants.

## DESCRIPTION OF EQUITY WARRANTS

This section describes the general terms and provisions of the equity warrants. The applicable prospectus supplement will describe the specific terms of the equity warrants offered under that applicable prospectus supplement and any general terms outlined in this section that will not apply to those equity warrants.

We have filed a form of equity warrant agreement, including the form of equity warrant certificate, as an exhibit to the registration statement.

This section summarizes the material terms and provisions of the equity warrants. Because this is a summary, it does not contain all of the details found in the full text of the equity warrant agreement and the equity warrant certificate. If you would like additional information, you should read the form of equity warrant agreement and the equity warrant certificate relating to the applicable series of equity securities.

We may issue equity warrants independently or, together with equity securities. The equity warrants will be issued under equity warrant agreements between us and a bank or trust company, as warrant agent, all as stated in the applicable prospectus supplement. The warrant agent will act solely as our agent in connection with the equity warrants and will not assume any obligation or relationship of agency or trust for or with any holders or beneficial owners of equity warrants.

### General

The applicable prospectus supplement will describe the terms of the equity warrants offered in this prospectus, including the following, if applicable:

- the offering price;

- the currencies in which the equity warrants are being offered;

- the title of the equity warrants;

- the underlying equity securities for which the equity warrants are exercisable and the procedures and conditions relating to the exercise of those equity warrants;

- the designation of any related equity securities with which the equity warrants are to be issued and the number of the equity warrants offered with each equity security;

- the date, if any, on and after which the holder of the equity warrants can transfer them separately from the related equity securities;

- the number of equity securities that can be purchased if a holder exercises each equity warrant and the price at which the equity securities can be purchased upon exercise; and

- the date on which the right to exercise the equity warrants will commence and the date on which this right will expire.

The holder can exercise his or her equity warrants at the corporate trust office of the warrant agent or any other office indicated in the applicable prospectus supplement. Holders of equity warrants will not have any of the rights of holders of the equity securities that can be purchased if a holder exercises the equity



warrant and will not be entitled to vote, or receive dividends or other distributions on, the underlying equity securities before they exercise their equity warrants.

### **Exercise of Equity Warrants**

Each equity warrant entitles the holder of that equity warrant to purchase the number of equity securities at the price stated, or determinable in the applicable prospectus supplement. A holder can exercise equity warrants during the period(s) stated in the applicable prospectus supplement. After the close of business on the expiration date, unexercised equity warrants will become void. We will, as soon as practicable, forward to you the equity securities purchased upon exercise. If less than all of the equity warrants represented by the equity warrant certificates are exercised, a new equity warrant certificate will be issued for the remaining equity warrants.

### **Common Stock Warrant Adjustments**

Unless the applicable prospectus supplement states otherwise, the exercise price of, and the number of shares of common stock covered by, a warrant for common stock will be adjusted in the manner set forth in the applicable prospectus supplement if certain events occur, including:

if we issue capital stock as a dividend or distribution on the common stock;

if we subdivide, reclassify or combine the common stock; or

if we distribute to all holders of common stock evidences of our indebtedness or our assets, excluding certain cash dividends and distributions, or if we distribute to all holders of common stock certain rights or warrants.

Except as stated above, the exercise price and number of shares of common stock covered by a common stock warrant will not be adjusted if we issue common stock or any securities convertible into or exchangeable for common stock, or securities carrying the right to purchase common stock or securities convertible into or exchangeable for common stock.

Holders of common stock warrants may have additional rights under the following circumstances:

a reclassification or change of the common stock;

a consolidation or merger involving our company; or

a sale or conveyance to another corporation of all or substantially all of our property and assets.

If one of the above transactions occurs and holders of our common stock are entitled to receive stock, securities, other property or assets, including cash, with respect to or in exchange for common stock, the holders of the common stock warrants then outstanding will be entitled to receive upon exercise of their common stock warrants the kind and amount of shares of stock and other securities or property that they would have received upon the reclassification, change, consolidation, merger, sale or conveyance if they had exercised their common stock warrants immediately before the transaction.

## **DESCRIPTION OF UNITS**

### **General**

We may issue units consisting of one or more securities. Each unit will be issued so that the holder of the unit is also the holder of each security included in the unit. Thus, the holder of a unit will have the rights and obligations of a holder of each included security. The unit agreement under which a unit is issued may provide that the securities included in the unit may not be held or transferred separately, at any time or at any time before a specified date.



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If units are offered, the prospectus supplement will describe the terms of the units, including the following:

the designation and terms of the units and of the securities comprising the units, including whether and under what circumstances the securities comprising the units may or may not be held or transferred separately;

the name of the unit agent;

a description of the terms of any unit agreement to be entered into between us and a bank or trust company, as unit agent, governing the units;

whether the units will be listed on any securities exchange; and

a description of the provisions for the payment, settlement, transfer, or exchange of the units.

### **Modification**

We and the unit agent may amend the terms of any unit agreement and the units without the consent of the holders to cure any ambiguity, to correct any inconsistent provision, or in any other manner we deem necessary or desirable and which will not affect adversely the interests of the holders. In addition, we may amend the unit agreement and the terms of the units with the consent of the holders of a majority of the outstanding unexpired units affected. However, any modification to the units that materially and adversely affects the rights of the holders of the units, or reduces the percentage of outstanding units required to modify or amend the unit agreement or the terms of the units, requires the consent of the affected holders.

### **Enforceability of Rights of Unitholders; Governing Law**

The unit agent will act solely as our agent and will not assume any obligation or relationship of agency or trust with the holders of the units. Except as described below, any record holder of a unit, without anyone else's consent, may enforce his or her rights as holder under any security included in the unit, in accordance with the terms of the included security and the Indenture, warrant agreement, or unit agreement under which that security is issued. Those terms are described in other sections of this prospectus relating to debt securities and warrants.

Notwithstanding the foregoing, a unit agreement may limit or otherwise affect the ability of a holder of units issued under that agreement to enforce his or her rights, including any right to bring legal action, with respect to those units or any included securities, other than debt securities. Limitations of this kind will be described in the prospectus supplement.

No unit agreement will be qualified as an indenture, and no unit agent will be required to qualify as a trustee under the Trust Indenture Act. Therefore, holders of units issued under a unit agreement will not have the protection of the Trust Indenture Act with respect to their units.

### **Unsecured Obligations**

The units are our unsecured contractual obligations. Claims of holders of our units generally will have a junior position to claims of creditors of our subsidiaries including, in the case of our banking subsidiaries, their depositors.

## FOREIGN CURRENCY RISKS

### General

We can denominate the securities of a series in, and the principal of, and any interest or premium on, these securities can be payable in, any foreign currencies that we may designate at the time of offering. The applicable prospectus supplement will describe the material risks relating to a particular series of foreign currency securities.

### Exchange Rates and Exchange Controls

An investment in foreign currency securities entails significant risks that are not associated with a similar investment in a security denominated in U.S. dollars. These risks include, without limitation:

- the possibility of significant changes in the rate of exchange between the United States dollar and the currency or currency unit specified in the applicable prospectus supplement; and

- the possibility of the imposition or modification of foreign exchange controls by either the United States or foreign governments.

These risks generally depend on economic and political events over which we have no control. In recent years, rates of exchange between the U.S. dollar and some foreign currencies have been highly volatile and this volatility can be expected in the future. Fluctuations in any particular exchange rate that have occurred in the past do not necessarily indicate fluctuations in the rate that may occur during the term of any foreign currency security.

Depreciation of the specified currency applicable to a foreign currency security against the United States dollar would result in a decrease in:

- the U.S. dollar-equivalent yield of the security (or the debt security purchasable at the time of exercise of any debt warrant);

- the U.S. dollar-equivalent value of the principal repayable at maturity of the security (or the debt security purchasable at the time of exercise of a debt warrant); and

- the U.S. dollar-equivalent market value of the security.

Governments have imposed from time to time exchange controls and may in the future impose or revise exchange controls at or before the maturity of a foreign currency security (or the maturity of the debt security issuable at the time of exercise of a debt warrant). Even if there are no exchange controls, it is possible that the specified currency for any particular foreign currency security will not be available at the maturity of the debt security (or the maturity of the debt security issuable at the time of exercise of a debt warrant) due to circumstances beyond our control.

### Judgments

If an action based on foreign currency securities was commenced in a court of the United States, it is likely that the court would grant judgment relating to those securities only in U.S. dollars. It is not clear, however, whether, in granting this judgment, the rate of conversion into U.S. dollars would be determined with reference to the date of default, the date the judgment is rendered, or some other date. Under current New York law, a state court in the State of New York that gives a judgment on a foreign currency security would be required to give the judgment in the specified currency in which the foreign currency security is denominated, and this judgment would be converted into U.S. dollars at the exchange rate prevailing on the date of entry of the judgment. Holders of foreign currency securities would bear the risk of exchange rate fluctuations between the time the amount of the judgment is calculated and the time that the applicable trustee converts U.S. dollars to the specified currency for payment of the judgment.

## **Limited Facilities for Conversion**

Currently, there are limited facilities in the United States for conversion of U.S. dollars into foreign currencies, and vice versa. In addition, banks generally do not offer non-U.S. dollar denominated checking or savings account facilities in the United States. Accordingly, payments on foreign currency securities will, unless otherwise specified in the applicable prospectus supplement, be made from an account with a bank located in the country issuing the specified currency or, for foreign currency securities, denominated in euro, Brussels.

## **BOOK-ENTRY ISSUANCE**

DTC will act as securities depository for all of the debt securities, unless otherwise stated in the applicable prospectus supplement. We will issue the debt securities only as fully-registered securities registered in the name of Cede & Co. (DTC's nominee). We will issue and deposit with DTC one or more fully-registered global certificates for the debt securities representing in the aggregate, the total number of the debt securities.

DTC is a limited purpose trust company organized under the New York Banking Law, a banking organization under the meaning of the New York Banking Law, a member of the Federal Reserve System, a clearing corporation under the meaning of the New York Uniform Commercial Code, and a clearing agency registered under the provisions of Section 17A of the Exchange Act. DTC holds securities that its participants deposit with DTC. DTC also facilitates the settlement among participants of securities transactions, like transfers and pledges, in deposited securities through electronic computerized book-entry changes in the participants' accounts, eliminating in this manner the need for physical movement of securities certificates. Direct Participants include securities brokers and dealers, banks, trust companies, clearing corporations and other organizations. DTC is owned by a number of its Direct Participants and by the New York Stock Exchange, Inc., the American Stock Exchange, Inc. and the National Association of Securities Dealers, Inc. Others like securities brokers and dealers, banks and trust companies that clear through or maintain custodial relationships with Direct Participants, either directly or indirectly, also have access to the DTC system. The rules applicable to DTC and its participants are on file with the SEC.

Purchases of debt securities within the DTC system must be made by or through Direct Participants, who will receive a credit for the debt securities on DTC's records. The ownership interest of each actual purchaser of each debt security is in turn to be recorded on the Direct and Indirect Participants' records. DTC will not send written confirmation to Beneficial Owners of their purchases, but Beneficial Owners are expected to receive written confirmations providing details of the transactions, as well as periodic statements of their holdings, from the Direct or Indirect Participants through which the Beneficial Owners purchased debt securities. Transfers of ownership interests in the debt securities are to be accomplished by entries made on the books of participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in debt securities, unless the book-entry system for the debt securities is discontinued.

DTC has no knowledge of the actual Beneficial Owners of the debt securities. DTC's records reflect only the identity of the Direct Participants to whose accounts the debt securities are credited, which may or may not be the Beneficial Owners. The participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners and the voting rights of Direct Participants, Indirect Participants and Beneficial Owners, subject to any statutory or regulatory requirements as is in effect from time to time, will be governed by arrangements among them.

We will send redemption notices to Cede & Co. as the registered holder of the debt securities. If less than all of the debt securities are redeemed, DTC's current practice is to determine by lot the amount of the interest of each Direct Participant to be redeemed.

Although voting on the debt securities is limited to the holders of record of the debt securities, in those instances in which a vote is required, neither DTC nor Cede & Co. will itself consent or vote on debt securities. Under its usual procedures, DTC would mail an Omnibus Proxy to the relevant trustee as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to Direct Participants for whose accounts the debt securities are credited on the record date (identified in a listing attached to the Omnibus Proxy).

The relevant trustee will make distribution payments on the debt securities to DTC. DTC's practice is to credit Direct Participants' accounts on the relevant payment date in accordance with their respective holdings shown on DTC's records unless DTC has reason to believe that it will not receive payments on the payment date. Standing instructions and customary practices will govern payments from participants to Beneficial Owners. Subject to any statutory or regulatory requirements, participants, and not DTC, the relevant trustee, trust or us, will be responsible for the payment. The relevant trustee is responsible for payment of distributions to DTC. Direct and Indirect Participants are responsible for the disbursement of the payments to the Beneficial Owners.

DTC may discontinue providing its services as securities depository on any of the debt securities at any time by giving reasonable notice to the relevant trustee and to us. If a successor securities depository is not obtained, final debt securities certificates must be printed and delivered. We may, at our option, decide to discontinue the use of the system of book-entry transfers through DTC (or a successor depository). After an event of default, the holders of an aggregate principal amount of debt securities may discontinue the system of book-entry transfers through DTC. In this case, final certificates for the debt securities will be printed and delivered.

We have obtained the information in this section about DTC and DTC's book-entry system from sources that we believe to be accurate, and we assume no responsibility for the accuracy of the information. We have no responsibility for the performance by DTC or its participants of their respective obligations as described in this prospectus or under the rules and procedures governing their respective operations.

## **PLAN OF DISTRIBUTION**

We may sell the securities:

through underwriters or dealers;

directly to one or more purchasers; or

through agents.

The applicable prospectus supplement will include the names of underwriters, dealers or agents retained. The applicable prospectus supplement will also include the purchase price of the securities, our proceeds from the sale, any underwriting discounts or commissions and other items constituting underwriters' compensation, and any securities exchanges on which the securities are listed.

The underwriters will acquire the securities for their own account. They may resell the securities in one or more transactions, including negotiated transactions, at a fixed public offering price or at varying prices determined at the time of sale. The obligations of the underwriters to purchase the securities will be subject to some conditions. The underwriters will be obligated to purchase all the securities offered if any of the securities are purchased. Any initial public offering price and any discounts or concessions allowed or re-allowed or paid to dealers may be changed from time to time.

Underwriters, dealers, and agents that participate in the distribution of the securities may be underwriters as defined in the Securities Act of 1933, as amended (the "Securities Act"), and any discounts or commissions received by them from us and any profit on the resale of the securities by them may be treated as underwriting discounts and commissions under the Securities Act.

We may have agreements with the underwriters, dealers, and agents to indemnify them against some civil liabilities, including liabilities under the Securities Act, or to contribute to payments which the underwriters, dealers or agents may be required to make.

Underwriters, dealers and agents may engage in transactions with, or perform services for, us or our subsidiaries in the ordinary course of their businesses.

We may authorize underwriters, dealers and agents to solicit offers by some specified institutions to purchase securities from us at the public offering price stated in the applicable prospectus supplement under delayed delivery contracts providing for payment and delivery on a specified date in the future. These contracts will be subject only to those conditions included in the applicable prospectus supplement, and the applicable prospectus supplement will state the commission payable for solicitation of these contracts.

We may determine the price or other terms of the securities offered under this prospectus by use of an electronic auction. We will describe in the applicable prospectus supplement how any auction will be conducted to determine the price or any other terms of the securities, how potential investors may participate in the auction and, where applicable, the nature of the underwriters' obligations with respect to the auction.

Unless the applicable prospectus supplement states otherwise, all securities, except for common stock, will be new issues of securities with no established trading market. Any underwriters who purchase securities from us for public offering and sale may make a market in those securities, but these underwriters will not be obligated to do so and may discontinue any market making at any time without notice. We cannot assure you that the liquidity of the trading market for any securities will be liquid.

The maximum commission or discount to be received by any dealer/underwriter will not exceed eight (8) percent.

#### **VALIDITY OF SECURITIES**

Validity of the securities will be passed upon for us by Squire, Sanders & Dempsey L.L.P., Cincinnati, Ohio, and for any underwriters or agents, by Shearman & Sterling LLP, New York, New York.

#### **EXPERTS**

Our financial statements as of December 31, 2004 and 2003 and for each of the two years in the period ended December 31, 2004 and management's assessment of the effectiveness of internal control over financial reporting as of December 31, 2004 incorporated in this prospectus by reference from our Annual Report on Form 10-K for the year ended December 31, 2004 have been audited by Ernst & Young LLP, independent registered public accounting firm, as stated in their reports which are incorporated by reference in this prospectus. Our financial statements for the year ended December 31, 2002 incorporated in this prospectus by reference from our Annual Report on Form 10-K for the year ended December 31, 2004 have been audited by PricewaterhouseCoopers LLP, independent registered public accounting firm, as stated in their report. Such financial statements and management's assessment are incorporated herein by reference in reliance upon the reports of such firms given on their authority as experts in accounting and auditing.

## GLOSSARY

Below are abbreviated definitions of capitalized terms used in this prospectus and in the applicable prospectus supplement. The applicable prospectus supplement may contain a more complete definition of some of the terms defined here and reference should be made to the applicable prospectus supplement for a more complete definition of these terms.

“Beneficial owner” refers to the ownership interest of each actual purchaser of each debt security.

“Company” refers to U.S. Bancorp and its subsidiaries, unless otherwise stated.

“Depository” refers to a bank or trust company selected by us, having its principal office in the United States, and having a combined capital and surplus of at least \$50 million, and where we will deposit the shares of any series of the preferred stock underlying the depository shares under a separate deposit agreement between us and that bank or trust company.

“Direct Participants” refers to securities brokers and dealers, banks, trust companies, clearing corporations and other organizations who, with the New York Stock Exchange, Inc., the American Stock Exchange Inc., and the National Association of Securities Dealers, Inc., own DTC. Purchases of debt securities within the DTC system must be made by or through Direct Participants who will receive a credit for the debt securities on DTC’s records.

“Indirect Participants” refers to others, like securities brokers and dealers, banks and trust companies that clear through or maintain custodial relationships with Direct Participants, either directly or indirectly, and who also have access to the DTC system.

“Omnibus Proxy” refers to the omnibus proxy that DTC would mail under its usual procedures to the relevant trustee as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.’s consenting or voting rights to Direct Participants for whose accounts the debt securities are credited on the record date.

**\$10,000,000,000**

# **U.S. Bancorp**

**Debt Securities**

**Preferred Stock**

**Depository Shares**

**Common Stock**

**Debt Warrants**

**Equity Warrants**

**Units**



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**PROSPECTUS**

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, 2005

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The information in this prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and we are not soliciting offers to buy these securities in any state where the offer or sale is not permitted.

**SUBJECT TO COMPLETION, DATED , 2005**

**PROSPECTUS**



**U.S. Bancorp**  
800 Nicollet Mall  
Minneapolis, Minnesota 55402  
(651) 466-3000

**\$10,000,000,000**

## **U.S. Bancorp**

### **Junior Subordinated Deferrable Interest Debt Securities**

**USB Capital VII**  
**USB Capital VIII**  
**USB Capital IX**  
**USB Capital X**  
**USB Capital XI**  
**USB Capital XII**  
**USB Capital XIII**  
**USB Capital XIV**  
**USB Capital XV**  
**USB Capital XVI**

### **Capital Securities**

**Fully and unconditionally guaranteed, as described in this prospectus, by U.S. Bancorp**

We will provide the specific terms of these securities in supplements to this prospectus. You should read this prospectus and the applicable prospectus supplement carefully before you invest.

The securities will be unsecured obligations of USB and/or the trusts and will not be savings accounts deposits or other obligations of any bank or nonbank subsidiary of USB and/or the trusts and are not insured by the Federal Deposit Insurance Corporation, the Bank Insurance Fund or any other government agency.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

This prospectus may not be used to sell securities unless accompanied by the applicable prospectus supplement.





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You should rely on the information incorporated by reference or provided in this prospectus. We have not authorized anyone else to provide you with different information. Neither we nor the underwriters are making an offer of these securities in any state where the offer is not permitted. You should not assume that the information in this prospectus is accurate as of any date other than the date on the front of this document.

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## ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement that we, along with the trusts, USB Capital VII, USB Capital VIII, USB Capital IX, USB Capital X, USB Capital XI, USB Capital XII, USB Capital XIII, USB Capital XIV, USB Capital XV and USB Capital XVI, filed with the SEC using a shelf registration process. Under this shelf registration process, we may sell:

- debt securities;
- preferred stock;
- depository shares;
- common stock;
- debt warrants;
- equity warrants; and
- units

and the trusts may sell:

- capital securities (representing undivided beneficial interests in the trusts) to the public; and
- common securities to us

in one or more offerings.

The trusts will use the proceeds from sales of securities to buy a series of our junior subordinated debt securities with terms that correspond to the capital securities.

We:

- will pay principal and interest on our junior subordinated debt securities, subject to the payment of our more senior debt;
- may choose to distribute our junior subordinated debt securities pro rata to the holders of the related capital securities and common securities if we terminate a trust; and

will fully and unconditionally guarantee the capital securities based on:

- our obligations to make payments on our junior subordinated debt securities;
- our obligations under our guarantee (our payment obligations are subject to payment on all of our general liabilities); and
- our obligations under the trust agreements.

This prospectus provides you with a general description of the capital securities, the junior subordinated debt securities and the guarantee. The description of the debt securities, the preferred stock, the depository shares, the debt warrants, the equity warrants and the units will be included in a separate prospectus in this registration statement. Each time we sell capital securities, we will provide an applicable prospectus supplement that will contain specific information about the terms of that offering. The applicable prospectus supplement may also add, update or change information in this prospectus. You should read this prospectus and the applicable prospectus supplement together with the additional information described under the heading “Where You Can Find More Information.”

The registration statement that contains this prospectus (including the exhibits to the registration statement) has additional information about us and about the trusts and the securities offered under this prospectus. That registration statement can be read at the SEC web site or at the SEC offices mentioned under the heading “Where You Can Find More Information.”

The words “USB,” “Company,” “we,” “our,” “ours” and “us” refer to U.S. Bancorp and its subsidiaries, unless otherwise stated. We have also defined terms in the glossary section, at the back of this prospectus.

## **WHERE YOU CAN FIND MORE INFORMATION**

We file annual, quarterly and special reports, proxy statements and other information with the SEC. You may read and copy any document that we file at the SEC’s public reference rooms in Washington, D.C., New York, New York and Chicago, Illinois. Please call the SEC at 1-800-SEC-0330 for further information on the public reference rooms. Our SEC filings are also available to the public from the SEC’s website at <http://www.sec.gov>. Our SEC filings are also available at the offices of the New York Stock Exchange. For further information on obtaining copies of our public filings at the New York Stock Exchange, you should call (212) 656-5060.

The SEC allows us to incorporate by reference the information we file with them, which means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is considered to be part of this prospectus, and later information that we file with the SEC will automatically update and supersede this information. We incorporate by reference the following documents listed below and any future filings made with the SEC under Section 13(a), 13(c), 14, or 15(d) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), until we or any underwriters sell all of the securities:

Annual Report on Form 10-K for the year ended December 31, 2004; and

Current Reports on Form 8-K filed on January 18, March 9 (two reports, one of which was on Form 8-K/ A) and March 21, 2005.

You may request a copy of these filings, at no cost, by writing or telephoning us at the following address:

U.S. Bancorp  
800 Nicollet Mall  
Minneapolis, Minnesota 55402  
Attn: Investor Relations Department  
(612) 303-0799 or (866) 775-9668

The trusts have no separate financial statements. The statements would not be material to holders of the capital securities because the trusts have no independent operations.

Unless otherwise indicated, currency amounts in this prospectus and in any applicable prospectus supplement are stated in U.S. dollars.

## **ABOUT U.S. BANCORP**

We are a multi-state financial holding company with \$195 billion in assets at December 31, 2004, headquartered in Minneapolis, Minnesota. We were incorporated in Delaware in 1929 and operate as a financial holding company and a bank holding company under the Bank Holding Company Act of 1956. We provide a full range of financial services, including lending and depository services, cash management, foreign exchange and trust and investment management services. We also engage in credit card services, merchant and automated teller machine processing, mortgage banking, insurance, brokerage, leasing and investment banking. We are the parent company of U.S. Bank.

Our banking subsidiaries are engaged in the general banking business, principally in domestic markets. Our subsidiaries range in size from \$25 million to \$128 billion in deposits at December 31, 2004, and provide a wide range of products and services to individuals, businesses, institutional organizations, governmental entities and other financial institutions. Commercial and consumer lending services are principally offered to customers within our domestic markets, to domestic customers with foreign

operations and within certain niche national venues. Lending services include traditional credit products as well as credit card services, financing and import/export trade, asset-backed lending, agricultural finance and other products. Leasing products are offered through bank leasing subsidiaries. Depository services include checking accounts, savings accounts and time certificate contracts. Ancillary services such as foreign exchange, treasury management and receivable lock-box collection are provided to corporate customers. Our bank and trust subsidiaries provide a full range of asset management and fiduciary services for individuals, estates, foundations, businesses and charitable organizations.

Our nonbanking subsidiaries primarily offer investment and insurance products to our customers principally within their markets and mutual fund processing services to a broad range of mutual funds. Banking and investment services are provided through a network of 2,370 banking offices principally operating in 24 states in the Midwest and West. U.S. Bancorp operates a network of 4,620 branded ATMs and provides 24-hour, seven day a week telephone customer service. Mortgage banking services are provided through banking offices and loan production offices throughout our markets. Consumer lending products may be originated through banking offices, indirect correspondents, brokers or other lending sources, and a consumer finance division. We are also one of the largest providers of Visa® corporate and purchasing card services and corporate trust services in the United States. A wholly-owned subsidiary, NOVA Information Systems, Inc., provides merchant processing services directly to merchants through a network of banking affiliations. Affiliates of NOVA Information Systems, Inc. provide similar merchant services in Canada and segments of Europe. These foreign operations are not significant to us.

Our common stock is traded on the New York Stock Exchange under the ticker symbol “USB.” Our principal executive offices are located at 800 Nicollet Mall, Minneapolis, Minnesota 55402, and our telephone number is (651) 466-3000.

If you would like to know more about us, see our documents incorporated by reference in this prospectus as described under the section “Where You Can Find More Information.”

## **ABOUT THE TRUSTS**

We created a number of trusts under Delaware law under separate trust agreements established for each trust. A trust is a fiduciary relationship where one person known as the trustee, holds some property for the benefit of another person, in this case, the purchasers of the securities. For the securities being sold, the trustees and we will enter into amended and restated trust agreements that will be essentially in the form filed as an exhibit to the registration statement, which will state the terms and conditions for each trust to issue and sell the specific capital securities and common securities.

The trusts exist solely to:

issue and sell capital securities and common securities;

use the gross proceeds from the sale of the capital securities and common securities to purchase corresponding series of our junior subordinated debt securities;

maintain their status as grantor trusts for federal income tax purposes; and

engage in other activities that are necessary or incidental to these purposes.

We will purchase all of the common securities of each trust. The common securities will represent an aggregate liquidation amount equal to at least 3% of each trust’s total capitalization. The capital securities will represent the remaining 97% of each trust’s total capitalization. The common securities will have terms substantially identical to, and will rank equal in priority of payment with, the capital securities. If we default on the corresponding junior subordinated debt securities, then distributions on the common securities will be subordinate to the preferred securities in priority of payment.

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For each trust, as the direct or indirect holder of the common securities, we have appointed five trustees to conduct each trust's business and affairs. As holder of the common securities we (except in some circumstances) have the power to:

- appoint the trustees;
- replace or remove the trustees; and
- increase or decrease the number of trustees.

This means that if you are dissatisfied with a trustee you will not be able to remove the trustee without our assistance. Similarly, if we are dissatisfied with a trustee we can remove the trustee even if you are satisfied with the trustee.

The capital securities will be fully and unconditionally guaranteed by us as described under "Description of the Guarantees."

The principal executive offices of each trust is c/o U.S. Bancorp, 800 Nicollet Mall, Minneapolis, Minnesota 55402 and the telephone number is (651) 466-3000.

### **USE OF PROCEEDS**

Each trust will use all the proceeds from the sale of the capital securities to purchase our junior subordinated debt securities. Except as otherwise stated in the applicable prospectus supplement, we intend to use the proceeds from the sale of our junior subordinated debt securities (including corresponding junior subordinated debt securities) for general corporate purposes, including working capital, capital expenditures, investments in or advances to existing or future indebtedness, repayment of maturing obligations and replacement of outstanding indebtedness. Pending such use, we may temporarily invest the proceeds or use them to reduce short-term indebtedness.

The applicable prospectus supplement provides more details on the use of proceeds of any specific offering.

### **RATIO OF EARNINGS TO FIXED CHARGES**

The ratio of earnings to fixed charges of USB for each of the periods indicated is as follows:

	Year Ended December 31				
	2004	2003	2002	2001	2000
Ratio of Earnings to Fixed Charges:					
Excluding interest on deposits	5.98	6.40	4.88	2.26	2.76
Including interest on deposits	3.88	3.64	2.79	1.50	1.69

The ratio of earnings to fixed charges is computed by dividing income from continuing operations before income taxes and fixed charges (excluding capitalized interest), as adjusted for some equity method investments, by fixed charges. Fixed charges consist of interest on debt (including capitalized interest), amortization of debt discount and expense and a portion of rentals determined to be representative of interest.

### **DESCRIPTION OF JUNIOR SUBORDINATED DEBT SECURITIES**

This section describes the general terms and provisions of the junior subordinated debt securities that are offered by this prospectus. The applicable prospectus supplement will describe the specific terms of the series of the junior subordinated debt securities offered under that prospectus supplement and any general terms outlined in this section that will not apply to those junior subordinated debt securities.

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The junior subordinated indenture will be issued under an indenture dated as of April 28, 2005, between us and Delaware Trust Company, National Association, as trustee. The indenture will be qualified under the Trust Indenture Act. A form of the junior subordinated indenture is filed as an exhibit to the registration statement relating to this prospectus.

This section summarizes the material terms and provisions of the junior subordinated indenture and the junior subordinated debt securities. Because this is a summary, it does not contain all of the details found in the full text of the junior subordinated indenture and the junior subordinated debt securities. If you would like additional information, you should read the form of junior subordinated indenture and the form of junior subordinated debt securities.

### **General**

We can issue the junior subordinated debt securities in one or more series. A series of junior subordinated debt securities initially will be issued to a trust in connection with a capital securities offering.

Unless otherwise described in the applicable prospectus supplement regarding any offered junior subordinated debt securities, the junior subordinated debt securities will rank equally with all other series of junior subordinated debt securities, will be unsecured and will be subordinate and junior in priority of payment to all of our Senior Debt as described below under “Subordination.”

The indenture does not limit the amount of junior subordinated debt securities which we may issue, nor does it limit our issuance of any other secured or unsecured Debt.

We can issue the junior subordinated debt securities under a supplemental indenture, an officers’ certificate or a resolution of our board of directors.

The applicable prospectus supplement will describe the following terms of the junior subordinated debt securities:

the title;

any limit on the aggregate principal amount that may be issued;

the date(s) on which the principal is payable or the method of determining that date;

the interest rate, if any, the interest payment dates, any rights we may have to defer or extend an interest payment date, and the regular record date for any interest payment or the method by which any of the foregoing will be determined;

the place(s) where payments shall be payable and where the junior subordinated debt securities can be presented for registration of transfer or exchange, and the place(s) where notices and demands to or on us can be made;

any period(s) within which or date(s) on which, price(s) at which and the terms and conditions on which the junior subordinated debt securities can be redeemed, in whole or in part, at our option or at the option of a holder of the junior subordinated debt securities;

our or any holder’s obligation or right, if any, to redeem, purchase or repay the junior subordinated debt securities and other related terms and provisions;

the denominations in which any junior subordinated debt securities will be issued if other than denominations of \$100,000 and integral multiples of \$1,000 in excess thereof;

if other than in U.S. dollars, the currency in which the principal, premium and interest, if any, that the junior subordinated debt securities will be payable or denominated;

any additions, modifications or deletions in the events of default or covenants specified in the indenture;

the portion of the principal amount that will be payable at declaration of acceleration of the maturity;

any additions or changes to the indenture as will be necessary to facilitate the issuance of a series of junior subordinated debt securities in bearer form, registrable or not registrable for the principal, and with or without interest coupons;

the index or indices used to determine the amount of payments of principal and premium, if any, on any junior subordinated debt securities and how these amounts will be determined;

the terms and conditions under which temporary global securities are exchanged for definitive junior subordinated debt securities of the same series;

whether the junior subordinated debt securities will be issued in global form and, in that case, the terms and the depositary for these global securities;

the paying agent;

the terms and conditions of any right to convert or exchange any junior subordinated debt securities into any of our other securities or property;

the form of trust agreement and guarantee agreement;

the relative degree, if any, to which the junior subordinated debt securities shall be senior or subordinated to other junior subordinated debt securities or any of our other indebtedness in right of payment; and

any other terms of the junior subordinated debt securities consistent with the provisions of the indenture.

Junior subordinated debt securities may be sold at a substantial discount below their stated principal amount, bearing no interest or interest at a rate which at the time of issuance is below market rates. Some U.S. federal income tax consequences and special considerations applicable to the junior subordinated debt securities will be described in the applicable prospectus supplement.

The applicable prospectus supplement will describe the restrictions, elections, some U.S. federal income tax consequences, and specific terms and other information related to the junior subordinated debt securities if the purchase price, principal, premium, or interest of any of the junior subordinated debt securities is payable or denominated in one or more foreign currencies or currency units.

If any index is used to determine the amount of payments of principal, premium, or interest on any series of junior subordinated debt securities, special U.S. federal income tax, accounting and other considerations applicable to the junior subordinated debt securities will be described in the applicable prospectus supplement.

### **Option to Extend Interest Payment Dates**

If provided in the applicable prospectus supplement and if the junior subordinated debentures are not in default, we shall have the right at any time and from time to time during the term of any series of junior subordinated debt securities to defer payment of interest for a number of consecutive interest payment periods as specified in the applicable prospectus supplement (extension period).

Some U.S. federal income tax consequences and considerations applicable to any junior subordinated debt securities that permit extension periods will be described in the applicable prospectus supplement.

### **Redemption**

Unless otherwise indicated in the applicable prospectus supplement, junior subordinated debt securities will not be subject to any sinking fund.



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Unless the applicable prospectus supplement indicates otherwise, we may, at our option and subject to the receipt of prior approval by the Board of Governors of the Federal Reserve System, if then required under applicable capital guidelines or policies, redeem the junior subordinated debt securities of any series:

in whole at any time or in part from time to time; or

upon the occurrence of a Tax Event, an Investment Company Event or a Capital Treatment Event in whole (but not in part) at any time within 90 days of the occurrence of the Tax Event, the Investment Company Event or Capital Treatment Event.

If the junior subordinated debt securities of any series are redeemable only on or after a specified date or by the satisfaction of additional conditions, the applicable prospectus supplement will specify the date or describe these conditions.

Junior subordinated debt securities shall be redeemable in the denominations specified in the prospectus supplement. Unless the applicable prospectus supplement indicates otherwise, junior subordinated debt securities will be redeemed at the redemption price.

A Tax Event means that either we or a trust will have received an opinion of counsel (which may be our counsel or counsel of an affiliate but not an employee and which must be reasonably acceptable to the property trustee) experienced in tax matters stating that, as a result of any:

amendment to, or change (including any announced prospective change) in, the laws (or any regulations under those laws) of the United States or any political subdivision or taxing authority affecting taxation; or

interpretation or application of the laws enumerated in the preceding bullet point or regulations, by any court, governmental agency or regulatory authority;

there is more than an insubstantial risk that:

a trust is, or will be within 90 days of the date of the opinion of counsel, subject to U.S. federal income tax on interest received on the junior subordinated debt securities;

interest payable by us to the trusts on the junior subordinated debt securities is not, or will not be within 90 days of the date of the opinion of counsel, deductible, in whole or in part, for U.S. federal income tax purposes; or

a trust is, or will be within 90 days of the date of the opinion of counsel, subject to more than a minimal amount of other taxes, duties, assessments or other governmental charges.

An Investment Company Event means the receipt by us and a trust of an opinion of counsel experienced in matters relating to investment companies to the effect that, as a result of any:

change in law or regulation; or

change in interpretation or application of law or regulation by any legislative body, court, governmental agency or regulatory authority,

the trust is or will be considered an investment company that is required to be registered under the Investment Company Act, which change becomes effective on or after the original issuance of the capital securities.

A Capital Treatment Event means the reasonable determination by us that, as a result of any:

amendment to, or change (including any prospective change) in, laws or any applicable regulation of the United States and any political subdivision; or

as a result of any official or administrative pronouncement or action or judicial decision interpreting or applying the laws or regulations, which amendment is effective or announced on or after the date of issuance of the capital securities,

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there is more than an insubstantial risk of impairment of our ability to treat the capital securities (or any substantial portion) as Tier 1 capital (or its equivalent) for purposes of the capital adequacy guidelines of the Federal Reserve, in effect and applicable to us.

Notice of any redemption will be mailed at least 30 days and not more than 60 days before the redemption date to each holder of redeemable junior subordinated debt securities, at its registered address. Unless we default in the payment of the redemption price, on or after the redemption date, interest will cease to accrue on the junior subordinated debt securities or portions called for redemption.

### **Restrictions on Some Payments**

We agreed that we will not permit any of our subsidiaries to:

declare or pay any dividends or distributions, or redeem, purchase, acquire, or make a liquidation payment on any of our capital stock;

make any payment of principal of interest or premium, if any, on or repay, repurchase or redeem any of our debt securities (including other junior subordinated debt securities) that rank equally with or junior in interest to the junior subordinated debt securities; or

make any guarantee payments on any guarantee of debt securities of any of our subsidiaries (including under other guarantees) if the guarantee ranks equally with or junior in interest to the junior subordinated debt securities, except in some circumstances, if at that time:

we have actual knowledge of an event that with the giving of notice or the lapse of time, or both, would constitute an event of default under the indenture and we will not have taken reasonable steps to cure the event of default;

the junior subordinated debt securities are held by a trust that is the issuer of a series of related capital securities and we are in default on our payment obligations under the guarantee relating to those related capital securities; or

we have given notice of our selection of an extension period on the junior subordinated debt securities of a series and we have not rescinded the notice, or extension period, or any extension period relating to the junior subordinated debt securities shall be continuing.

### **Modification of Indenture**

We may and the trustee may change the indenture without your consent for specified purposes, including:

to fix any ambiguity, defect or inconsistency, provided that the change does not materially adversely affect the interest of any holder of any series of junior subordinated debt securities or, in the case of corresponding junior subordinated debt securities, the interest of a holder of any related capital securities so long as they remain outstanding; and

to qualify or maintain the qualification of the indenture under the Trust Indenture Act.

In addition, under the indenture, we and the trustee may modify the indenture to affect the rights of the holders of the series of the junior subordinated debt securities, with the consent of the holders of a majority in principal amount of the outstanding series of junior subordinated debt securities that are affected. However, neither we nor the trustee may take the following actions without the consent of each holder of the outstanding junior subordinated debt securities affected:

change the maturity date of any series of junior subordinated debt securities (except as otherwise specified in the applicable prospectus supplement), or reduce the principal amount, rate of interest, or extend the time of payment of interest;

reduce the percentage in principal amount of junior subordinated debt securities of any series necessary to modify the indenture;

modify some provisions of the indenture relating to modification or waiver, except to increase the required percentage; or

modify the provisions of the indenture relating to the subordination of the junior subordinated debt securities of any series in a manner adverse to the holders, provided that, in the case of corresponding junior subordinated debt securities, as long as any of the related capital securities are outstanding, no modification will be made that adversely affects the holders of these capital securities in any material respect. Also the indenture cannot be terminated, and a waiver of any event of default or compliance with any covenant under the indenture cannot be effective, without the prior consent of the holders of a majority of the liquidation preference of the related capital securities unless and until the principal of the corresponding junior subordinated debt securities and all accrued and unpaid interest have been paid in full and some other conditions are satisfied.

In addition, we and the trustee may execute any supplemental indenture to create any new series of junior subordinated debt securities without the consent of any holders.

## **Events of Default**

The following are events of defaults under the indenture:

failure to pay interest on a junior subordinated debt security of that series for 30 days after the payment is due (subject to the deferral of any due date in the case of an extension period) or, if later, the conclusion of a period consisting of 20 consecutive quarters, commencing with the quarter following the earliest quarter for which interest (including deferred payments) has not been paid in full;

the related trust shall have voluntarily or involuntarily dissolved, wound-up its business or otherwise terminated its existence, except in connection with (i) the distribution of the junior subordinated debt securities to holders of the trust preferred securities, (ii) the redemption of all of the outstanding trust preferred securities or (iii) certain mergers, consolidations or amalgamations of the trust;

certain events in bankruptcy, insolvency or reorganization; or

any other event of default that may be specified for the junior subordinated debt securities of that series when that series is created.

The holders of a majority in aggregate outstanding principal amount of any series of junior subordinated debt securities have the right to direct the time, method and place of conducting any proceeding for any remedy available to the trustee. If an event of default under the indenture of any series occurs and is continuing, the junior subordinated trustee or the holders of at least 25% in aggregate principal amount of the outstanding junior subordinated debt securities can declare the unpaid principal and accrued interest, if any, to the date of acceleration on all the outstanding junior subordinated debt securities of that series to be due and payable immediately. Similarly, in the case of corresponding junior subordinated debt securities, if the trustee or holders of the corresponding junior subordinated debt securities fail to make this declaration, the holders of at least 25% in aggregate liquidation preference of the related capital securities will have that right.

The holders of a majority in aggregate outstanding principal amount of any series of junior subordinated debt securities can rescind a declaration of acceleration and waive the default if the default (other than the non-payment of principal which has become due solely by acceleration) has been cured and a sum sufficient to pay all principal and interest due (other than by acceleration) has been deposited with the trustee. In the case of corresponding junior subordinated debt securities, if the holders of the corresponding junior subordinated debt securities fail to rescind a declaration and waive the default, the holders of a majority in aggregate liquidation amount of the related capital securities will have that right.

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The holders of a majority in aggregate outstanding principal amount of the junior subordinated debt securities of any affected series may, on behalf of holders of all of the junior subordinated debt securities, waive any past default, except:

a default in the payment of principal or interest (unless the default has been cured or a sum sufficient to pay all matured installments of principal and interest has been deposited with the trustee); or

a default in a covenant or provision of the indenture which cannot be modified or amended without the consent of the holders of each outstanding junior subordinated debt securities.

In the case of corresponding junior subordinated debt securities, if the holders of the corresponding junior subordinated debt securities fail to rescind a declaration and waive the default, the holders of a majority in liquidation preference of the related capital securities will have that right.

We are required to file annually, with the trustee, a certificate stating whether or not we are in compliance with all the conditions and covenants applicable to us under the junior subordinated indenture.

If an event of default occurs and is continuing on a series of corresponding junior subordinated debt securities, the property trustee will have the right to declare the principal of, and the interest on, the corresponding junior subordinated debt securities, and any amounts payable under the indenture, to be immediately due and payable, and to enforce its other rights as a creditor for these corresponding junior subordinated debt securities.

### **Enforcement of Some Rights by Holders of Capital Securities**

If an event of default under the indenture has occurred and is continuing, and this event can be attributable to our failure to pay interest or principal on the related junior subordinated debt securities when due, you may institute a legal proceeding directly against us to enforce the payment of the principal of or interest on those subordinated debt securities having a principal amount equal to the liquidation amount of your related capital securities. We cannot amend the indenture to remove the right to bring a direct action, without the written consent of holders of all capital securities. If the right to bring a direct action is removed, the applicable trust may become subject to reporting obligations under the Exchange Act.

You would not be able to exercise directly any remedy other than those stated in the preceding paragraph which are available to the holders of the junior subordinated debt securities unless there has been an event of default under the trust agreement. See "Description of Capital Securities – Events of Default; Notice."

### **Consolidation, Merger, Sale of Assets and Other Transactions**

The indenture states that we cannot consolidate with or merge into any other person or convey, transfer or lease our properties and assets substantially as an entirety to any person, and no person will consolidate with or merge into us or convey, transfer or lease its properties and assets substantially as an entirety to us, unless:

the successor is organized under the laws of the United States or any state or the District of Columbia, and expressly assumes all of our obligations under the indenture;

immediately after the transaction, no event of default, and no event which, after notice or lapse of time or both, would become an event of default, shall have occurred and be continuing;

this transaction is permitted under the related trust agreement and the related guarantee and does not give rise to any breach or violation of the related trust agreement or the related guarantee; and

some other conditions prescribed in the indenture are met.

The general provisions of the indenture do not afford protection to the holders of the junior subordinated debt securities in the event of a highly leveraged or other transaction involving us that may adversely affect the holders.

### **Satisfaction and Discharge**

The indenture provides that when all junior subordinated debt securities not previously delivered to the trustee for cancellation:

have become due and payable; or

will become due and payable within one year, and

we deposit with the trustee money sufficient to pay and discharge the entire indebtedness on the junior subordinated debt securities;

we deliver to the trustee officers' certificates and opinions of counsel; and

we comply with some other requirements under the indenture,

then the indenture will cease to be of further effect and we will be considered to have satisfied and discharged the indenture.

### **Conversion or Exchange**

If indicated in the applicable prospectus supplement, the junior subordinated debt securities of any series may be convertible or exchangeable into capital securities or other securities. The applicable prospectus supplement will describe the specific terms on which the junior subordinated debt securities of any series may be so converted or exchanged. The terms may include provisions for conversion or exchange, either mandatory, at the option of the holder, or at our option, in which case the number of shares of capital securities or other securities to be received by the holders of junior subordinated debt securities would be calculated as of a time and in the manner stated in the applicable prospectus supplement.

### **Subordination**

The indenture provides that any junior subordinated debt securities will be subordinate and junior in right of payment to all Senior Debt.

Upon any payment or distribution of assets to creditors upon our liquidation, dissolution, winding up, reorganization, whether voluntary or involuntary, assignment for the benefit of creditors, marshaling of assets or any bankruptcy, insolvency, debt restructuring or similar proceedings, the holders of Senior Debt will first be entitled to receive payment in full of the principal, premium, or interest due before the holders of junior subordinated debt securities or, in the case of corresponding junior subordinated debt securities, the property trustee, on behalf of the holders, will be entitled to receive any payment or distribution.

In the event of the acceleration of the maturity of any junior subordinated debt securities, the holders of all Senior Debt outstanding at the time of the acceleration will first be entitled to receive payment in full of all amounts due on the Senior Debt (including any amounts due upon acceleration) before the holders of junior subordinated debt securities.

No payment, by or on our behalf, of principal, premium, if any, or interest, on the junior subordinated debt securities shall be made if at the time of the payment, there exists:

a default in any payment on any Senior Debt, or any other default under which the maturity of any Senior Debt has been accelerated; and

any judicial proceeding relating to the defaults which shall be pending.

We are a non-operating holding company and almost all of our operating assets are owned by our subsidiaries. We rely primarily on dividends from our subsidiaries to meet our obligations to pay the principal of and interest on our outstanding debt obligations and corporate expenses. We are a legal entity separate and distinct from our banking and nonbanking affiliates. Our principal sources of income are dividends, interest and fees from U.S. Bank National Association and our other banking and nonbanking affiliates. Our banking subsidiaries are subject to some restrictions imposed by federal law on any extensions of credit to, and some other transactions with, us and some other affiliates, and on investments in stock or other securities. These restrictions prevent us and our other affiliates from borrowing from our banking subsidiaries unless the loans are secured by various types of collateral. Further, these secured loans, other transactions and investments by any of our banking subsidiaries are generally limited in amount for us and each of our other affiliates to 10% of our banking subsidiaries' capital and surplus, and as to us and all of our other affiliates to an aggregate of 20% of our banking subsidiaries' capital and surplus. In addition, payment of dividends by our banking subsidiaries to us are subject to ongoing review by banking regulators and to various statutory limitations and in some circumstances requires approval by banking regulatory authorities. Because we are a holding company, our right to participate in any distribution of assets of any subsidiary upon the liquidation or reorganization or otherwise of our subsidiary is subject to the prior claims of creditors of the subsidiary, unless we can be recognized as a creditor of that subsidiary. Accordingly, the junior subordinated debt securities will be effectively subordinated to all existing and future liabilities of our banking subsidiaries, and holders of junior subordinated debt securities should look only to our assets for payments on the junior subordinated debt securities.

The indenture places no limitation on the amount of Senior Debt that we may incur. We expect to incur from time to time additional indebtedness constituting Senior Debt.

The indenture provides that these subordination provisions, as they relate to any particular issue of junior subordinated debt securities, may be changed before the issuance. The applicable prospectus supplement will describe any of these changes.

### **Denominations, Registration and Transfer**

Unless the applicable prospectus supplement specifies otherwise, we will issue the junior subordinated debt securities in registered form only, without coupons and in the denominations specified in the prospectus supplement. Holders can exchange junior subordinated debt securities of any series for other junior subordinated debt securities:

- of the same issue and series;
- in any authorized denominations;
- in a like principal amount;
- of the same date of issuance and maturity; and
- bearing the same interest rate.

Subject to the terms of the indenture and the limitations applicable to global securities stated in the applicable prospectus supplement, junior subordinated debt securities will be presented for exchange or for registration of transfer (duly endorsed or with the form of transfer duly endorsed, or a satisfactory written instrument of transfer, duly executed) at the office of the security registrar or at the office of any transfer agent designated by us for that purpose.

Unless otherwise provided in the applicable prospectus supplement, no service charge will be made for any registration of transfer or exchange, but we may require payment of any taxes or other governmental charges. We have appointed the trustee as security registrar for the junior subordinated debt securities. Any transfer agent (in addition to the security registrar) initially designated by us for any junior subordinated debt securities will be named in the applicable prospectus supplement. We may at any time designate additional transfer agents or rescind the designation of any transfer agent or approve a change in

the location through which any transfer agent acts, except that we will be required to maintain a transfer agent in each place of payment for the junior subordinated debt securities of each series.

If the junior subordinated debt securities of any series are to be redeemed, neither the trustee nor us will be required to:

issue, register the transfer of, or exchange any junior subordinated debt securities of any series during a period beginning on the business day that is 15 days before the day of mailing of notice of redemption of any junior subordinated debt securities that is selected for redemption and ending at the close of business on the day of mailing of the relevant notice; or

transfer or exchange any junior subordinated debt securities selected for redemption, except, the unredeemed portion of any junior subordinated debt securities being redeemed in part.

### **Global Junior Subordinated Debt Securities**

We may issue, in whole or in part, the junior subordinated debt securities of a series in the form of one or more global junior subordinated debt securities that will be deposited with, or on behalf of, a depositary identified in the applicable prospectus supplement relating to those series. The specific terms of the depositary arrangements for a series of junior subordinated debt securities will be described in the applicable prospectus supplement. See “Book-Entry Issuance.”

### **Payment and Paying Agents**

Unless otherwise indicated in the applicable prospectus supplement, payment of principal of and any premium and interest on junior subordinated debt securities will be made at the office of the trustee in the City of New York or at the office of the paying agent(s) designated by us, from time to time, in the applicable prospectus supplement. However, we may make interest payments by:

check mailed to the address of the person entitled to it at the address appearing in the securities register (except in the case of global junior subordinated debt securities); or

transfer to an account maintained by the person entitled to it as specified in the securities register, so long as we receive proper transfer instructions by the regular record date.

Unless otherwise indicated in the applicable prospectus supplement, payment of the interest on junior subordinated debt securities on any interest payment date will be made to the person in whose name the junior subordinated debt securities are registered at the close of business on the regular record date relating to the interest payment date, except in the case of defaulted interest.

We may at any time designate additional paying agents or cancel the designation of any paying agent. We will at all times be required to maintain a paying agent in each place of payment for each series of junior subordinated debt securities.

Any money deposited with the trustee or any paying agent, or held by us in trust for the payment of the principal of and any premium or interest on any junior subordinated debt securities that remains unclaimed for two years after the principal, any premium or interest has become due and payable will, at our request, be repaid to us and the holder of the junior subordinated debt securities can then only look to us for payment.

### **Information About the Trustee**

The Trust Indenture Act describes the duties and responsibilities of the trustee. Subject to the provisions under the Trust Indenture Act, the trustee has no obligation to exercise any of the powers vested in it by the indenture, at the request of any holder of junior subordinated debt securities, unless the holder offers reasonable indemnity against the costs, expenses and liabilities that are incurred. The trustee is not required to expend or risk its own funds or otherwise incur personal financial liability in the



performance of its duties if it reasonably believes that repayment or adequate indemnity is not reasonably assured to it.

### **Corresponding Junior Subordinated Debt Securities**

The corresponding junior subordinated debt securities are issued in one or more series of junior subordinated debt securities under the indenture with terms corresponding to the terms of a series of related capital securities. Concurrently with the issuance of each trust's capital securities, the trust will invest the proceeds and the consideration paid by us for the related common securities in a series of corresponding junior subordinated debt securities. Each series of corresponding junior subordinated debt securities will be in the principal amount equal to the aggregate stated liquidation amount of the related capital securities and the common securities of the trust and will rank equally with all other series of junior subordinated debt securities. As a holder of the related capital securities for a series of corresponding junior subordinated debt securities, you will have rights in connection with modifications to the indenture or at the occurrence of events of default under the indenture described under "– Modification of Indenture" and "– Events of Default," unless provided otherwise in the applicable prospectus supplement for these related capital securities.

Unless otherwise specified in the applicable prospectus supplement, if a Tax Event relating to a trust of related capital securities occurs and is continuing, we have the option, and subject to prior approval by the Federal Reserve (if required at the time under applicable capital guidelines or policies), to redeem the corresponding junior subordinated debt securities at any time within 90 days of the occurrence of the Tax Event, in whole but not in part, at the redemption price. As long as the applicable trust is the holder of all outstanding series of corresponding junior subordinated debt securities, the trust will use the proceeds of the redemption to redeem the corresponding capital securities and common securities in accordance with their terms. We may not redeem a series of corresponding junior subordinated debt securities in part, unless all accrued and unpaid interest has been paid in full on all outstanding corresponding junior subordinated debt securities of the applicable series.

We will covenant in the indenture that if and as long as:

- the trust of the related series of capital securities and common securities is the holder of all the corresponding junior subordinated debt securities;

- a Tax Event related to the trust has occurred and is continuing; and

- we have elected, and have not revoked our election to pay Additional Sums for the capital securities and common securities,

we will pay to the trust the Additional Sums.

We will also covenant, as to each series of corresponding junior subordinated debt securities:

- to maintain directly or indirectly 100% ownership of the common securities of the trust to which corresponding junior subordinated debt securities have been issued, provided that some successors which are permitted under the indenture, may succeed to our ownership of the common securities;

- not to voluntarily terminate, wind-up or liquidate any trust, except:

  - with prior approval of the Federal Reserve if then so required under applicable capital guidelines or policies of the Federal Reserve; and

  - in connection with a distribution of corresponding junior subordinated debt securities to the holders of the capital securities in liquidation of a trust, or in connection with some mergers, consolidations or amalgamations permitted by the related trust agreement; and

- to use our reasonable efforts, consistent with the terms and provisions of the related trust agreement, to cause the trust to remain classified as a grantor trust and not as an association taxable as a corporation for United States federal income tax purposes.



## DESCRIPTION OF CAPITAL SECURITIES

### General

This section describes the general terms and provisions of the capital securities that are offered by this prospectus. The applicable prospectus supplement will describe the specific terms of the series of the capital securities offered under that prospectus supplement and any general terms outlined in this section that will not apply to those capital securities.

The capital securities will be issued under the trust agreement. The trust agreement will be qualified as an indenture under the Trust Indenture Act. The forms of trust agreement and capital securities have been filed as an exhibit to the registration statement.

The capital securities will have the terms described in the applicable trust agreement or made part of the trust agreement by the Trust Indenture Act or the Delaware Business Trust Act. The terms of the capital securities will mirror the terms of the junior subordinated debt securities held by each trust.

This section summarizes the material terms and provisions of the trust agreement and the capital securities. Because this is only a summary, it does not contain all of the details found in the full text of the trust agreement and the capital securities. If you would like additional information you should read the form of trust agreement and the form of capital securities.

The trust agreement of each trust authorizes the administrative trustees to issue on behalf of each trust one series of capital securities and one series of common securities containing the terms described in the applicable prospectus supplement. The proceeds from the sale of the capital securities and common securities will be used by each trust to purchase a series of junior subordinated debt securities from us. The junior subordinated debt securities will be held in trust by the property trustee for your benefit and the benefit of the holder of the common securities.

Under the guarantee, we will agree to make payments of distributions and payments on redemption or liquidation of the capital securities, to the extent that the related trust holds funds available for this purpose and has not made such payments. See "Description of the Guarantee."

The assets of each trust available for distribution to you will be limited to payments received from us under the corresponding junior subordinated debt securities. If we fail to make a payment on the corresponding junior subordinated debt securities, the property trustee will not have sufficient funds to make related payments, including distributions, on the capital securities.

Each guarantee, when taken together with our obligations under the corresponding junior subordinated debt securities and the indenture, the applicable trust agreement and the expense agreement, will provide a full and unconditional guarantee of amounts due on the capital securities issued by each trust.

Each trust will redeem an amount of capital securities equal to the amount of any corresponding junior subordinated debt securities redeemed.

Specific terms relating to the capital securities will be described in the applicable prospectus supplement, including:

the name of the capital securities;

the dollar amount and number of capital securities issued;

the annual distribution rate(s) (or method of determining this rate(s)), the payment date(s) and the record dates used to determine the holders who are to receive distributions;

the date from which distributions shall be cumulative;

the optional redemption provisions, if any, including the prices, time periods and other terms and conditions for which the capital securities shall be purchased or redeemed, in whole or in part;

the terms and conditions, if any, under which the junior subordinated debt securities are distributed to you by the trusts;

any securities exchange on which the capital securities are listed;

whether the capital securities are to be issued in book-entry form and represented by one or more global certificates, and if so, the depositary for the global certificates and the specific terms of the depositary arrangements; and

any other relevant rights, preferences, privileges, limitations or restrictions of the capital securities.

The applicable prospectus supplement will also describe some U.S. federal income tax considerations applicable to any offering of capital securities.

## **Redemption or Exchange**

***Mandatory Redemption.*** If any corresponding junior subordinated debt securities are repaid or redeemed in whole or in part, whether at maturity or upon earlier redemption, the property trustee will use the proceeds from this repayment or redemption to redeem a Like Amount of the capital securities and common securities. The property trustee will give you at least 30 days' notice, but not more than 60 days' notice, before the date of redemption. The capital securities and (unless there is a default under the junior subordinated debt securities) the common securities will be redeemed at the redemption price at the concurrent redemption of the corresponding junior subordinated debt securities. See "Description of the Junior Subordinated Debt Securities – Redemption."

If less than all of any series of corresponding junior subordinated debt securities are to be repaid or redeemed on a date of redemption, then the proceeds from the repayment or redemption shall be allocated, pro rata, to the redemption of the related capital securities and the common securities.

We may redeem any series of corresponding junior subordinated debt securities:

on or after the date as specified in the applicable prospectus supplement, in whole at any time or in part, from time to time;

at any time, in whole (but not in part), upon the occurrence of a Tax Event, an Investment Company Event or a Capital Treatment; or

as is otherwise specified in the applicable prospectus supplement.

***Distribution of Corresponding Junior Subordinated Debt Securities.*** We may at any time terminate any trust and, after satisfaction of the liabilities of creditors of the trust as provided by applicable law, cause the corresponding junior subordinated debt securities relating to the capital securities and common securities issued by the trust to be distributed to you and the holders of the common securities in liquidation of the trust.

***Tax Event, Investment Company Event Redemption or Capital Treatment Event.*** If a Tax Event, Investment Company Event or Capital Treatment Event relating to a series of capital securities and common securities shall occur and be continuing, we may redeem the corresponding junior subordinated debt securities in whole, but not in part. This will cause a mandatory redemption of all of the related capital securities and common securities at the redemption price within 90 days following the occurrence of the Tax Event, Investment Company Event or Capital Treatment Event.

If a Tax Event, Investment Company Event or Capital Treatment Event relating to a series of capital securities and common securities occurs and is continuing and we elect not to redeem the corresponding junior subordinated debt securities or to terminate the related trust and cause the corresponding junior subordinated debt securities to be distributed to holders of the capital securities and common securities as described above, those capital securities and common securities will remain outstanding and Additional Sums may be payable on the corresponding junior subordinated debt securities.

Like Amount means:

for a redemption of any series of capital securities and common securities, capital securities and common securities of the series having a Liquidation Amount equal to that portion of the principal amount of corresponding junior subordinated debt securities to be contemporaneously redeemed. The Like Amount will be allocated to the common securities and to the capital securities based upon their relative Liquidation Amounts. The proceeds will be used to pay the redemption price of the capital securities and common securities; and

for a distribution of corresponding junior subordinated debt securities to holders of any series of capital securities and common securities, corresponding junior subordinated debt securities having a principal amount equal to the Liquidation Amount of the related capital securities and common securities.

Liquidation Amount means, unless otherwise provided in the applicable prospectus supplement, \$25 per capital security and common security.

Once the liquidation date is fixed for any distribution of corresponding junior subordinated debt securities for any series of capital securities:

the series of capital securities will no longer be deemed to be outstanding;

The DTC, or its nominee, as the record holder of the series of capital securities, will receive a registered global certificate or certificates representing the corresponding junior subordinated debt securities to be delivered upon the distribution; and

certificates representing the series of capital securities not held by DTC or its nominee will be deemed to represent the corresponding junior subordinated debt securities. Those certificates will bear accrued and unpaid interest in an amount equal to the accrued and unpaid distributions on the series of capital securities until the certificates are presented to the administrative trustees of the applicable trust or their agent for transfer or reissuance.

We cannot assure you of the market prices for the capital securities or the corresponding junior subordinated debt securities. Accordingly, the capital securities that you may purchase, or the corresponding junior subordinated debt securities that you may receive on dissolution and liquidation of a trust, may trade at a discount of the price that you paid for the capital securities.

## **Redemption Procedures**

Capital securities redeemed on a date of redemption shall be:

redeemed at the redemption price with the applicable proceeds from the contemporaneous redemption of the corresponding junior subordinated debt securities; and

payable on each date of redemption only to the extent that the related trust has funds on hand available for the payment of the redemption price.

If notice of redemption is given, then, by 12:00 noon, New York City time, on the date of redemption, to the extent funds are available, the property trustee will deposit irrevocably with DTC funds sufficient to pay the applicable redemption price and will give DTC irrevocable instructions and authority to pay the redemption price to you. See "Book-Entry Issuance." If the capital securities are no longer in book-entry form, the property trustee, to the extent funds are available, will irrevocably deposit with the paying agent for the capital securities, funds sufficient to pay the applicable redemption price and will give the paying agent irrevocable instructions and authority to pay the redemption price to you when you surrender your certificates evidencing the capital securities.

Distributions payable on or before the date of redemption for any capital securities called for redemption shall be payable to the holders on the relevant record dates for the related distribution dates.

If notice of redemption is given and funds deposited as required, all of your rights will cease, except your right to receive the redemption price, and the capital securities will cease to be outstanding.

If a date of redemption is not a business day, then payment of the redemption price payable on the date of redemption will be made on the next succeeding day which is a business day (and without any interest or other payment for any delay). However, if the business day falls in the next calendar year, then payment will be made on the immediately preceding business day.

If payment of the redemption price of the capital securities called for redemption is improperly withheld or refused and not paid either by the trust or by us under the guarantee, then distributions on the capital securities will continue to accrue at the then applicable rate from the date of redemption to the date that the redemption price is actually paid. In this case the actual payment date will be the date of redemption for purposes of calculating the redemption price.

Subject to applicable law (including, without limitation, federal securities law), our subsidiaries or us may at any time and from time to time purchase outstanding capital securities by tender offer, in the open market or by private agreement.

Payment of the redemption price on the capital securities and any distribution of corresponding junior subordinated debt securities to holders of capital securities shall be payable to the holders on the relevant record date as they appear on the register of capital securities. The record date shall be one business day before the relevant date of redemption or liquidation date as applicable. However, if the capital securities are not in book-entry form, the relevant record date for the capital securities shall be at least 15 days before the date of redemption or liquidation date.

If less than all of the capital securities and common securities issued by a trust are to be redeemed on a redemption date, then the aggregate Liquidation Amount of the capital securities and common securities to be redeemed shall be allocated pro rata to the capital securities and the common securities based upon the relative Liquidation Amounts of such classes. The property trustee will select the capital securities to be redeemed on a pro rata basis not more than 60 days before the date of redemption, by a method deemed fair and appropriate by it. The property trustee will promptly notify the registrar in writing of the capital securities selected for redemption and, in the case of any capital securities selected for partial redemption, the Liquidation Amount to be redeemed.

You will receive notice of any redemption at least 30 days but not more than 60 days before the date of redemption at your registered address. Unless we default in the payment of the redemption price on the corresponding junior subordinated debt securities, on and after the date of redemption, interest will cease to accrue on the junior subordinated debt securities or portions of the junior subordinated debt securities (and distributions will cease to accrue on the related capital securities or portions of the capital securities) called for redemption.

### **Subordination of Common Securities**

Payment of distributions on, and the redemption price of, each trust's capital securities and common securities, will be made pro rata based on the liquidation amount of the capital securities and common securities. However, if an event of default under the indenture shall have occurred and is continuing, no payment may be made on any of the trust's common securities, unless all unpaid amounts on each of the trust's outstanding capital securities shall have been made or provided for in full.

If an event of default under the indenture has occurred and is continuing, we, as holder of the trust's common securities, will be deemed to have waived any right to act on the event of default under the applicable trust agreement until the effect of all events of default relating to the capital securities have been cured, waived or otherwise eliminated. Until the events of default under the applicable trust agreement relating to the capital securities have been so cured, waived or otherwise eliminated, the property trustee will act solely on your behalf and not on our behalf as holder of the trust's common securities, and only you and the other holders of capital securities will have the right to direct the property trustee to act on your behalf.

## **Liquidation Distribution Upon Termination**

Each trust agreement states that each trust shall be automatically terminated upon the expiration of the term of the trust and shall also be terminated upon the first to occur of:

- our bankruptcy, dissolution or liquidation;

- the distribution of a Like Amount of the junior subordinated debt securities directly to the holders of the capital securities and common securities. For this distribution, we must give at least 30 days' written notice to the trustees;

- the redemption of all of the capital securities and common securities of a trust; and

- a court order for the dissolution of a trust is entered.

If dissolution of a trust occurs as described in the first, second and fourth bullets above, the applicable trustee shall liquidate the trust as quickly as possible. After paying all amounts owed to creditors, the trustee will distribute to the holders of the capital securities and the common securities either:

- a Like Amount of junior subordinated debt securities; or

- if the distribution of the junior subordinated debt securities is determined by the property trustee not to be practical, cash assets equal to the aggregate Liquidation Amount per capital security and common security specified in an accompanying prospectus supplement, plus accumulated and unpaid distributions from that date to the date of payment.

If a trust cannot pay the full amount due on its capital securities and common securities because insufficient assets are available for payment, then the amounts payable by the trust on its capital securities and common securities shall be paid pro rata. However, if an event of default under the indenture has occurred and is continuing, the total amounts due on the capital securities shall be paid before any distribution on the common securities.

## **Trust Enforcement Event**

An event of default under the indenture constitutes an event of default under the amended and restated trust agreement. We refer to such an event as a "Trust Enforcement Event". For more information on events of default under the indenture, see "Description of the Junior Subordinated Debt Securities – Events of Default". Upon the occurrence and continuance of a Trust Enforcement Event, the property trustee, as the sole holder of the junior subordinated debentures, will have the right under the indenture to declare the principal amount of the junior subordinated debentures due and payable. The amended and restated trust agreement does not provide for any other events of default.

If the property trustee fails to enforce its rights under the junior subordinated debentures, any holder of capital securities may, to the extent permitted by applicable law, institute a legal proceeding against us to enforce the property trustee's rights under the junior subordinated debentures and the indenture without first instituting legal proceedings against the property trustee or any other person. In addition, if a Trust Enforcement Event is due to our failure to pay interest or principal on the junior subordinated debentures when due, then the registered holder of capital securities may institute a direct action on or after the due date directly against us for enforcement of payment to that holder of the principal of or interest on the junior subordinated debentures having a principal amount equal to the total liquidation amount of that holder's capital securities. In connection with such a direct action, we will have the right under the indenture to set off any payment made to that holder by us. The holders of capital securities will not be able to exercise directly any other remedy available to the holders of the junior subordinated debentures.

Pursuant to the amended and restated trust agreement, the holder of the common securities will be deemed to have waived any Trust Enforcement Event regarding the common securities until all Trust Enforcement Events regarding the capital securities have been cured, waived or otherwise eliminated. Until all Trust Enforcement Events regarding the capital securities have been so cured, waived or otherwise eliminated, the property trustee will act solely on behalf of the holders of the capital securities and only

the holders of the capital securities will have the right to direct the enforcement actions of the property trustee.

### **Removal of Trustees**

Unless an event of default under a trust agreement has occurred and is continuing, we can remove and replace any trustee at any time. If an event of default under a trust agreement has occurred and is continuing, the property trustee and the Delaware trustee may be removed or replaced by the holders of at least a majority in Liquidation Amount of the outstanding capital securities. We are the only one that has the right to remove or replace the administrative trustees. No resignation or removal of any of the trustees and no appointment of a successor trustee shall be effective until the acceptance of appointment by the successor trustee as described in the applicable trust agreement.

### **Co-Trustees and Separate Property Trustee**

Unless an event of default under a trust agreement has occurred and is continuing, we, as the holder of the common securities, and the administrative trustees shall have the power:

to appoint one or more persons approved by the property trustee either to act as co-trustee, jointly with the property trustee, of all or any part of the trust property, or to act as a separate trustee of any trust property, in either case with the powers as provided in the instrument of appointment; and

to vest in the person(s) any property, title, right or power deemed necessary or desirable, subject to the provisions of the applicable trust agreement.

If an event of default under a trust agreement has occurred and is continuing, only the property trustee may appoint a co-trustee or separate property trustee.

### **Merger or Consolidation of Trustees**

If any of the trustees merge, convert, or consolidate with or into another entity or sells its trust operations to another entity, the new entity shall be the successor of the trustee under each trust agreement, provided that the corporation or other entity shall be qualified and eligible to be a trustee.

### **Mergers, Consolidations, Amalgamations or Replacements of the Trust**

A trust may not merge with or into, consolidate, amalgamate, or be replaced by or transfer or lease all or substantially all of its properties and assets to any other entity (a merger event), except as described below. A trust may, at our request, with the consent of the administrative trustees and without your consent, merge with or into, consolidate, amalgamate or be replaced by another trust provided that:

the successor entity either:

expressly assumes all of the obligations of the trust relating to the capital securities; or

substitutes for the capital securities other securities with terms substantially similar to the capital securities (successor securities) so long as the successor securities have the same rank as the capital securities for distributions and payments upon liquidation, redemption and otherwise;

we expressly appoint a trustee of the successor entity who has the same powers and duties as the property trustee of the trust as it relates to the junior subordinated debt securities;

the successor securities are listed or will be listed on the same national securities exchange or other organization that the capital securities are listed on;

the merger event does not cause the capital securities or successor securities to be downgraded by any national statistical rating organization;

the merger event does not adversely affect the rights, preferences and privileges of the holders of the capital securities or successor securities in any material way;

the successor entity has a purpose substantially similar to that of the trust;

before the merger event, we have received an opinion of counsel stating that:

the merger event does not adversely affect the rights of the holders of the capital securities or any successor securities in any material way; and

following the merger event, neither the trust nor the successor entity will be required to register as an investment company under the Investment Company Act; and

we own all of the common securities of the successor entity and guarantee the successor entity's obligations under the successor securities in the same manner provided by the related guarantee.

The trusts and any successor entity must always be classified as grantor trusts for U.S. federal income tax purposes unless all of the holders of the capital securities approve otherwise.

### **Voting Rights; Amendment of Each Trust Agreement**

You have no voting rights except as discussed under "Description of the Capital Securities – Mergers, Consolidations, Amalgamations or Replacements of the Trust" and "Description of the Guarantee – Amendments and Assignment," and as otherwise required by law and the applicable trust agreement. The property trustee, the administrative trustees and us may amend each trust agreement without your consent:

to fix any ambiguity or inconsistency; or

to modify, eliminate or add provisions to the applicable trust agreement as shall be necessary to ensure that each trust shall at all times be classified as a grantor trust for U.S. federal income tax purposes.

The administrative trustees and us may amend each trust agreement for any other reason as long as the holders of at least a majority in aggregate liquidation amount of the capital securities agree, and the trustees receive an opinion of counsel which states that the amendment will not affect the applicable trust status as a grantor trust for U.S. federal income tax purposes, or its exemption from regulation as an investment company under the Investment Company Act, except to:

change the amount and/or timing or otherwise adversely affect the method of payment of any distribution or Liquidation Amount on the capital securities or common securities;

restrict your right or the right of the common security holder to institute suit for enforcement of any distribution or Liquidation Amount on the capital securities or common securities;

The changes described in the two bullet points above require the approval of each holder of the capital securities affected.

So long as the corresponding junior subordinated debt securities of a trust are held by the property trustee of that trust, the trustees shall not:

direct the time, method and place of conducting any proceeding for any remedy available to the trustee or executing any trust or power conferred on the trustee relating to the corresponding junior subordinated debt securities;

waive any past default under Section 5.13 of the indenture;

cancel an acceleration of the principal of the corresponding junior subordinated debt securities; or

agree to any change in the indenture or the corresponding junior subordinated debt securities, where the trustees' approval is required, without obtaining the prior approval of the holders of at least a majority in the aggregate Liquidation Amount of all outstanding related capital securities. However, if the indenture requires the consent of each holder of corresponding junior subordinated debt



securities that are affected, then the property trustee must get approval of all holders of capital securities.

The trustees cannot change anything previously approved by you without your approval to make the change. The property trustee shall notify you of any notice of default relating to the corresponding junior subordinated debt securities.

In addition, before taking any of the actions described above, the trustees must obtain an opinion of counsel experienced in these matters, stating that the trust will continue to be classified as a grantor trust for U.S. federal income tax purposes.

As described in each trust agreement, the property trustee may hold a meeting so that you may vote on a change or request that you approve the change by written consent.

Your vote or consent is not required for the trust to redeem and cancel its capital securities under the trust agreement.

If your vote is taken or a consent is obtained, any capital securities that are owned by us, the trustees or any affiliate of either of us shall, for purposes of the vote or consent, be treated as if they were not outstanding.

### **Global Capital Securities**

The capital securities of a series may be issued in whole or in part in the form of one or more global securities that will be deposited with, or on behalf of, a depositary identified in the applicable prospectus supplement. The specific terms of the depositary arrangements for a series of capital securities will be described in the applicable prospectus supplement. See "Book-Entry Issuance."

### **Payment and Paying Agents**

Payments regarding the capital securities shall be made to a depositary, which shall credit the relevant accounts at the depositary on the applicable distribution dates or, if any trusts' capital securities are not held by a depositary, the payments shall be made by check mailed to the address of the holder entitled to it at the address listed in the register.

Unless otherwise specified in the applicable prospectus supplement, the paying agent shall initially be the property trustee. The paying agent shall be permitted to resign as paying agent with 30 days' written notice to the property trustee and to us. If the property trustee shall no longer be the paying agent, the administrative trustees shall appoint a successor (which shall be a bank or trust company acceptable to the administrative trustees and to us) to act as paying agent.

### **Registrar and Transfer Agent**

Unless otherwise specified in the applicable prospectus supplement, the property trustee will act as registrar and transfer agent for the capital securities.

Registration of transfers of capital securities will be effected without charge by or on behalf of each trust, after payment of any tax or other governmental charges that are imposed in connection with any transfer or exchange. No transfers of capital securities called for redemption will be registered.

### **Information About the Property Trustee**

The property trustee will perform only those duties that are specifically stated in each trust agreement. If an event of default arises under a trust agreement, the property trustee must use the same degree of care and skill in the exercise of its duties as a prudent person would exercise or use in the conduct of his or her own affairs. The property trustee is under no obligation to exercise any of the powers given it by the applicable trust agreement at your request unless it is offered reasonable security or indemnity against the costs, expenses and liabilities that it might incur.



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If no event of default under a trust agreement has occurred and is continuing, and the property trustee is required to decide between alternative courses of action, construe ambiguous provisions in the applicable trust agreement or is unsure of the application of any provisions of the applicable trust agreement, and the matter is not one on which you are entitled to vote, then the property trustee shall:

take some action as directed by us; and

if not so directed, take whatever action the property trustee deems advisable and in your best interests, and in the best interests of the holders of the capital securities and common securities of the applicable trust and will have no liability except for its own bad faith, negligence or willful misconduct.

### **Miscellaneous**

The administrative trustees are authorized and directed to conduct the affairs of and to operate the trusts in the manner that:

no trust will be deemed to be an investment company required to be registered under the Investment Company Act or to fail to be classified as a grantor trust for U.S. federal income tax purposes;

the corresponding junior subordinated debt securities will be treated as our indebtedness for U.S. federal income tax purposes.

In this connection, the administrative trustees and we are authorized to take any action, consistent with applicable law or the certificate of trust of each trust or each trust agreement, that we each determine in our discretion to be necessary or desirable for these purposes.

You have no preemptive or similar rights. A trust may not borrow money, issue Debt or mortgages, or pledge any of its assets.

## **DESCRIPTION OF THE GUARANTEE**

### **General**

We will execute a guarantee, for your benefit at the same time that a trust issues the capital securities. The guarantee trustee will hold the guarantee for your benefit. The guarantee will be qualified as an indenture under the Trust Indenture Act. The form of guarantee has been filed as an exhibit to the registration statement.

This section summarizes the material terms and provisions of the guarantee. Because this is only a summary, it does not contain all of the details found in the full text of the guarantee. If you would like additional information you should read the form of guarantee agreement.

We will irrevocably agree to pay to you in full the Guarantee Payments as and when due, regardless of any defense, right of set-off or counterclaim which the trust may have or assert other than the defense of payment. The following payments, to the extent not paid by a trust, will be subject to the guarantee:

any accumulated and unpaid distributions required to be paid on the capital securities, to the extent that the trust has applicable funds available to make the payment;

the redemption price and all accrued and unpaid distributions to the date of redemption on the capital securities called for redemption, to the extent that the trust has funds available to make the payment; or

in the event of a voluntary or involuntary dissolution, winding up or liquidation of the trust (other than in connection with a distribution of corresponding junior subordinated debt securities to you or the redemption of all the related capital securities), the lesser of:

the aggregate of the Liquidation Amount specified in the applicable prospectus supplement for each capital security plus all accrued and unpaid distributions on the capital securities to the date of payment; and

the amount of assets of the trust remaining available for distribution to you.

We can satisfy our obligation to make a guarantee payment by direct payment to you of the required amounts or by causing the trust to pay those amounts to the holders.

Each guarantee will be an irrevocable guarantee on a subordinated basis of the related trust's obligations under the capital securities, but will apply only to the extent that the related trust has funds sufficient to make the payments, and is not a guarantee of collection.

No single document executed by us that is related to the issuance of the capital securities will provide for its full, irrevocable and unconditional guarantee of the capital securities. It is only the combined operation of the applicable guarantee, the applicable trust agreement, the indenture and the expense agreement that has the effect of providing a full, irrevocable and unconditional guarantee of the trust's obligations under its capital securities.

### **Status of Guarantees**

Each guarantee will constitute an unsecured obligation of ours and will rank subordinate and junior in right of payment to all of our Senior Debt; and each guarantee will rank equally with all other guarantees issued by us. The guarantee will constitute a guarantee of payment and not of collection (in other words you may sue us, or seek other remedies, to enforce your rights under the guarantee without first suing any other person or entity). Each guarantee will be held for your benefit. Each guarantee will not be discharged except by payment of the Guarantee Payments in full to the extent not previously paid by the trust or upon distribution to you of the corresponding series of junior subordinated debt securities. None of the guarantees places a limitation on the amount of additional Senior Debt that we may incur. We expect to incur from time to time additional indebtedness constituting Senior Debt.

### **Amendments and Assignment**

Except regarding any changes which do not adversely affect your rights in any material respect (in which case your consent will not be required), the guarantee may only be amended with the prior approval of the holders of at least a majority in aggregate Liquidation Amount of the outstanding capital securities. A description of the manner in which approval may be obtained is described under "Description of the Capital Securities – Voting Rights; Amendment of Each Trust Agreement." All guarantees and agreements contained in each guarantee will be binding on our successors, assigns, receivers, trustees and representatives and shall inure to the benefit of the holders of the related capital securities then outstanding.

### **Events of Default**

An event of default under each guarantee occurs if we fail to make any of our required payments or perform our obligations under the guarantee. The holders of at least a majority in aggregate Liquidation Amount of the related capital securities will have the right to direct the time, method and place of conducting any proceeding for any remedy available to the guarantee trustee relating to the guarantee or to direct the exercise of any trust or power given to the guarantee trustee under the guarantee.

You may institute a legal proceeding directly against us to enforce your rights under the guarantee without first instituting a legal proceeding against the trust, the guarantee trustee or any other person or entity.

As guarantor, we are required to file annually with the guarantee trustee a certificate stating whether or not we are in compliance with all the conditions and covenants applicable to us under the guarantee.

### **Information About the Guarantee Trustee**

The guarantee trustee, other than during the occurrence and continuance of an event of default by us in the performance of any guarantee, will only perform the duties that are specifically described in the guarantee. After an event of default on any guarantee, the guarantee trustee will exercise the same degree of care and skill as a prudent person would exercise or use in the conduct of his or her own affairs. Subject to this provision, the guarantee trustee is under no obligation to exercise any of its powers as described in the guarantee at your request unless it is offered reasonable indemnity against the costs, expenses and liabilities that it might incur.

### **Termination of Capital Securities Guarantees**

Each guarantee will terminate once the related capital securities are paid in full or upon distribution of the corresponding series of junior subordinated debt securities to you. Each guarantee will continue to be effective or will be reinstated if at any time you are required to restore payment of any sums paid under the capital securities or the guarantee.

## **RELATIONSHIP AMONG THE CAPITAL SECURITIES, THE CORRESPONDING JUNIOR SUBORDINATED DEBT SECURITIES AND THE GUARANTEES**

### **Full and Unconditional Guarantee**

Payments of distributions and other amounts due on the capital securities (to the extent the trust has funds available for the payments) will be irrevocably guaranteed by us to the extent described under "Description of the Guarantee." No single document executed by us in connection with the issuance of the capital securities will provide for its full, irrevocable and unconditional guarantee of the capital securities. It is only the combined operation of our obligations under the related guarantee, the related trust agreement, the corresponding series of junior subordinated debt securities, the indenture and the expense agreement that has the effect of providing a full, irrevocable and unconditional guarantee of the trust's obligations under the related series of capital securities.

If we do not make payments on any series of corresponding junior subordinated debt securities, the related trust will not pay distributions or other amounts on the related capital securities. The guarantee does not cover payments of distributions when the related trust does not have sufficient funds to pay such distributions. If that occurs, your remedy is to sue us, or seek other remedies, to enforce your rights under the guarantee without first instituting a legal proceeding against the guarantee trustee.

### **Sufficiency of Payments**

As long as we make payments of interest and other payments when due on each series of corresponding junior subordinated debt securities, the payments will be sufficient to cover the payment of distributions and other payments due on the related capital securities, primarily because:

the aggregate principal amount of each series of corresponding junior subordinated debt securities will be equal to the sum of the aggregate liquidation amount of the related capital securities and common securities;

the interest rate and interest and other payment dates on each series of corresponding junior subordinated debt securities will match the distribution rate and distribution and other payment dates for the related capital securities;

we shall pay for any and all costs, expenses and liabilities of a trust except the trust's obligations to holders of its capital securities under the capital securities; and

each trust agreement provides that the trust will not engage in any activity that is inconsistent with the limited purposes of the trust.

We have the right to set-off any payment we are otherwise required to make under the indenture with and to the extent we have made, or are concurrently on the date of the payment making, a payment under the related guarantee.

### **Enforcement Rights of Holders of Capital Securities**

You may institute a legal proceeding directly against us to enforce your rights under the related guarantee without first instituting a legal proceeding against the guarantee trustee, the related trust or any other person or entity.

A default or event of default under any of our Senior Debt would not constitute a default or event of default under the trust agreements. However, in the event of payment defaults under, or acceleration of, any of our Senior Debt, the subordination provisions of the indenture provide that no payments will be made regarding the corresponding junior subordinated debt securities until the Senior Debt has been paid in full or any payment default on it has been cured or waived. Failure to make required payments on any series of corresponding junior subordinated debt securities would constitute an event of default under the trust agreements.

### **Limited Purpose of Trusts**

Each trust's capital securities evidence a beneficial interest in the respective trust, and each trust exists for the sole purpose of issuing its capital securities and common securities and investing the proceeds in corresponding junior subordinated debt securities. A principal difference between the rights of a holder of a capital security and a holder of a corresponding junior subordinated debt security is that a holder of a corresponding junior subordinated debt security is entitled to receive from us the principal amount of and interest accrued on corresponding junior subordinated debt securities held, while a holder of capital securities is entitled to receive distributions from the trust (or from us under the applicable guarantee) if and to the extent the trust has funds available for the payment of distributions.

### **Rights Upon Termination**

In the event of any voluntary or involuntary termination, winding up or liquidation of any trust involving a liquidation of the corresponding junior subordinated debt securities held by a trust, you will be entitled to receive, out of assets held by that trust, the liquidation distribution in cash. See "Description of the Capital Securities – Liquidation Distribution Upon Termination." In the event of our voluntary or involuntary liquidation or bankruptcy, the property trustee, as holder of the corresponding junior subordinated debt securities, would be a subordinated creditor of ours, subordinated in right of payment to all senior debt, but entitled to receive payment in full of principal, premium, if any, and interest, before any of our common stockholders receive payments or distributions. Since we are the guarantor under each guarantee and have agreed to pay for all costs, expenses and liabilities of each trust (other than the trust's obligations to you), your position and the position of a holder of the corresponding junior subordinated debt securities relative to other creditors and to our stockholders in the event of our liquidation or bankruptcy are expected to be substantially the same.

## **BOOK-ENTRY ISSUANCE**

DTC will act as securities depository for all of the capital securities and the junior subordinated debt securities, unless otherwise stated in the applicable prospectus supplement. We will issue the capital securities and junior subordinated debt securities only as fully-registered securities registered in the name of Cede & Co. (DTC's nominee). We will issue and deposit with DTC one or more fully-registered global certificates for the capital securities of each trust and junior subordinated debt securities representing in

the aggregate, the total number of the trust' s capital securities or aggregate principal balance of junior subordinated debt securities, respectively.

DTC is a limited purpose trust company organized under the New York Banking Law, a banking organization under the meaning of the New York Banking Law, a member of the Federal Reserve System, a clearing corporation under the meaning of the New York Uniform Commercial Code, and a clearing agency registered under the provisions of Section 17A of the Exchange Act. DTC holds securities that its participants deposit with DTC. DTC also facilitates the settlement among participants of securities transactions, like transfers and pledges, in deposited securities through electronic computerized book-entry changes in the participants' accounts, eliminating in this manner the need for physical movement of securities certificates. Direct Participants include securities brokers and dealers, banks, trust companies, clearing corporations and other organizations. DTC is owned by a number of its Direct Participants and by the New York Stock Exchange, Inc., the American Stock Exchange, Inc. and the National Association of Securities Dealers, Inc. Others, like securities brokers and dealers, banks and trust companies that clear through or maintain custodial relationships with Direct Participants, either directly or indirectly, the Indirect Participants, also have access to the DTC system. The rules applicable to DTC and its participants are on file with the SEC.

Purchases of capital securities or junior subordinated debt securities within the DTC system must be made by or through Direct Participants, who will receive a credit for the capital securities or junior subordinated debt securities on DTC' s records. The ownership interest of each actual purchaser of each capital security and each junior subordinated debt securities is in turn to be recorded on the Direct and Indirect Participants' records. DTC will not send written confirmation to Beneficial Owners of their purchases, but Beneficial Owners are expected to receive written confirmations providing details of the transactions, as well as periodic statements of their holdings, from the Direct or Indirect Participants through which the Beneficial Owners purchased capital securities or junior subordinated debt securities. Transfers of ownership interests in the capital securities or junior subordinated debt securities are to be accomplished by entries made on the books of participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in capital securities or junior subordinated debt securities, unless the book-entry system for the capital securities of the trust or junior subordinated debt securities is discontinued.

DTC has no knowledge of the actual Beneficial Owners of the capital securities or junior subordinated debt securities. DTC' s records reflect only the identity of the Direct Participants to whose accounts the capital securities or junior subordinated debt securities are credited, which may or may not be the Beneficial Owners. The participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners and the voting rights of Direct Participants, Indirect Participants and Beneficial Owners, subject to any statutory or regulatory requirements as is in effect from time to time, will be governed by arrangements among them.

We will send redemption notices to Cede & Co. as the registered holder of the capital securities or junior subordinated debt securities. If less than all of a trust' s capital securities or the junior subordinated debt securities are redeemed, DTC' s current practice is to determine by lot the amount of the interest of each Direct Participant to be redeemed.

Although voting on the capital securities or the junior subordinated debt securities is limited to the holders of record of the capital securities or junior subordinated debt securities, in those instances in which a vote is required, neither DTC nor Cede & Co. will itself consent or vote on capital securities or junior subordinated debt securities. Under its usual procedures, DTC would mail an Omnibus Proxy to the relevant trustee as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.' s consenting or voting rights to Direct Participants for whose accounts the capital securities or junior

subordinated debt securities are credited on the record date (identified in a listing attached to the Omnibus Proxy).

The relevant trustee will make distribution payments on the capital securities or on the junior subordinated debt securities to DTC. DTC's practice is to credit Direct Participants' accounts on the relevant payment date in accordance with their respective holdings shown on DTC's records unless DTC has reason to believe that it will not receive payments on the payment date. Standing instructions and customary practices will govern payments from participants to Beneficial Owners. Subject to any statutory or regulatory requirements, participants, and not DTC, the relevant trustee, trust or us will be responsible for the payment. The relevant trustee is responsible for payment of distributions to DTC. Direct and Indirect Participants are responsible for the disbursement of the payments to the Beneficial Owners.

DTC may discontinue providing its services as securities depository on any of the capital securities or the junior subordinated debt securities at any time by giving reasonable notice to the relevant trustee and to us. If a successor securities depository is not obtained, final capital securities or junior subordinated debt securities certificates must be printed and delivered. We may at our option decide to discontinue the use of the system of book-entry transfers through DTC (or a successor depository). After an event of default, the holders of a majority in liquidation preference of capital securities or aggregate principal amount of junior subordinated debt securities may discontinue the system of book-entry transfers through DTC. In this case, final certificates for the capital securities or junior subordinated debt securities will be printed and delivered.

The trusts and we have obtained the information in this section about DTC and DTC's book-entry system from sources that they believe to be accurate, but the trusts and we assume no responsibility for the accuracy of the information. Neither the trusts nor USB have any responsibility for the performance by DTC or its participants of their respective obligations as described in this prospectus or under the rules and procedures governing their respective operations.

## **PLAN OF DISTRIBUTION**

We may sell the securities:

through underwriters or dealers;

directly to one or more purchasers; or

through agents.

The applicable prospectus supplement will include the names of underwriters, dealers or agents retained. The applicable prospectus supplement will also include the purchase price of the securities, our proceeds from the sale, any underwriting discounts or commissions and other items constituting underwriters' compensation, and any securities exchanges on which the securities are listed.

The underwriters will acquire the securities for their own account. They may resell the securities in one or more transactions, including negotiated transactions, at a fixed public offering price or at varying prices determined at the time of sale. The obligations of the underwriters to purchase the securities will be subject to some conditions. The underwriters will be obligated to purchase all the securities offered if any of the securities are purchased. Any initial public offering price and any discounts or concessions allowed or re-allowed or paid to dealers may be changed from time to time.

Underwriters, dealers, and agents that participate in the distribution of the securities may be underwriters as defined in the Securities Act, and any discounts or commissions received by them from us and any profit on the resale of the securities by them may be treated as underwriting discounts and commissions under the Securities Act.

We may have agreements with the underwriters, dealers, and agents to indemnify them against some civil liabilities, including liabilities under the Act, or to contribute to payments which the underwriters, dealers or agents may be required to make.

Underwriters, dealers and agents may engage in transactions with, or perform services for, us or our subsidiaries in the ordinary course of their businesses.

We may authorize underwriters, dealers and agents to solicit offers by certain specified institutions to purchase securities from us at the public offering price stated in the applicable prospectus supplement on delayed delivery contracts providing for payment and delivery on a specified date in the future. These contracts will be subject only to the conditions included in the applicable prospectus supplement, and the prospectus supplement will specify the commission payable for solicitation of such contracts.

We may determine the price or other terms of the securities offered under this prospectus by use of an electronic auction. We will describe in the applicable prospectus supplement how any auction will be conducted to determine the price or any other terms of the securities, how potential investors may participate in the auction and, where applicable, the nature of the underwriters' obligations with respect to the auction.

Unless the applicable prospectus supplement states otherwise, all securities except for common stock will be new issues of securities with no established trading market. Any underwriters who purchase securities from us for public offering and sale may make a market in such securities, but such underwriters will not be obligated to do so and may discontinue any market making at any time without notice. We cannot assure you that the trading market for any securities will be liquid.

The maximum commission or discount to be received by any dealer/underwriter will not exceed eight (8) percent.

### **VALIDITY OF SECURITIES**

Unless otherwise indicated in the applicable prospectus supplement, some legal matters will be passed upon for us by Squire, Sanders & Dempsey L.L.P., Cincinnati, Ohio, our counsel, and for the underwriters, by Shearman & Sterling LLP, New York, New York. Richards, Layton & Finger P.A., Wilmington, Delaware, special Delaware counsel for the trusts, will pass on some legal matters for the trusts. Squire, Sanders & Dempsey L.L.P. and Shearman & Sterling LLP will rely on the opinion of Richards, Layton & Finger, P.A., Wilmington, Delaware as to matters of Delaware law regarding the trusts.

### **EXPERTS**

Our financial statements as of December 31, 2004 and 2003 and for each of the two years in the period ended December 31, 2004 and management's assessment of the effectiveness of internal control over financial reporting as of December 31, 2004 incorporated in this prospectus by reference from our Annual Report on Form 10-K for the year ended December 31, 2004 have been audited by Ernst & Young LLP, independent registered public accounting firm, as stated in their reports which are incorporated by reference in this prospectus. Our financial statements for the year ended December 31, 2002 incorporated in this prospectus by reference from our Annual Report on Form 10-K for the year ended December 31, 2004 have been audited by PricewaterhouseCoopers LLP, independent registered public accounting firm, as stated in their report. Such financial statements and management's assessment are incorporated herein by reference in reliance upon the reports of such firms given on their authority as experts in accounting and auditing.



## GLOSSARY

Below are abbreviated definitions of capitalized terms used in this prospectus and in the applicable prospectus supplement. The applicable prospectus supplement may contain a more complete definition of some of the terms defined here and reference should be made to the applicable prospectus supplement for a more complete definition of these terms.

“Additional Sums” refers to the additional amounts required to be paid so that the amount of distributions due and payable by a trust on outstanding capital securities and common securities shall not be reduced because of any additional taxes, duties and other governmental charges to which a trustee is subject because of a Tax Event.

“Beneficial Owner” refers to the ownership interest of each actual purchaser of each debt security.

“Company” refers to U.S. Bancorp and its subsidiaries, unless otherwise stated.

“Debt” means, for any person, whether recourse is to all or a portion of the assets of the person and whether or not contingent:

every obligation of the person for money borrowed;

every obligation of the person evidenced by bonds, debt securities, notes or other similar instruments, including obligations incurred in connection with the acquisition of property, assets or businesses;

every reimbursement obligation of the person regarding letters of credit, bankers’ acceptances or similar facilities issued for the account of the person;

every obligation of the person issued or assumed as the deferred purchase price of property or services (but excluding trade accounts payable or accrued liabilities arising in the ordinary course of business);

every capital lease obligation of the person;

all indebtedness of the person whether incurred on, before, or after the date of the indenture, for claims relating to derivative products, including interest rate, foreign exchange rate and commodity-forward contracts, options and swaps and similar arrangements; and

every obligation of the type referred to in the first through the sixth bullet points above of another person and all dividends of another person the payment of which, in either case, the person has guaranteed or is responsible or liable, directly or indirectly, as obligor or otherwise.

“Depository” refers to a bank or trust company selected by us, having its principal office in the United States and a combined capital and surplus of at least \$50 million and where we will deposit the shares of any series of the preferred stock underlying the depository shares under a separate deposit agreement between us and that bank or trust company.

“Direct Participants” refers to securities brokers and dealers, banks, trust companies, clearing corporations and other organizations who, with the New York Stock Exchange, Inc., the American Stock Exchange Inc., and the National Association of Securities Dealers, Inc., own DTC. Purchases of debt securities within the DTC system must be made by or through Direct Participants who will receive a credit for the debt securities on DTC’s records.

“Guarantee Payments” refers to the following payments, to the extent not paid by a trust, which will be subject to the guarantee:

any accumulated and unpaid distributions required to be paid on the capital securities, to the extent that the trust has applicable funds available to make the payment;



the redemption price and all accrued and unpaid distributions to the date of redemption with respect to capital securities called for redemption, to the extent that the trust has funds available to make the payment; or

in the event of a voluntary or involuntary dissolution, winding up or liquidation of the trust (other than in connection with a distribution of corresponding junior subordinated debt securities to you or the redemption of all the related capital securities), the lesser of:

the aggregate of the Liquidation Amount specified in the prospectus supplement for each capital security plus all accrued and unpaid distributions on the capital securities to the date of payment; and

the amount of assets of the trust remaining available for distribution to you.

“Indirect Participants” refers to others, like securities brokers and dealers, banks and trust companies that clear through or maintain custodial relationships with Direct Participants, either directly or indirectly, and who also have access to the DTC system.

“Omnibus Proxy” refers to the omnibus proxy that DTC would mail under its usual procedures to the relevant trustee as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.’s consenting or voting rights to Direct Participants for whose accounts the debt securities are credited on the record date.

“Senior Debt” means the principal of, premium, if any, and interest, if any (including interest accruing on or after the filing of any petition in bankruptcy or for reorganization relating to us whether or not the claim for post-petition interest is allowed in the proceeding) on, our Debt whether incurred on, before or subsequent to the date of the indenture, unless, in the instrument creating or evidencing the Debt or under which the Debt is outstanding, it is provided that the obligations are not superior in right of payment to the junior subordinated debt securities or to other Debt which ranks equally with, or subordinated to, the junior subordinated debt securities. However, Senior Debt shall not include:

any of our Debt which, when incurred and without regard to any election under section 1111(b) of the Bankruptcy Code, was without recourse to us;

any of our Debt to any of our banking subsidiaries;

Debt to any of our employees; and

any other debt securities issued under our indenture.

“Tier 1 Capital” refers to the sum of core capital elements, less goodwill, other intangible assets, interest-only strip receivables, deferred tax assets, nonfinancial equity investments and certain other items. The core capital elements include: common stockholders’ equity, qualifying noncumulative perpetual preferred stock (including related surplus), Class A minority interest and restricted core capital elements. The restricted core capital elements may not exceed 25% of the sum of all core capital elements and include qualifying cumulative perpetual preferred stock (including related surplus), Class B minority interest, Class C minority interest and qualifying trust preferred securities.

**\$10,000,000,000**

# **U.S. Bancorp**

## **Junior Subordinated Deferrable Interest Debt Securities**

**USB Capital VII**

**USB Capital VIII**

**USB Capital IX**

**USB Capital X**

**USB Capital XI**

**USB Capital XII**

**USB Capital XIII**

**USB Capital XIV**

**USB Capital XV**

**USB Capital XVI**

**Capital Securities**

**Fully and unconditionally guaranteed  
as described in this document, by**



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**PROSPECTUS**

---

, 2005

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**PART II.**  
**INFORMATION NOT REQUIRED IN PROSPECTUS**

**Item 14. Other Expenses of Issuance and Distribution**

SEC registration fee	\$ 252,000
Accountant' s fee and expenses	250,000
Attorneys' fees and expenses	750,000
Trustee' s and Depositary fees and expenses	50,000
Printing and engraving expenses	200,000
State qualification fees and expenses	30,000
Listing fees	300,000
Rating agencies' fees	500,000
Miscellaneous	50,000
Total	<u>\$ 2,382,000*</u>

\* All fees and expenses other than the SEC registration fee are estimated. The expenses listed above will be paid by U.S. Bancorp.

**Item 15. Indemnification of Directors and Officers**

Section 145 of the Delaware General Corporation Law contains detailed provisions for indemnification of directors and officers of Delaware corporations against expenses, judgments, fines and settlements in connection with litigation.

Article Ninth of U.S. Bancorp' s Restated Certificate of Incorporation, as amended, provides that a director will not be personally liable to U.S. Bancorp or its stockholders for monetary damages for a breach of fiduciary duty as a director, except for liability (1) for any breach of the director' s duty of loyalty to U.S. Bancorp or its stockholders, (2) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (3) under the Delaware statutory provision making directors personally liable for unlawful dividends or unlawful stock repurchases or redemptions or (4) for any transaction for which the director derived an improper personal benefit.

The bylaws of U.S. Bancorp provide that the officers and directors of U.S. Bancorp and certain others will be indemnified to substantially the same extent permitted by Delaware law.

U.S. Bancorp maintains a standard policy of officers' and directors' insurance.

The trust agreements for each of USB Capital VII, USB Capital VIII, USB Capital IX, USB Capital X, USB Capital XI, USB Capital XII, USB Capital XIII, USB Capital XIV, USB Capital XV and USB Capital XVI, (the "trusts") filed as Exhibits 4.4.1 to 4.4.10 to this Registration Statement, provide for broad indemnification of the trustees of the trusts and the officers and directors of such trustees.

**Item 16. List of Exhibits**

Exhibit Number	Description
1 .1	Proposed form of Underwriting Agreement with respect to the Debt Securities (incorporated by reference to Exhibit 1.1 to U.S. Bancorp' s Registration Statement on Form S-3 (File No. 33-58521)).
1 .2	Proposed form of Distribution Agreement with respect to the Debt Securities (incorporated by reference to Exhibit 1.2 to U.S. Bancorp' s Registration Statement on Form S-3 (File No. 33-58521)).

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Exhibit Number	Description
1.3	Proposed form of Underwriting Agreement with respect to the Capital Securities (to be filed subsequently by Form 8-K).
4.1	Restated Certificate of Incorporation of U.S. Bancorp, as amended (incorporated by reference to Exhibit 3.1 to U.S. Bancorp's Annual Report on Form 10-K for the year ended December 31, 2000).
4.2.1	Indenture dated as of October 1, 1991 between U.S. Bancorp and Citibank, N.A., as Senior Trustee (incorporated by reference to Exhibit 4.1 to U.S. Bancorp's Current Report on Form 8-K dated November 12, 1991).
4.2.2	Indenture dated as of October 1, 1991 between U.S. Bancorp and Citibank, N.A., as Subordinated Trustee, as amended by the First Supplemental Indenture dated as of April 1, 1993 (incorporated by reference to Exhibit 4.2 to U.S. Bancorp's Current Report on Form 8-K dated November 12, 1991 and Exhibit 4.1 to U.S. Bancorp's Current Report on Form 8-K dated April 26, 1993).
4.2.3*	Junior Subordinated Indenture dated as of April 28, 2005, between U.S. Bancorp and Delaware Trust Company, as Junior Subordinated Trustee.
4.3.1*	Restated Certificate of Trust of USB Capital VII
4.3.2*	Certificate of Trust of USB Capital VIII.
4.3.3*	Certificate of Trust of USB Capital IX.
4.3.4*	Certificate of Trust of USB Capital X.
4.3.5*	Certificate of Trust of USB Capital XI.
4.3.6*	Certificate of Trust of USB Capital XII.
4.3.7*	Certificate of Trust of USB Capital XIII.
4.3.8*	Certificate of Trust of USB Capital XIV.
4.3.9*	Certificate of Trust of USB Capital XV.
4.3.10*	Certificate of Trust of USB Capital XVI.
4.4.1*	First Amended and Restated Trust Agreement, with respect to USB Capital VII, dated as of April 27, 2005, among U.S. Bancorp, Delaware Trust Company, as Junior Subordinated Trustee, and the Administrative Agents named therein.
4.4.2*	Trust Agreement, with respect to USB Capital VIII, dated as of April 27, 2005, among U.S. Bancorp, Delaware Trust Company, as Junior Subordinated Trustee, and the Administrative Agents named therein.
4.4.3*	Trust Agreement, with respect to USB Capital IX, dated as of April 27, 2005, among U.S. Bancorp, Delaware Trust Company, as Junior Subordinated Trustee, and the Administrative Agents named therein.
4.4.4*	Trust Agreement, with respect to USB Capital X, dated as of April 27, 2005, among U.S. Bancorp, Delaware Trust Company, as Junior Subordinated Trustee, and the Administrative Agents named therein.
4.4.5*	Trust Agreement, with respect to USB Capital XI, dated as of April 27, 2005, among U.S. Bancorp, Delaware Trust Company, as Junior Subordinated Trustee, and the Administrative Agents named therein.
4.4.6*	Trust Agreement, with respect to USB Capital XII, dated as of April 27, 2005, among U.S. Bancorp, Delaware Trust Company, as Junior Subordinated Trustee, and the Administrative Agents named therein.
4.4.7*	Trust Agreement, with respect to USB Capital XIII, dated as of April 27, 2005, among U.S. Bancorp, Delaware Trust Company, as Junior Subordinated Trustee, and the Administrative Agents named therein.
4.4.8*	Trust Agreement, with respect to USB Capital XIV, dated as of April 27, 2005, among U.S. Bancorp, Delaware Trust Company, as Junior Subordinated Trustee, and the Administrative Agents named therein.

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Exhibit Number	Description
4 .4.9*	Trust Agreement, with respect to USB Capital XV, dated as of April 27, 2005, among U.S. Bancorp, Delaware Trust Company, as Junior Subordinated Trustee, and the Administrative Agents named therein.
4 .4.10*	Trust Agreement, with respect to USB Capital XVI, dated as of April 27, 2005, among U.S. Bancorp, Delaware Trust Company, as Junior Subordinated Trustee, and the Administrative Agents named therein.
4 .5*	Form of Amended and Restated Trust Agreement.
4 .6	Form of Senior Debt Security (included as part of Exhibit 4.2.1).
4 .7	Form of Subordinated Debt Security (included as part of Exhibit 4.2.2).
4 .8	Form of Capital Security Certificate (included as part of Exhibit 4.2.1).
4 .9	Form of Junior Subordinated Debt Security (included as part of Exhibit 4.2.3).
4 .10*	Form of Guarantee Agreement.
4 .11	Proposed form of Debt Securities Warrant Agreement (incorporated by reference to Exhibit 4.5 to U.S. Bancorp' s Registration Statement on Form S-3 (File No. 33-39303)).
4 .12	Proposed form of Debt Securities Warrant Certificate (included as part of Exhibit 4.20).
4 .13	Proposed form of Certificate of Designations (incorporated by reference to Exhibit 4.9 to U.S. Bancorp' s Registration Statement on Form S-3 (File No. 333-1455)).
4 .14	Proposed form of Deposit Agreement (incorporated by reference to Exhibit 4.12 to U.S. Bancorp' s Registration Statement on Form S-3 (File No. 333-1455)).
4 .15*	Proposed form of Equity Securities Warrant Agreement.
4 .16	Proposed form of Equity Securities Warrant Certificate (will be included as part of Exhibit 4.15).
5 .1*	Opinion and consent of Squire, Sanders & Dempsey L.L.P. as to the legality of the Debt Securities, Preferred Stock, Depositary Shares, Debt Warrants and Guarantees to be issued by U.S. Bancorp.
5 .2*	Opinion of Richards, Layton & Finger P.A., special Delaware counsel, as to the legality of the Capital Securities to be issued by USB Capital VII, VIII, IX, X, XI, XII, XIII, XIV, XV and XVI.
12.1	Computation of ratio of earnings to fixed charges (incorporated by reference to Exhibit 12 to U.S. Bancorp' s Annual Report on Form 10-K for the fiscal year ended December 31, 2004).
23.1*	Consent of Ernst & Young LLP.
23.2*	Consent of PricewaterhouseCoopers LLP.
23.3*	Consent of Squire, Sanders & Dempsey L.L.P. (included as part of Exhibit 5.1).
23.4*	Consent of Richards, Layton & Finger P.A. (included as part of Exhibit 5.2).
24.1*	Power of attorney from directors of U.S. Bancorp signing by an attorney-in-fact.
25.1*	Form T-1 Statement of Eligibility of Citibank, N.A. to act as Senior Trustee and Subordinated Trustee under the Senior Indenture and the Subordinated Indenture, respectively.
25.2*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee under the Junior Subordinated Indenture.
25.3.1*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee with respect to the Amended and Restated Trust Agreement of USB Capital VII.
25.3.2*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee with respect to the Amended and Restated Trust Agreement of USB Capital VIII.
25.3.3*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee with respect to the Amended and Restated Trust Agreement of USB Capital IX.
25.3.4*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee with respect to the Amended and Restated Trust Agreement of USB Capital X.
25.3.5*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee with respect to the Amended and Restated Trust Agreement of USB Capital XI.

Exhibit Number	Description
25.3.6*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee with respect to the Amended and Restated Trust Agreement of USB Capital XII.
25.3.7*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee with respect to the Amended and Restated Trust Agreement of USB Capital XIII.
25.3.8*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee with respect to the Amended and Restated Trust Agreement of USB Capital XIV.
25.3.9*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee with respect to the Amended and Restated Trust Agreement of USB Capital XV.
25.3.10*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee with respect to the Amended and Restated Trust Agreement of USB Capital XVI.
25.4.1*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee under the Guarantee Agreement for the benefit of the holders of Capital Securities of USB Capital VII.
25.4.2*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee under the Guarantee Agreement for the benefit of the holders of Capital Securities of USB Capital VIII.
25.4.3*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee under the Guarantee Agreement for the benefit of the holders of Capital Securities of USB Capital IX.
25.4.4*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee under the Guarantee Agreement for the benefit of the holders of Capital Securities of USB Capital X.
25.4.5*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee under the Guarantee Agreement for the benefit of the holders of Capital Securities of USB Capital XI.
25.4.6*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee under the Guarantee Agreement for the benefit of the holders of Capital Securities of USB Capital XII.
25.4.7*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee under the Guarantee Agreement for the benefit of the holders of Capital Securities of USB Capital XIII.
25.4.8*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee under the Guarantee Agreement for the benefit of the holders of Capital Securities of USB Capital XIV.
25.4.9*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee under the Guarantee Agreement for the benefit of the holders of Capital Securities of USB Capital XV.
25.4.10*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee under the Guarantee Agreement for the benefit of the holders of Capital Securities of USB Capital XVI.

\* Filed herewith.

## Item 17. *Undertakings*

Each of the undersigned registrants 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. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) under the Securities Act if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement; and

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change in the information set forth in the registration statement;

Provided, however, that paragraphs (1)(i) and (1)(ii) do not apply if the registration statement is on Form S-3 or Form S-8, and the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed by U.S. Bancorp pursuant to section 13 or section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the 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.

Each of the undersigned registrants hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of U.S. Bancorp'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 will be deemed to be a new registration statement relating to the securities offered therein, and the offering of the securities at that time will be deemed to be the initial bona fide offering thereof.

Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of each registrant pursuant to the foregoing provisions, or otherwise, each registrant has been advised that, in the opinion of the Securities and Exchange Commission, the indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against liabilities (other than the payment by each 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 the director, officer or controlling person in connection with the securities being registered, each 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 the indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of the issue.

**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-3 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Minneapolis, State of Minnesota, on April 28, 2005.

U.S. Bancorp

By: /s/ Jerry A. Grundhofer

Jerry A. Grundhofer  
Chief Executive Officer  
(principal executive officer)

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.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Jerry A. Grundhofer</u> Jerry A. Grundhofer	Chief Executive Officer and Director (principal executive officer)	April 28, 2005
<u>/s/ David M. Moffett</u> David M. Moffett	Vice Chairman and Chief Financial Officer (principal financial officer)	April 28, 2005
<u>/s/ Terrance R. Dolan</u> Terrance R. Dolan	Executive Vice President and Controller (principal accounting officer)	April 28, 2005
<u>/s/ Victoria Buyniski Gluckman*</u> Victoria Buyniski Gluckman	Director	April 28, 2005
<u>/s/ Arthur D. Collins, Jr.*</u> Arthur D. Collins, Jr.	Director	April 28, 2005
<u>/s/ Peter H. Coors*</u> Peter H. Coors	Director	April 28, 2005
<u>/s/ Joel W. Johnson*</u> Joel W. Johnson	Director	April 28, 2005
<u>/s/ Jerry W. Levin*</u> Jerry W. Levin	Director	April 28, 2005
<u>/s/ David B. O' Maley*</u> David B. O' Maley	Director	April 28, 2005
<u>/s/ O' dell M. Owens, M.D., M.P.H.*</u> O' dell M. Owens, M.D., M.P.H.	Director	April 28, 2005



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Signature		Title	Date
<hr/>			
/s/ Richard G. Reiten*		Director	April 28, 2005
<hr/>			
Richard G. Reiten			
/s/ Craig D. Schnuck*		Director	April 28, 2005
<hr/>			
Craig D. Schnuck			
/s/ Warren R. Staley*		Director	April 28, 2005
<hr/>			
Warren R. Staley			
/s/ Patrick T. Stokes*		Director	April 28, 2005
<hr/>			
Patrick T. Stokes			
*By	/s/ Terrance R. Dolan	Attorney-in-fact for the persons indicated above with an *	
	<hr/>		
	Terrance R. Dolan Attorney-in-fact		

## SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, USB Capital VII certifies that it has reasonable grounds to believe that it meets all the requirements for filing on Form S-3 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Minneapolis, and State of Minnesota, on April 28, 2005.

### USB CAPITAL VII

By: U.S. Bancorp, as Depositor

By: /s/ Lee R. Mitau \_\_\_\_\_

Pursuant to the requirements of the Securities Act of 1933, USB Capital VIII certifies that it has reasonable grounds to believe that it meets all the requirements for filing on Form S-3 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Minneapolis, and State of Minnesota, on April 28, 2005.

### USB CAPITAL VIII

By: U.S. Bancorp, as Depositor

By: /s/ Lee R. Mitau \_\_\_\_\_

Pursuant to the requirements of the Securities Act of 1933, USB Capital IX certifies that it has reasonable grounds to believe that it meets all the requirements for filing on Form S-3 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Minneapolis, and State of Minnesota, on April 28, 2005.

### USB CAPITAL IX

By: U.S. Bancorp, as Depositor

By: /s/ Lee R. Mitau \_\_\_\_\_

Pursuant to the requirements of the Securities Act of 1933, USB Capital X certifies that it has reasonable grounds to believe that it meets all the requirements for filing on Form S-3 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Minneapolis, and State of Minnesota, on April 28, 2005.

### USB CAPITAL X

By: U.S. Bancorp, as Depositor

By: /s/ Lee R. Mitau \_\_\_\_\_

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Pursuant to the requirements of the Securities Act of 1933, USB Capital XI certifies that it has reasonable grounds to believe that it meets all the requirements for filing on Form S-3 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Minneapolis, and State of Minnesota, on April 28, 2005.

### USB CAPITAL XI

By: U.S. Bancorp, as Depositor

By: /s/ Lee R. Mitau \_\_\_\_\_

Pursuant to the requirements of the Securities Act of 1933, USB Capital XII certifies that it has reasonable grounds to believe that it meets all the requirements for filing on Form S-3 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Minneapolis, and State of Minnesota, on April 28, 2005.

### USB CAPITAL XII

By: U.S. Bancorp, as Depositor

By: /s/ Lee R. Mitau \_\_\_\_\_

Pursuant to the requirements of the Securities Act of 1933, USB Capital XIII certifies that it has reasonable grounds to believe that it meets all the requirements for filing on Form S-3 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Minneapolis, and State of Minnesota, on April 28, 2005.

### USB CAPITAL XIII

By: U.S. Bancorp, as Depositor

By: /s/ Lee R. Mitau \_\_\_\_\_

Pursuant to the requirements of the Securities Act of 1933, USB Capital XIV certifies that it has reasonable grounds to believe that it meets all the requirements for filing on Form S-3 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Minneapolis, and State of Minnesota, on April 28, 2005.

### USB CAPITAL XIV

By: U.S. Bancorp, as Depositor

By: /s/ Lee R. Mitau \_\_\_\_\_

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Pursuant to the requirements of the Securities Act of 1933, USB Capital XV certifies that it has reasonable grounds to believe that it meets all the requirements for filing on Form S-3 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Minneapolis, and State of Minnesota, on April 28, 2005.

### USB CAPITAL XV

By: U.S. Bancorp, as Depositor

By: /s/ Lee R. Mitau \_\_\_\_\_

Pursuant to the requirements of the Securities Act of 1933, USB Capital XVI certifies that it has reasonable grounds to believe that it meets all the requirements for filing on Form S-3 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Minneapolis, and State of Minnesota, on April 28, 2005.

### USB CAPITAL XVI

By: U.S. Bancorp, as Depositor

By: /s/ Lee R. Mitau \_\_\_\_\_

## INDEX TO EXHIBITS

Exhibit Number	Description
1.1	Proposed form of Underwriting Agreement with respect to the Debt Securities (incorporated by reference to Exhibit 1.1 to U.S. Bancorp' s Registration Statement on Form S-3 (File No. 33-58521)).
1.2	Proposed form of Distribution Agreement with respect to the Debt Securities (incorporated by reference to Exhibit 1.2 to U.S. Bancorp' s Registration Statement on Form S-3 (File No. 33-58521)).
1.3	Proposed form of Underwriting Agreement with respect to the Capital Securities (to be filed subsequently by Form 8-K).
4.1	Restated Certificate of Incorporation of U.S. Bancorp, as amended (incorporated by reference to Exhibit 3.1 to U.S. Bancorp' s Annual Report on Form 10-K for the year ended December 31, 2000).
4.2.1	Indenture dated as of October 1, 1991 between U.S. Bancorp and Citibank, N.A., as Senior Trustee (incorporated by reference to Exhibit 4.1 to U.S. Bancorp' s Current Report on Form 8-K dated November 12, 1991).
4.2.2	Indenture dated as of October 1, 1991 between U.S. Bancorp and Citibank, N.A., as Subordinated Trustee, as amended by the First Supplemental Indenture dated as of April 1, 1993 (incorporated by reference to Exhibit 4.2 to U.S. Bancorp' s Current Report on Form 8-K dated November 12, 1991 and Exhibit 4.1 to U.S. Bancorp' s Current Report on Form 8-K dated April 26, 1993).
4.2.3*	Junior Subordinated Indenture dated as of April 28, 2005, between U.S. Bancorp and Delaware Trust Company, as Junior Subordinated Trustee.
4.3.1*	Restated Certificate of Trust of USB Capital VII
4.3.2*	Certificate of Trust of USB Capital VIII.
4.3.3*	Certificate of Trust of USB Capital IX.
4.3.4*	Certificate of Trust of USB Capital X.
4.3.5*	Certificate of Trust of USB Capital XI.
4.3.6*	Certificate of Trust of USB Capital XII.
4.3.7*	Certificate of Trust of USB Capital XIII.
4.3.8*	Certificate of Trust of USB Capital XIV.
4.3.9*	Certificate of Trust of USB Capital XV.
4.3.10*	Certificate of Trust of USB Capital XVI.
4.4.1*	First Amended and Restated Trust Agreement, with respect to USB Capital VII, dated as of April 27, 2005, among U.S. Bancorp, Delaware Trust Company, as Junior Subordinated Trustee, and the Administrative Agents named therein.
4.4.2*	Trust Agreement, with respect to USB Capital VIII, dated as of April 27, 2005, among U.S. Bancorp, Delaware Trust Company, as Junior Subordinated Trustee, and the Administrative Agents named therein.
4.4.3*	Trust Agreement, with respect to USB Capital IX, dated as of April 27, 2005, among U.S. Bancorp, Delaware Trust Company, as Junior Subordinated Trustee, and the Administrative Agents named therein.
4.4.4*	Trust Agreement, with respect to USB Capital X, dated as of April 27, 2005, among U.S. Bancorp, Delaware Trust Company, as Junior Subordinated Trustee, and the Administrative Agents named therein.
4.4.5*	Trust Agreement, with respect to USB Capital XI, dated as of April 27, 2005, among U.S. Bancorp, Delaware Trust Company, as Junior Subordinated Trustee, and the Administrative Agents named therein.
4.4.6*	Trust Agreement, with respect to USB Capital XII, dated as of April 27, 2005, among U.S. Bancorp, Delaware Trust Company, as Junior Subordinated Trustee, and the Administrative Agents named therein.

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<b>Exhibit Number</b>	<b>Description</b>
4 .4.7*	Trust Agreement, with respect to USB Capital XIII, dated as of April 27, 2005, among U.S. Bancorp, Delaware Trust Company, as Junior Subordinated Trustee, and the Administrative Agents named therein.
4 .4.8*	Trust Agreement, with respect to USB Capital XIV, dated as of April 27, 2005, among U.S. Bancorp, Delaware Trust Company, as Junior Subordinated Trustee, and the Administrative Agents named therein.
4 .4.9*	Trust Agreement, with respect to USB Capital XV, dated as of April 27, 2005, among U.S. Bancorp, Delaware Trust Company, as Junior Subordinated Trustee, and the Administrative Agents named therein.
4 .4.10*	Trust Agreement, with respect to USB Capital XVI, dated as of April 27, 2005, among U.S. Bancorp, Delaware Trust Company, as Junior Subordinated Trustee, and the Administrative Agents named therein.
4 .5*	Form of Amended and Restated Trust Agreement.
4 .6	Form of Senior Debt Security (included as part of Exhibit 4.2.1).
4 .7	Form of Subordinated Debt Security (included as part of Exhibit 4.2.2).
4 .8	Form of Capital Security Certificate (included as part of Exhibit 4.2.1).
4 .9	Form of Junior Subordinated Debt Security (included as part of Exhibit 4.2.3).
4 .10*	Form of Guarantee Agreement.
4 .11	Proposed form of Debt Securities Warrant Agreement (incorporated by reference to Exhibit 4.5 to U.S. Bancorp' s Registration Statement on Form S-3 (File No. 33-39303)).
4 .12	Proposed form of Debt Securities Warrant Certificate (included as part of Exhibit 4.20).
4 .13	Proposed form of Certificate of Designations (incorporated by reference to Exhibit 4.9 to U.S. Bancorp' s Registration Statement on Form S-3 (File No. 333-1455)).
4 .14	Proposed form of Deposit Agreement (incorporated by reference to Exhibit 4.12 to U.S. Bancorp' s Registration Statement on Form S-3 (File No. 333-1455)).
4 .15*	Proposed form of Equity Securities Warrant Agreement.
4 .16	Proposed form of Equity Securities Warrant Certificate (will be included as part of Exhibit 4.15).
5 .1*	Opinion and consent of Squire, Sanders & Dempsey L.L.P. as to the legality of the Debt Securities, Preferred Stock, Depositary Shares, Debt Warrants and Guarantees to be issued by U.S. Bancorp.
5 .2*	Opinion of Richards, Layton & Finger P.A., special Delaware counsel, as to the legality of the Capital Securities to be issued by USB Capital VII, VIII, IX, X, XI, XII, XIII, XIV, XV and XVI.
12.1	Computation of ratio of earnings to fixed charges (incorporated by reference to Exhibit 12 to U.S. Bancorp' s Annual Report on Form 10-K for the fiscal year ended December 31, 2004).
23.1*	Consent of Ernst & Young LLP.
23.2*	Consent of PricewaterhouseCoopers LLP.
23.3*	Consent of Squire, Sanders & Dempsey L.L.P. (included as part of Exhibit 5.1).
23.4*	Consent of Richards, Layton & Finger P.A. (included as part of Exhibit 5.2).
24.1*	Power of attorney from directors of U.S. Bancorp signing by an attorney-in-fact.
25.1*	Form T-1 Statement of Eligibility of Citibank, N.A. to act as Senior Trustee and Subordinated Trustee under the Senior Indenture and the Subordinated Indenture, respectively. Form T-1 Statement of Eligibility of Delaware Trust Company to
25.2*	act as Trustee under the Junior Subordinated Indenture.
25.3.1*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee with respect to the Amended and Restated Trust Agreement of USB Capital VII.
25.3.2*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee with respect to the Amended and Restated Trust Agreement of USB Capital VIII.
25.3.3*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee with respect to the Amended and Restated Trust Agreement of USB Capital IX.

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<u>Exhibit Number</u>	<u>Description</u>
25.3.4*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee with respect to the Amended and Restated Trust Agreement of USB Capital X.
25.3.5*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee with respect to the Amended and Restated Trust Agreement of USB Capital XI.
25.3.6*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee with respect to the Amended and Restated Trust Agreement of USB Capital XII.
25.3.7*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee with respect to the Amended and Restated Trust Agreement of USB Capital XIII.
25.3.8*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee with respect to the Amended and Restated Trust Agreement of USB Capital XIV.
25.3.9*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee with respect to the Amended and Restated Trust Agreement of USB Capital XV.
25.3.10*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee with respect to the Amended and Restated Trust Agreement of USB Capital XVI.
25.4.1*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee under the Guarantee Agreement for the benefit of the holders of Capital Securities of USB Capital VII.
25.4.2*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee under the Guarantee Agreement for the benefit of the holders of Capital Securities of USB Capital VIII.
25.4.3*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee under the Guarantee Agreement for the benefit of the holders of Capital Securities of USB Capital IX.
25.4.4*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee under the Guarantee Agreement for the benefit of the holders of Capital Securities of USB Capital X.
25.4.5*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee under the Guarantee Agreement for the benefit of the holders of Capital Securities of USB Capital XI.
25.4.6*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee under the Guarantee Agreement for the benefit of the holders of Capital Securities of USB Capital XII.
25.4.7*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee under the Guarantee Agreement for the benefit of the holders of Capital Securities of USB Capital XIII.
25.4.8*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee under the Guarantee Agreement for the benefit of the holders of Capital Securities of USB Capital XIV.
25.4.9*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee under the Guarantee Agreement for the benefit of the holders of Capital Securities of USB Capital XV.
25.4.10*	Form T-1 Statement of Eligibility of Delaware Trust Company to act as Trustee under the Guarantee Agreement for the benefit of the holders of Capital Securities of USB Capital XVI.

\* Filed herewith.





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U.S. BANCORP  
TO  
DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION  
TRUSTEE

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JUNIOR SUBORDINATED INDENTURE

DATED AS OF APRIL 28, 2005

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U.S. BANCORP

Reconciliation and tie between the Trust Indenture Act of 1939 (including cross-references to provisions of Sections 310 to and including 317 which, pursuant to Section 318(c) of the Trust Indenture Act of 1939, as amended by the Trust Reform Act of 1990, are a part of and govern the Indenture whether or not physically contained therein) and the Junior Subordinated Indenture, dated as of April 28, 2005.

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§ 310(a) (1), (2) and (5)	6.9
(a) (3)	Not Applicable
(a) (4)	Not Applicable
(b)	6.8, 6.10
(c)	Not Applicable
§ 311	6.13
§ 312 (a)	7.1, 7.2(a)
(b)	7.2(b)
(c)	7.2(c)
§ 313 (a)	7.3(a)
(b)	7.3(b)
(c)	1.5, 7.3(a), 7.3(b)
(d)	7.3(c)
§ 314 (a) (1), (2) and (3)	7.4
(a) (4)	10.4
(b)	Not Applicable
(c) (1)	1.2
(c) (2)	1.2
(c) (3)	Not Applicable
(d)	Not Applicable
(e)	1.2
(f)	Not Applicable
§ 315 (a)	6.1(a)
(b)	6.2
(c)	6.1(b)
(d)	6.1 (c)
(d) (1)	6.1(a) (1)
(d) (2)	6.1(c) (2)
(d) (3)	6.1(c) (3)
(e)	5.14
§ 316(a) (1) (A)	5.12
(a) (1) (B)	5.13
(a) (2)	Not Applicable
(b)	5.8
(c)	1.4(f)
§ 317 (a) (1)	5.3
(a) (2)	5.4
(b)	10.3
§ 318 (a)	1.7

NOTE: This reconciliation and tie shall not, for any purpose, be deemed to be a part of the Junior Subordinated Indenture.

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JUNIOR SUBORDINATED INDENTURE, dated as of April 28, 2005, between U.S. BANCORP, a Delaware corporation (hereinafter called the "Company") having its principal office at 800 Nicollet Mall, Minneapolis, Minnesota 55402, and DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States of America, as Trustee (hereinafter called the "Trustee").

## RECITALS OF THE COMPANY

The Company has duly authorized the execution and delivery of this Indenture to provide for the issuance from time to time of its unsecured junior subordinated debt securities in series (hereinafter called the "Securities") of substantially the tenor hereinafter provided, including, without limitation, Securities issued to evidence loans made to the Company of the proceeds from the issuance from time to time by one or more business trusts (each a "USB Trust," and, collectively, the "USB Trusts") of preferred trust interests in such Trusts (the "Capital Securities") and common interests in such Trusts (the "Common Securities" and, collectively with the Capital Securities, the Trust Securities), and to provide the terms and conditions upon which the Securities are to be authenticated, issued and delivered.

All things necessary to make the Securities, when executed by the Company and authenticated and delivered hereunder and duly issued by the Company the valid obligations of the Company, and to make this Indenture a valid agreement of the Company, in accordance with their and its terms, have been done.

NOW THEREFORE, THIS INDENTURE WITNESSETH: For and in consideration of the premises and the purchase of the Securities by the Holders thereof, it is mutually covenanted and agreed, for the equal and proportionate benefit of all Holders of the Securities or of any series thereof, as follows:

## ARTICLE I

### DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

#### Section 1.1. Definitions.

For all purposes of this Indenture, except as otherwise expressly provided or unless the context otherwise requires:

- (1) The terms defined in this Article have the meanings assigned to them in this Article, and include the plural as well as the singular;
- (2) All other terms used herein which are defined in the Trust Indenture Act, either directly or by reference therein, have the meanings assigned to them therein;
- (3) All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles, and the term "generally

accepted accounting principles” with respect to any computation required or permitted hereunder shall mean such accounting principles which are generally accepted at the date or time of such computation; provided, that when two or more principles are so generally accepted, it shall mean that set of principles consistent with those in use by the Company; and

(4) The words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision.

“Act” when used with respect to any Holder has the meaning specified in Section 1.4.

“Additional Interest” means the interest, if any, that shall accrue on any interest on the Securities of any series the payment of which has not been made on the applicable Interest Payment Date and which shall accrue at the rate per annum specified or determined as specified in such Security.

“Additional Sums” has the meaning specified in Section 10.6.

“Additional Taxes” means the sum of any additional taxes, duties and other governmental charges to which a USB Trust has become subject from time to time as a result of a Tax Event.

“Administrative Trustee” means, in respect of any USB Trust, each Person identified as an “Administrative Trustee” or an “Administrative Agent” in the related Trust Agreement, solely in such Person’s capacity as Administrative Trustee or an Administrative Agent, as the case may be, of such USB Trust under such Trust Agreement and not in such Person’s individual capacity, or any successor administrative trustee or successor administrative agent, as the case may be, appointed as therein provided.

“Affiliate” of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person; provided, however, no USB Trust to which Securities have been issued shall be deemed to be an Affiliate of the Company.

For the purposes of this definition, “control” when used with respect to any specified Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“Allocable Amounts,” when used with respect to any Senior and Subordinated Debt, means all amounts due or to become due on such Senior and Subordinated Debt less, if applicable, any amount which would have been paid to, and retained by, the holders of such Senior and Subordinated Debt (whether as a result of the receipt of payments by the holders of such Senior and Subordinated Debt from the Company or any other obligor thereon or from any holders of, or trustee in respect of, other indebtedness that is subordinate and junior in right of payment to such Senior and Subordinated Debt pursuant to any provision of such indebtedness for the payment over of amounts received on account of such indebtedness to the holders of such Senior and Subordinated Debt or otherwise) but for the fact that such Senior and Subordinated



Debt is subordinate or junior in right of payment to (or subject to a requirement that amounts received on such Senior and Subordinated Debt be paid over to obligees on) trade accounts payable or accrued liabilities arising in the ordinary course of business.

“Authenticating Agent” means any Person authorized by the Trustee pursuant to Section 6.14 to act on behalf of the Trustee to authenticate Securities of one or more series. “Board of Directors” means either the board of directors of the Company or any committee of that board duly authorized to act hereunder.

“Board Resolution” means a copy of a resolution certified by the Secretary or an Assistant Secretary of the Company to have been duly adopted by the Board of Directors, or such committee of the Board of Directors or officers of the Company to which authority to act on behalf of the Board of Directors has been delegated, and to be in full force and effect on the date of such certification, and delivered to the Trustee.

“Business Day” means any day other than (i) a Saturday or Sunday, (ii) a day on which banking institutions in The City of New York are authorized or required by law or executive order to remain closed or (iii) a day on which the Corporate Trust Office of the Trustee, or, with respect to the Securities of a series initially issued to a USB Trust, the principal office of the Property Trustee under the related Trust Agreement, is closed for business.

“Capital Securities” has the meaning specified in the first recital of this Indenture.

“Commission” means the Securities and Exchange Commission, as from time to time constituted, created under the Exchange Act, or if at any time after the execution of this instrument such Commission is not existing and performing the duties now assigned to it under the Trust Indenture Act, then the body performing such duties on such date.

“Common Securities” has the meaning specified in the first recital of this Indenture.

“Common Stock” means the common stock, par value \$1.25 per share, of the Company.

“Company” means the Person named as the “Company” in the first paragraph of this instrument until a successor corporation shall have become such pursuant to the applicable provisions of this Indenture, and thereafter “Company” shall mean such successor corporation.

“Company Request” and “Company Order” mean, respectively, the written request or order signed in the name of the Company by the Chairman of the Board of Directors, the Vice Chairman of the Board of Directors, its President or a Vice President, and by its Treasurer, an Assistant Treasurer, its Secretary or an Assistant Secretary of the Company, and delivered to the Trustee.

“Corporate Trust Office” means the principal office of the Trustee at which at any particular time its corporate trust business shall be administered.

“Corporation” includes a corporation, association, company, joint-stock company or business trust.

“Debt” means, with respect to any Person, whether recourse is to all or a portion of the assets of such Person and whether or not contingent, (i) every obligation of such Person for money borrowed; (ii) every obligation of such Person evidenced by bonds, debentures, notes or other similar instruments, including obligations incurred in connection with the acquisition of property, assets or businesses; (iii) every reimbursement obligation of such Person with respect to letters of credit, bankers’ acceptances or similar facilities issued for the account of such Person; (iv) every obligation of such Person issued or assumed as the deferred purchase price of property or services (but excluding trade accounts payable or accrued liabilities arising in the ordinary course of business); (v) every capital lease obligation of such Person; (vi) all indebtedness of such Person whether incurred on or prior to the date of this Indenture or thereafter incurred, for claims in respect of derivative products, including interest rate, foreign exchange rate and commodity forward contracts, options and swaps and similar arrangements; and (vii) every obligation of the type referred to in clauses (i) through (vi) of another Person and all dividends of another Person the payment of which, in either case, such Person has guaranteed or is responsible or liable for, directly or indirectly, as obligor or otherwise.

“Defaulted Interest” has the meaning specified in Section 3.7.

“Depository” means, with respect to the Securities of any series issuable or issued in whole or in part in the form of one or more Global Securities, the Person designated as Depository by the Company pursuant to Section 3.1 with respect to such series (or any successor thereto).

“Discount Security” means any security which provides for an amount less than the principal amount thereof to be due and payable upon a declaration of acceleration of the Maturity thereof pursuant to Section 5.2.

“Distributions,” with respect to the Trust Securities issued by a USB Trust, means amounts payable in respect of such Trust Securities as provided in the related Trust Agreement and referred to therein as “Distributions.”

“Dollar” or “U.S. \$” means the currency of the United States of America that, as at the time of payment, is legal tender for the payment of public and private debts.

“Event of Default” has the meaning specified in Article V unless otherwise specified in the supplemental indenture or the Officers’ Certificate delivered pursuant to Section 3.1 hereof creating a series of Securities.

“Exchange Act” means the Securities Exchange Act of 1934 and any statute successor thereto, in each case as amended from time to time.

“Extension Period” has the meaning specified in Section 3.11.

“Global Security” means a Security in the form prescribed in Section 2.4 evidencing all or part of a series of Securities, issued to the Depositary or its nominee for such series, and registered in the name of such Depositary or its nominee.

“Guarantee Agreement” means the Guarantee Agreement substantially in the form attached hereto as Annex C, or substantially in such form as may be specified as contemplated by Section 3.1 with respect to the Securities of any series, in each case as amended from time to time.

“Holder” means a Person in whose name a Security is registered in the Securities Register.

“Indenture” means this instrument as originally executed or as it may from time to time be supplemented or amended by one or more indentures supplemental hereto entered into pursuant to the applicable provisions hereof or one or more Officers’ Certificates delivered pursuant to Section 3.1 and shall include the terms of each particular series of Securities established as contemplated by Section 3.1.

“Interest Payment Date” means as to each series of Securities the Stated Maturity of an installment of interest on such Securities.

“Junior Subordinated Payment” has the meaning specified in Section 13.2.

“Maturity” when used with respect to any Security means the date on which the principal of such Security becomes due and payable as therein or herein provided, whether at the Stated Maturity or by declaration of acceleration, call for redemption or otherwise.

“Moody’ s” means Moody’ s Investors Service, Inc.

“Officers’ Certificate” means a certificate signed by the Chairman of the Board of Directors, a Vice Chairman of the Board of Directors, the President or a Vice President, and by the Treasurer, an Assistant Treasurer, the Secretary or an Assistant Secretary of the Company, and delivered to the Trustee.

“Opinion of Counsel” means a written opinion of counsel, who may be counsel for the Company, and who shall be acceptable to the Trustee.

“Original Issue Date” means the date of issuance specified as such in each Security.

“Outstanding” means, when used in reference to any Securities, as of the date of determination, all Securities theretofore authenticated and delivered under this Indenture, except:

- (i) Securities theretofore canceled by the Trustee or delivered to the Trustee for cancellation;

(ii) Securities for whose payment money in the necessary amount has been theretofore deposited with the Trustee or any Paying Agent in trust for the Holders of such Securities; and

(iii) Securities in substitution for or in lieu of which other Securities have been authenticated and delivered or which have been paid pursuant to Section 3.6, unless proof satisfactory to the Trustee is presented that any such Securities are held by Holders in whose hands such Securities are valid, binding and legal obligations of the Company;

provided, however, that in determining whether the Holders of the requisite principal amount of Outstanding Securities have given any request, demand, authorization, direction, notice, consent or waiver hereunder, Securities owned by the Company or any other obligor upon the Securities or any Affiliate of the Company or such other obligor shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Securities which the Trustee knows to be so owned shall be so disregarded. Securities so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Securities and that the pledgee is not the Company or any other obligor upon the Securities or any Affiliate of the Company or such other obligor. Upon the written request of the Trustee, the Company shall furnish to the Trustee promptly an Officers' Certificate listing and identifying all Securities, if any, known by the Company to be owned or held by or for the account of the Company, or any other obligor on the Securities or any Affiliate of the Company or such obligor, and, subject to the provisions of Section 6.1, the Trustee shall be entitled to accept such Officers' Certificate as conclusive evidence of the facts therein set forth and of the fact that all Securities not listed therein are Outstanding for the purpose of any such determination.

"Paying Agent" means the Trustee or any Person authorized by the Company to pay) the principal of or interest on any Securities on behalf of the Company.

"Person" means any individual, corporation, partnership, joint venture, trust, unincorporated organization or government or any agency or political subdivision thereof.

"Place of Payment" means, with respect to the Securities of any series, the place or places where the principal of (and premium, if any) and interest on the Securities of such series are payable pursuant to Sections 3.1 and 3.11.

"Predecessor Security" of any particular Security means every previous Security evidencing all or a portion of the same debt as that evidenced by such particular Security; and, for the purposes of this definition, any security authenticated and delivered under Section 3.6 in lieu of a lost, destroyed or stolen Security shall be deemed to evidence the same debt as the lost, destroyed or stolen Security.

"Proceeding" has the meaning specified in Section 13.2.

“Property Trustee” means, in respect of any USB Trust, the commercial bank or trust company identified as the “Property Trustee” in the related Trust Agreement, solely in its capacity as Property Trustee of such USB Trust under such Trust Agreement and not in its individual capacity, or its successor in interest in such capacity, or any successor property trustee appointed as therein provided.

“Redemption Date,” when used with respect to any Security to be redeemed, means the date fixed for such redemption by or pursuant to this Indenture.

“Redemption Price,” when used with respect to any Security to be redeemed, means the price at which it is to be redeemed pursuant to this Indenture.

“Regular Record Date” for the interest payable on any Interest Payment Date with respect to the Securities of a series means, unless otherwise provided pursuant to Section 3.1 with respect to Securities of a series, (i) in the case of Securities of a series represented by one or more Global Securities, the Business Day next preceding such Interest Payment Date and (ii) in the case of Securities of a series not represented by one or more Global Securities, the date which is fifteen days next preceding such Interest Payment Date (whether or not a Business Day).

“Responsible Officer” when used with respect to the Trustee means any officer of the Trustee assigned by the Trustee from time to time to administer its corporate trust matters.

“S&P” means Standard & Poor’s Ratings Services.

“Securities” or “Security” means any debt securities or debt security, as the case may be, authenticated and delivered under this Indenture.

“Securities Register” and “Securities Registrar” have the respective meanings specified in Section 3.5.

“Senior and Subordinated Debt” means the principal of (and premium, if any) and interest, if any (including interest accruing on or after the filing of any petition in bankruptcy or for reorganization relating to the Company whether or not such claim for post-petition interest is allowed in such proceeding), on Debt of the Company, whether incurred on or prior to the date of this Indenture or thereafter incurred, unless, in the instrument creating or evidencing the same or pursuant to which the same is outstanding, it is provided that such obligations are not superior in right of payment to the Securities, provided, however, that Senior and Subordinated Debt shall not be deemed to include (a) any Debt of the Company which, when incurred and without respect to any election under Section 1111(b) of the Bankruptcy Reform Act of 1978, as amended, was without recourse to the Company, (b) any Debt of the Company to any of its Subsidiaries, (c) Debt to any employee of the Company, and (d) any Securities.

“Special Record Date” for the payment of any Defaulted Interest means a date fixed by the Trustee pursuant to Section 3.7.

“Stated Maturity” when used with respect to any Security or any installment of principal thereof or interest thereon means the date specified pursuant to the terms of such Security as the date on which the principal of such Security or such installment of interest is due and payable, in the case of such principal, as such date may be shortened or extended as provided pursuant to the terms of such Security and this Indenture.

“Subsidiary” means a corporation more than 50% of the outstanding voting stock of which is owned, directly or indirectly, by the Company or by one or more other Subsidiaries, or by the Company and one or more other Subsidiaries. For purposes of this definition, “voting stock” means stock which ordinarily has voting power for the election of directors, whether at all times or only so long as no senior class of stock has such voting power by reason of any contingency.

“Tax Event” means the receipt by the USB Trust of an Opinion of Counsel (as defined in the relevant USB Trust Agreement) experienced in such matters to the effect that, as a result of any amendment to, or change (including any announced prospective change) in, the laws (or any regulations thereunder) of the United States or any political subdivision or taxing authority thereof or therein, or as a result of any official administrative pronouncement or judicial decision interpreting or applying such laws or regulations, which amendment or change is effective or which pronouncement or decision is announced on or after the date of issuance of the Capital Securities of such USB Trust, there is more than an insubstantial risk that (i) such USB Trust is, or will be within 90 days of the date of such Opinion of Counsel, subject to United States Federal income tax with respect to income received or accrued on the corresponding series of Securities, (ii) interest payable by the Company on such corresponding series of Securities is not, or within 90 days of the date of such Opinion of Counsel, will not be, deductible by the Company, in whole or in part, for United States Federal income tax purposes or (iii) such USB Trust is, or will be within 90 days of the date of such Opinion of Counsel, subject to more than a de minimis amount of other taxes, duties or other governmental charges.

“Trust Agreement” means the Trust Agreement substantially in the form attached hereto as Annex A, as amended by the form of Amended and Restated Trust Agreement substantially in the form attached hereto as Annex B, or substantially in such form as may be specified as contemplated by Section 3.1 with respect to the Securities of any series, in each case as amended from time to time.

“Trustee” means the Person named as the “Trustee” in the first paragraph of this instrument until a successor Trustee shall have become such pursuant to the applicable provisions of this Indenture, and thereafter “Trustee” shall mean or include each Person who is then a Trustee hereunder and, if at any time there is more than one such Person, “Trustee” as used with respect to the Securities of any series shall mean the Trustee with respect to Securities of that series.

“Trust Indenture Act” means the Trust Indenture Act of 1939 (15 U.S.C. (S)(S) 77aaa-77bbb), as amended and as in effect on the date as of this Indenture, except as provided in Section 9.5.

“Trust Securities” has the meaning specified in the first recital of this Indenture.

“USB Guarantee” means the guarantee by the Company of distributions on the Capital Securities of a USB Trust to the extent provided in the related Guarantee Agreement.

“USB Trust” has the meaning specified in the first recital of this Indenture.

“Vice President” when used with respect to the Company, means any duly appointed vice president, whether or not designated by a number or a word or words added before or after the title “vice president.”

#### Section 1.2. Compliance Certificate and Opinions.

Upon any application or request by the Company to the Trustee to take any action under any provision of this Indenture, the Company shall furnish to the Trustee an Officers’ Certificate stating that all conditions precedent (including covenants, compliance with which constitutes a condition precedent), if any, provided for in this Indenture relating to the proposed action have been complied with and an Opinion of Counsel stating that in the opinion of such counsel all such conditions precedent (including covenants compliance with which constitute a condition precedent), if any, have been complied with, except that in the case of any such application or request as to which the furnishing of such documents is specifically required by any provision of this Indenture relating to such particular application or request, no additional certificate or opinion need be furnished.

Every certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture (other than the certificates provided pursuant to Section 10.5) shall include:

- (1) a statement that each individual signing such certificate or opinion has read such covenant or condition and the definitions herein relating thereto;
- (2) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;
- (3) a statement that, in the opinion of each such individual, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and
- (4) a statement as to whether, in the opinion of each such individual, such condition or covenant has been complied with.

#### Section 1.3. Forms of Documents Delivered to Trustee.

In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or

covered by the opinion of, only one such Person, or that they be so certified or covered by only one document, but one such Person may certify or give an opinion with respect to some matters and one or more other such Persons as to other matters, and any such Person may certify or give an opinion as to such matters in one or several documents.

Any certificate or opinion of an officer of the Company may be based, insofar as it relates to legal matters, upon a certificate or opinion of, or representations by, counsel, unless such officer knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to matters upon which his certificate or opinion is based are erroneous. Any such certificate or Opinion of Counsel may be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, an officer or officers of the Company stating that the information with respect to such factual matters is in the possession of the Company, unless such counsel knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to such matters are erroneous. Where any Person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions, or other instruments under this Indenture, they may, but need not, be consolidated and form one instrument.

#### Section 1.4. Acts of Holders.

(a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given to or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by an agent or proxy duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments is or are delivered to the Trustee, and, where it is hereby expressly required, to the Company. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the "Act" of the Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and (subject to Section 6.1) conclusive in favor of the Trustee and the Company, if made in the manner provided in this Section.

(b) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by the certificate of any notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof. Where such execution is by a Person acting in other than his individual capacity, such certificate or affidavit shall also constitute sufficient proof of his authority.

(c) The fact and date of the execution by any Person of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner which the Trustee deems sufficient and in accordance with such reasonable rules as the Trustee may determine.

(d) The ownership of Securities shall be proved by the Securities Register.



(e) Any request, demand, authorization, direction, notice, consent, waiver or other action by the Holder of any Security shall bind every future Holder of the same Security and the Holder of every Security issued upon the transfer thereof or in exchange therefor or in lieu thereof in respect of anything done or suffered to be done by the Trustee or the Company in reliance thereon, whether or not notation of such action is made upon such Security.

(f) The Company may set any day as a record date for the purpose of determining the Holders of Outstanding Securities of any series entitled to give, make or take any request, demand, authorization, direction, notice, consent, waiver or other action provided or permitted by this Indenture to be given, made or taken by Holders of Securities of such series, provided that the Company may not set a record date for, and the provisions of this paragraph shall not apply with respect to, the giving or making of any notice, declaration, request or direction referred to in the next paragraph. If any record date is set pursuant to this paragraph, the Holders of Outstanding Securities of the relevant series on such record date, and no other Holders, shall be entitled to take the relevant action, whether or not such Holders remain Holders after such record date, provided that no such action shall be effective hereunder unless taken on or prior to the applicable Expiration Date by Holders of the requisite principal amount of Outstanding Securities of such series on such record date. Nothing in this paragraph shall be construed to prevent the Company from setting a new record date for any action for which a record date has previously been set pursuant to this paragraph (whereupon the record date previously set shall automatically and with no action by any Person be canceled and of no effect), and nothing in this paragraph shall be construed to render ineffective any action taken by Holders of the requisite principal amount of Outstanding Securities of the relevant series on the date such action is taken. Promptly after any record date is set pursuant to this paragraph, the Company, at its own expense, shall cause notice of such record date, the proposed action by Holders and the applicable Expiration Date to be given to the Trustee in writing and to each Holder of Securities of the relevant series in the manner set forth in Section 1.6.

The Trustee may set any day as a record date for the purpose of determining the Holders of Outstanding Securities of any series entitled to join in the giving or making of (i) any declaration of acceleration referred to in Section 5.2, (ii) any request to institute proceedings referred to in Section 5.7(2) or (iii) any direction referred to in Section 5.12, in each case with respect to Securities of such series. If any record date is set pursuant to this paragraph, the Holders of Outstanding Securities of such series on such record date, and no other Holders, shall be entitled to join in such notice, declaration, request or direction, whether or not such Holders remain Holders after such record date, provided that no such action shall be effective hereunder unless taken on or prior to the applicable Expiration Date by Holders of the requisite principal amount of Outstanding Securities of such series on such record date. Nothing in this paragraph shall be construed to prevent the Trustee from setting a new record date for any action for which a record date has previously been set pursuant to this paragraph (whereupon the record date previously set shall automatically and with no action by any Person be canceled and of no effect), and nothing in this paragraph shall be construed to render ineffective any action taken by Holders of the requisite principal amount of Outstanding Securities of the relevant series on the date such action is taken. Promptly after any record date is set pursuant to this paragraph, the Trustee, at the Company's expense, shall cause notice of such record date, the proposed action

by Holders and the applicable Expiration Date to be given to the Company in writing and to each Holder of Securities of the relevant series in the manner set forth in Section 1.6.

With respect to any record date set pursuant to this Section, the party hereto which sets such record dates may designate any day as the "Expiration Date" and from time to time may change the Expiration Date to any earlier or later day, provided that no such change shall be effective unless notice of the proposed new Expiration Date is given to the other party hereto in writing, and to each Holder of Securities of the relevant series in the manner set forth in Section 10.6, on or prior to the existing Expiration Date. If an Expiration Date is not designated with respect to any record date set pursuant to this Section, the party hereto which set such record date shall be deemed to have initially designated the 180th day after such record date as the Expiration Date with respect thereto, subject to its right to change the Expiration Date as provided in this paragraph. Notwithstanding the foregoing, no Expiration Date shall be later than the 180th day after the applicable record date.

(g) Without limiting the foregoing, a Holder entitled hereunder to take any action hereunder with regard to any particular Security may do so with regard to all or any part of the principal amount of such Security or by one or more duly appointed agents each of which may do so pursuant to such appointment with regard to all or any part of such principal amount.

#### Section 1.5. Notices, Etc. to Trustee and Company.

Any request, demand, authorization, direction, notice, consent, waiver or Act of Holders or other document provided or permitted by this Indenture to be made upon, given or furnished to, or filed with,

(1) the Trustee by any Holder, any holder of Capital Securities or the Company shall be sufficient for every purpose hereunder if made, given, furnished or filed in writing to or with the Trustee at its Corporate Trust office, or

(2) the Company by the Trustee, any Holder or any holder of Capital Securities shall be sufficient for every purpose (except as otherwise provided in Section 5.1) hereunder if in writing and mailed, first class, postage prepaid, to the Company, addressed to it at the address of its principal office specified in the first paragraph of this instrument or at any other address previously furnished in writing to the Trustee by the Company.

#### Section 1.6. Notice to Holders; Waiver.

Where this Indenture provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first class postage prepaid, to each Holder affected by such event, at the address of such Holder as it appears in the Securities Register, not later than the latest date, and not earlier than the earliest date, prescribed for the giving of such notice. In any case where notice to Holders is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Holder shall affect the sufficiency of such notice with respect to other Holders. Where

this Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Section 1.7. Conflict with Trust Indenture Act.

If any provision of this Indenture limits, qualifies or conflicts with the duties imposed by any of Sections 310 to 317, inclusive, of the Trust Indenture Act through operation of Section 318(c) thereof, such imposed duties shall control.

Section 1.8. Effect of Headings and Table of Contents.

The Article and Section headings herein and the Table of Contents are for convenience only and shall not affect the construction hereof.

Section 1.9. Successors and Assigns.

All covenants and agreements in this Indenture by the Company shall bind its successors and assigns, whether so expressed or not.

Section 1.10. Separability Clause.

In case any provision in this Indenture or in the Securities shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 1.11. Benefits of Indenture.

Nothing in this Indenture or in the Securities, express or implied, shall give to any Person, other than the parties hereto and their successors and assigns, the Holders of Senior and Subordinated Debt, the Holders of the Securities and, to the extent expressly provided in Sections 5.2, 5.8, 5.9, 5.11, 5.13, 9.1 and 9.2, the holders of Capital Securities, any benefit or any legal or equitable right, remedy or claim under this Indenture.

Section 1.12. Governing Law.

This Indenture and the Securities shall be governed by and construed in accordance with the laws of the State of New York.

Section 1.13. Non-Business Days.

In any case where any Interest Payment Date, Redemption Date or Stated Maturity of any Security shall not be a Business Day, then (notwithstanding any other provision of this Indenture or the Securities) payment of interest or principal (and premium, if any) need not be made on

such date, but may be made on the next succeeding Business Day (and no interest shall accrue for the period from and after such Interest Payment Date, Redemption Date or Stated Maturity, as the case may be, until such next succeeding Business Day except that, if such Business Day is in the next succeeding calendar year, such payment shall be made on the immediately preceding Business Day (in each case with the same force and effect as if made on the Interest Payment Date or Redemption Date or at the Stated Maturity)).

## ARTICLE II

### SECURITY FORMS

#### Section 2.1. Forms Generally.

The Securities of each series shall be in substantially the forms set forth in this Article, or in such other form or forms as shall be established by or pursuant to a Board Resolution or in one or more indentures supplemental hereto, in each case with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture and may have such letters, numbers or other marks of identification and such legends or endorsements placed thereon as may be required to comply with applicable tax laws or the rules of any securities exchange or as may, consistently herewith, be determined by the officers executing such securities, as evidenced by their execution of the Securities. If the form of Securities of any series is established by action taken pursuant to a Board Resolution, a copy of an appropriate record of such action shall be certified by the Secretary or an Assistant Secretary of the Company and delivered to the Trustee at or prior to the delivery of the Company Order contemplated by Section 3.3 with respect to the authentication and delivery of such Securities.

The Trustee's certificates of authentication shall be substantially in the form set forth in this Article.

The definitive Securities shall be printed, lithographed or engraved or produced by any combination of these methods, if required by any securities exchange on which the Securities may be listed, on a steel engraved border or steel engraved borders or may be produced in any other manner permitted by the rules of any securities exchange on which the Securities may be listed, all as determined by the officers executing such Securities, as evidenced by their execution of such securities.

#### Section 2.2. Form of Face of Security.

U.S. BANCORP

\_\_\_% JUNIOR SUBORDINATED DEBENTURE DUE

Registered  
No.

Principal Amount:  
CUSIP No.:

U.S. Bancorp, a corporation organized and existing under the laws of Delaware (hereinafter called the "Company", which term includes any successor corporation under the Indenture hereinafter referred to), for value received, hereby promises to pay to \_\_\_\_, or registered assigns, the principal sum of \$ \_\_\_\_ Dollars on \_\_\_\_; provided that the Company may (i) shorten the Stated Maturity of the principal of this Security to a date not earlier than \_\_\_\_, and (ii) extend the Stated Maturity of the principal of this Security at any time on one or more occasions, subject to certain conditions specified in Section 3.14 of the Indenture, but in no event to a date later than \_\_\_\_\_. The Company further promises to pay interest on said principal sum from \_\_\_\_ or from the most recent interest payment date (each such date, an "Interest Payment Date") on which interest has been paid or duly provided for, semi-annually (subject to deferral as set forth herein) in arrears on the last day of \_\_\_\_ and \_\_\_\_ of each year commencing \_\_\_\_ at the rate of \_\_\_\_% per annum, until the principal hereof shall have become due and payable, plus Additional Interest, if any, until the principal hereof is paid or duly provided for or made available for payment and on any overdue principal and (without duplication and to the extent that payment of such interest is enforceable under applicable law) on any overdue installment of interest at the rate of \_\_\_\_% per annum, compounded semi-annually. The amount of interest payable for any period shall be computed on the basis of twelve 30-day months and a 360-day year. The amount of interest payable for any partial period shall be computed on the basis of the number of days elapsed in a 360-day year of twelve 30-day months. In the event that any date on which interest is payable on this Security is not a Business Day, then a payment of the interest payable on such date will be made on the next succeeding day which is a Business Day (and without any interest or other payment in respect of any such delay), except that, if such Business Day is in the next succeeding calendar year, such payment shall be made on the immediately preceding Business Day, in each case with the same force and effect as if made on the date the payment was originally payable. A "Business Day" shall mean any day other than (i) a Saturday or Sunday, (ii) a day on which banking institutions in The City of New York are authorized or required by law or executive order to remain closed or (iii) a day on which the Corporate Trust Office of the Trustee, or the principal office of the Property Trustee under the Trust Agreement (hereinafter referred to) for [NAME OF TRUST] is closed for business. The interest installment so payable, and punctually paid or duly provided for, on any Interest Payment Date will, as provided in the Indenture, be paid to the Person in whose name this Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest installment, which shall be [insert Record Date] next preceding such Interest Payment Date. Any such interest installment not so punctually paid or duly provided for shall forthwith cease to be payable to the Holder on such Regular Record Date and may either be paid to the Person in whose name this Security (or one or more Predecessor Securities) is registered at the close of business on a Special Record Date for the payment of such Defaulted Interest to be fixed by the Trustee, notice whereof shall be given to Holders of Securities of this series not less than \_\_\_\_ days prior to such Special Record Date, or be paid at any time in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Securities of this series may be listed, and upon such notice as may be required by such exchange, all as more fully provided in said Indenture.

So long as no Event of Default has occurred and is continuing, the Company shall have the right at any time during the term of this Security to defer payment of interest on this Security,

at any time or from time to time, for up to \_\_\_\_ consecutive \_\_\_\_\_ interest payment periods with respect to each deferral period, but up to not less than 20 consecutive quarters (each an "Extension Period"), (during which Extension Periods the Company shall have the right to make partial payments of interest on any Interest Payment Date, and at the end of which the Company shall pay all interest then accrued and unpaid (together with Additional Interest thereon to the extent permitted by applicable law)); provided, however, that no Extension Period shall extend beyond the Stated Maturity of the principal of this Security; provided, further, that during any such Extension Period, the Company shall not, and shall not permit any Subsidiary of the Company to, (i) declare or pay any dividends or distributions or redeem, purchase, acquire or make a liquidation payment with respect to, any of the Company's capital stock (which includes common and preferred stock), or (ii) make any payment of principal of or interest or premium, if any, on or repay, repurchase or redeem any debt security of the Company (including Securities issued by the Company pursuant to the Indenture other than the Securities represented by this certificate) that ranks pari passu with or junior in interest to this Security or make any guarantee payments with respect to any guarantee by the Company of the debt securities of any Subsidiaries of the Company (including USB Guarantees other than the USB Guarantee related to the Capital Securities issued by [NAME OF TRUST]) if such guarantee ranks pari passu with or junior in interest to this Security (other than (a) dividends or distributions in Common Stock of the Company, (b) any declaration of a dividend in connection with the implementation of a stockholders' rights plan, or the issuance of stock under any such plan in the future or the redemption or repurchase of any such rights pursuant thereto, (c) payments under the USB Guarantee related to the Capital Securities issued by [NAME OF TRUST], and (d) purchases of Common Stock related to the issuance of Common Stock or rights under any of the Company's benefit plans for its directors, officers or employees). Prior to the termination of any such Extension Period, the Company may further extend such Extension Period, provided that such extension does not cause such Extension Period to exceed \_\_\_\_\_ consecutive interest payment periods or to extend beyond the Stated Maturity. Upon the termination of any such Extension Period and upon the payment of all amounts then due, and subject to the foregoing limitation, the Company may elect to begin a new Extension Period. No interest shall be due and payable during an Extension Period except at the end thereof. The Company shall give the Trustee, the Property Trustee and the Administrative Trustees of [NAME OF TRUST] notice of its election to begin any Extension Period at least \_\_\_\_ Business Days prior to the earlier of (i) the date on which Distributions on the Capital Securities would be payable except for the election to begin such Extension Period, or (ii) the date the Administrative Trustees are required to give notice to any automated quotation system or to holders of such Capital Securities of the record date or the date such Distributions are payable, but in any event not less than \_\_\_\_ Business Days prior to such record date.

Payment of the principal of (and premium, if any) and interest on this Security will be made at the office or agency of the Company maintained for that purpose in the United States, in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts; provided, however, that at the option of the Company payment of interest may be made (i) by check mailed to the address of the Person entitled thereto as such address shall appear in the Securities Register or (ii) by wire transfer in immediately available funds at such place and to such account as may be designated by the Person entitled thereto as specified in the Securities Register.

The indebtedness evidenced by this Security is, to the extent provided in the Indenture, unsecured and will rank junior and subordinate and subject in right of payments to the prior payment in full of all Senior and Subordinated Debt, and this Security is issued subject to the provisions of the Indenture with respect thereto. Each Holder of this Security, by accepting the same, (a) agrees to and shall be bound by such provisions, (b) authorizes and directs the Trustee on his behalf to take such actions as may be necessary or appropriate to effectuate the subordination so provided and (c) appoints the Trustee his attorney-in-fact for any and all such purposes. Each Holder hereof, by his acceptance hereof, waives all notice of the acceptance of the subordination provisions contained herein and in the Indenture by each holder of Senior and Subordinated Debt, whether now outstanding or hereafter incurred, and waives reliance by each such holder upon said provisions.

Reference is hereby made to the further provisions of this Security set forth on the reverse hereof, which further provisions shall for all purposes have the same effect as if set forth at this place.

Unless the certificate of authentication hereon has been executed by the Trustee referred to on the reverse hereof by manual signature, this Security shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed under its corporate seal.

U.S. BANCORP

By: \_\_\_\_\_  
[President or Vice President]

Attest:

\_\_\_\_\_  
[Secretary or Assistant Secretary]

Section 2.3. Form of Reverse of Security.

This Security is one of a duly authorized issue of securities of the Company (herein called the "Securities"), issued and to be issued in one or more series under a Junior Subordinated Indenture, dated as of April 28, 2005 (herein called the "Indenture"), between the Company and Delaware Trust Company, National Association, as Trustee (herein called the "Trustee", which term includes any successor trustee under the Indenture), to which Indenture and all indentures supplemental thereto reference is hereby made for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Trustee, the Company and the Holders of the Securities, and of the terms upon which the Securities are, and

are to be, authenticated and delivered. This Security is one of the series designated on the face hereof, limited in aggregate principal amount to \$\_\_\_\_\_.

All terms used in this Security that are defined in the Indenture and in the Trust Agreement, dated as of \_\_\_\_\_, \_\_\_\_\_, as amended (the "Trust Agreement"), for [insert name of trust] among U.S. Bancorp, as Depositor, and the Trustees named therein, shall have the meanings assigned to them in the Indenture or the Trust Agreement, as the case may be.

[If applicable, insert–The Company may at any time, at its option, on or after \_\_\_\_\_, and subject to the terms and conditions of Article XI of the Indenture], [if applicable insert–and subject to the Company having received prior approval of the Board of Governors of the Federal Reserve System (the "Federal Reserve") if then required under applicable capital guidelines or policies of the Federal Reserve] redeem this Security [in whole at any time] [or in part from time to time], without premium or penalty, at a redemption price equal to [insert redemption price] to the Redemption Date.]

[If applicable, insert–Upon the occurrence and during the continuation of a Tax Event in respect of a USB Trust, the Company may, at its option, at any time within 90 days of the occurrence of such Tax Event redeem this Security, [if applicable, insert–in whole but not in part], subject to the provisions of Section 11.7 and the other provisions of Article XI of the Indenture, at a redemption price equal to [insert redemption price] to the Redemption Date.

[If applicable, insert–In the event of redemption of this Security in part only, a new Security or Securities of this series for the portion hereof not redeemed will be issued in the name of the Holder hereof upon the cancellation hereof.

The Indenture contains provisions for satisfaction and discharge of the entire indebtedness of this Security upon compliance by the Company with certain conditions set forth in the Indenture.

The Indenture permits, with certain exceptions as therein provided, the Company and the Trustee at any time to enter into a supplemental indenture or indentures for the purpose of modifying in any manner the rights and obligations of the Company and of the Holders of the Securities, with the consent of the Holders of not less than a majority in principal amount of the Outstanding Securities of each series to be affected by such supplemental indenture. The Indenture also contains provisions permitting Holders of specified percentages in principal amount of the Securities of each series at the time Outstanding, on behalf of the Holders of all Securities of such series, to waive compliance by the Company with certain provisions of the Indenture and certain past defaults under the Indenture and their consequences. Any such consent or waiver by the Holder of this Security shall be conclusive and binding upon such Holder and upon all future Holders of this Security and of any Security issued upon the registration of transfer hereof or in exchange herefor or in lieu hereof, whether or not notation of such consent or waiver is made upon this Security.

[If the Security is not a Discount Security,–As provided in and subject to the provisions of the Indenture, if an Event of Default with respect to the Securities of this series at the time



Outstanding occurs and is continuing, then and in every such case the Trustee or the Holders of not less than 25% in principal amount of the Outstanding Securities of this series may declare the principal amount of all the Securities of this series to be due and payable immediately, by a notice in writing to the Company (and to the Trustee if given by Holders), provided that, in the case of the Securities of this series issued to a USB Trust, if upon an Event of Default, the Trustee or the Holders of not less than 25% in principal amount of the Outstanding Securities of this series fails to declare the principal of all the Securities of this series to be immediately due and payable, the holders of at least 25% in aggregate Liquidation Amount of the Capital Securities then outstanding shall have such right by a notice in writing to the Company and the Trustee; and upon any such declaration the principal amount of and the accrued interest (including any Additional Interest) on all the Securities of this series shall become immediately due and payable, provided that the payment of principal and interest (including any Additional Interest) on such Securities shall remain subordinated to the extent provided in Article XIII of the Indenture.]

[If the Security is a Discount Security,—As provided in and subject to the provisions of the Indenture, if an Event of Default with respect to the Securities of this series at the time Outstanding occurs and is continuing, then and in every such case the Trustee or the Holders of not less than such portion of the principal amount as may be specified in the terms of this series may declare an amount of principal of the Securities of this series to be due and payable immediately, by a notice in writing to the Company (and to the Trustee if given by Holders), provided that, in the case of the Securities of this series issued to a USB Trust, if upon an Event of Default, the Trustee or the Holders of not less than 25% in principal amount of the Outstanding Securities of this series fails to declare the principal of all the Securities of this series to be immediately due and payable, the holders of at least 25% in aggregate Liquidation Amount of the Capital Securities then outstanding shall have such right by a notice in writing to the Company and the Trustee. Such amount shall be equal to [insert formula for determining the amount]. Upon any such declaration, such amount of the principal of and the accrued interest (including any Additional Interest) on all the Securities of this series shall become immediately due and payable, provided that the payment of principal and interest (including any Additional Interest) on such Securities shall remain subordinated to the extent provided in Article XIII of the Indenture. Upon payment (i) of the amount of principal so declared due and payable and (ii) of interest on any overdue principal and overdue interest (in each case to the extent that the payment of such interest shall be legally enforceable), all of the Company's obligations in respect of the payment of the principal of and interest, if any, on this Security shall terminate.]

No reference herein to the Indenture and no provision of this Security or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of (and premium, if any) and interest on this Security at the times, place and rate, and in the coin or currency, herein prescribed.

As provided in the Indenture and subject to certain limitations therein set forth, the transfer of this Security is registrable in the Securities Register, upon surrender of this Security for registration of transfer at the office or agency of the Company maintained under Section 10.2 of the Indenture duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company and the Securities Registrar duly executed by, the Holder hereof or

his attorney duly authorized in writing, and thereupon one or more new Securities of this series, of authorized denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees. No service charge shall be made for any such registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

Prior to due presentment of this Security for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name this Security is registered as the owner hereof for all purposes, whether or not this Security be overdue, and neither the Company, the Trustee nor any such agent shall be affected by notice to the contrary.

The Securities of this series are issuable only in registered form without coupons in denominations of minimum denominations of \$[100,000] and any integral multiples of \$[1,000] in excess thereof. As provided in the Indenture and subject to certain limitations therein set forth, Securities of this series are exchangeable for a like aggregate principal amount of Securities of such series of a different authorized denomination, as requested by the Holder surrendering the same.

The Company and, by its acceptance of this Security or a beneficial interest therein, the Holder of, and any Person that acquires a beneficial interest in, this Security agree that for United States Federal, state and local tax purposes it is intended that this Security constitute indebtedness.

THE INDENTURE AND THIS SECURITY SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES THEREOF.

#### Section 2.4. Additional Provisions Required in Global Security.

Any Global Security issued hereunder shall, in addition to the provisions contained in Sections 2.2 and 2.3, bear a legend in substantially the following form:

“THIS SECURITY IS A GLOBAL SECURITY WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITARY OR A NOMINEE OF A DEPOSITARY. THIS SECURITY IS EXCHANGEABLE FOR SECURITIES REGISTERED IN THE NAME OF A PERSON OTHER THAN THE DEPOSITARY OR ITS NOMINEE ONLY IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE AND MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY.”

#### Section 2.5. Form of Trustee' s Certificate of Authentication.

This is one of the Securities referred to in the within mentioned Indenture.

Dated:

DELAWARE TRUST COMPANY, NATIONAL  
ASSOCIATION  
as Trustee

By: \_\_\_\_\_  
Authorized Officer

ARTICLE III  
THE SECURITIES

Section 3.1. Title and Terms.

The aggregate principal amount of Securities which may be authenticated and delivered under this Indenture is unlimited.

The Securities may be issued in one or more series. There shall be established in or pursuant to a Board Resolution, and set forth in an Officers' Certificate (such Officers' Certificate shall have the effect of a supplemental indenture for all purposes hereunder), or established in one or more indentures supplemental hereto, prior to the issuance of Securities of a series:

(a) the title of the securities of such series, which shall distinguish the Securities of the series from all other Securities;

(b) the limit, if any, upon the aggregate principal amount of the Securities of such series which may be authenticated and delivered under this Indenture (except for Securities authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other Securities of the series pursuant to Section 3.4, 3.5, 3.6, 9.6 or 11.6 and except for any Securities which, pursuant to Section 3.3, are deemed never to have been authenticated and delivered hereunder); provided, however, that the authorized aggregate principal amount of such series may be increased above such amount by a Board Resolution to such effect;

(c) the Stated Maturity or Maturities on which the principal of the Securities of such series is payable or the method of determination thereof;

(d) the rate or rates, if any, at which the Securities of such series shall bear interest, if any, the rate or rates and extent to which Additional Interest, if any, shall be payable in respect of any Securities of such series, the Interest Payment Dates on which such interest shall be payable, the right, pursuant to Section 3.11 or as otherwise set forth therein, of the Company to defer or

extend an Interest Payment Date, and the Regular Record Date for the interest payable on any Interest Payment Date or the method by which any of the foregoing shall be determined;

(e) the place or places where the principal of (and premium, if any) and interest on the Securities of such series shall be payable, the place or places where the Securities of such series may be presented for registration of transfer or exchange, and the place or places where notices and demands to or upon the Company in respect of the Securities of such series may be made;

(f) the period or periods within or the date or dates on which, if any, the price or prices at which and the terms and conditions upon which the Securities of such series may be redeemed, in whole or in part, at the option of the Company;

(g) the obligation or the right, if any, of the Company to prepay, repay or purchase the Securities of such series pursuant to any sinking fund, amortization or analogous provisions, or at the option of a Holder thereof, and the period or periods within which, the price or prices at which, the currency or currencies (including currency unit or units) in which and the other terms and conditions upon which Securities of the series shall be redeemed, repaid or purchased, in whole or in part, pursuant to such obligation;

(h) the denominations in which any Securities of such series shall be issuable, if other than denominations of \$100,000 and any integral multiples of \$1,000 in excess thereof;

(i) if other than Dollars, the currency or currencies (including currency unit or units) in which the principal of (and premium, if any) and interest, if any, on the Securities of the series shall be payable, or in which the Securities of the series shall be denominated;

(j) the additions, modifications or deletions, if any, in the Events of Default or covenants of the Company set forth herein with respect to the Securities of such series;

(k) if other than the principal amount thereof, the portion of the principal amount of Securities of such series that shall be payable upon declaration of acceleration of the Maturity thereof;

(l) the additions or changes, if any, to this Indenture with respect to the Securities of such series as shall be necessary to permit or facilitate the issuance of the Securities of such series in bearer form, registrable or not registrable as to principal, and with or without interest coupons;

(m) any index or indices used to determine the amount of payments of principal of and premium, if any, on the Securities of such series or the manner in which such amounts will be determined;

(n) whether the Securities of the series, or any portion thereof, shall initially be issuable in the form of a temporary Global Security representing all or such portion of the

Securities of such series and provisions for the exchange of such temporary Global Security for definitive Securities of such series;

(o) if applicable, that any Securities of the series shall be issuable in whole or in part in the form of one or more Global Securities and, in such case, the respective Depositaries for such Global Securities, the form of any legend or legends which shall be borne by any such Global Security in addition to or in lieu of that set forth in Section 2.4 and any circumstances in addition to or in lieu of those set forth in Section 3.5 in which any such Global Security may be exchanged in whole or in part for Securities registered, and any transfer of such Global Security in whole or in part may be registered, in the name or names of Persons other than the Depositary for such Global Security or a nominee thereof;

(p) the appointment of any Paying Agent or Agents for the Securities of such series;

(q) the terms of any right to convert or exchange Securities of such series into any other securities or property of the Company, and the additions or changes, if any, to this Indenture with respect to the Securities of such series to permit or facilitate such conversion or exchange;

(r) the form or forms of the Trust Agreement, Amended and Restated Trust Agreement and Guarantee Agreement, if different from the forms attached hereto as Annexes A, B and C, respectively;

(s) the relative degree, if any, to which the Securities of the series shall be senior to or be subordinated to other series of Securities in right of payment, whether such other series of Securities are Outstanding or not; and

(t) any other terms of the Securities of such series (which terms shall not be inconsistent with the provisions of this Indenture).

All Securities of any one series shall be substantially identical except as to denomination and except as may otherwise be provided herein or in or pursuant to such Board Resolution and set forth in such Officers' Certificate or in any such indenture supplemental hereto.

If any of the terms of the series are established by action taken pursuant to a Board Resolution, a copy of an appropriate record of such action shall be certified by the Secretary or an Assistant Secretary of the Company and delivered to the Trustee at or prior to the delivery of the Officers' Certificate setting forth the terms of the series.

The Securities shall be subordinated in right of payment to Senior and Subordinated Debt as provided in Article XIII.

### Section 3.2. Denominations.

The Securities of each series shall be in registered form without coupons and shall be issuable in minimum denominations of \$100,000 and integral multiples of \$1,000 in excess thereof, unless otherwise specified as contemplated by Section 3.1.

### Section 3.3. Execution, Authentication, Delivery and Dating.

The Securities shall be executed on behalf of the Company by its President or one of its Vice Presidents under its corporate seal reproduced or impressed thereon and attested by its Secretary or one of its Assistant Secretaries. The signature of any of these officers on the Securities may be manual or facsimile. Securities bearing the manual or facsimile signatures of individuals who were at any time the proper officers of the Company shall bind the Company, notwithstanding that such individuals or any of them have ceased to hold such offices prior to the authentication and delivery of such Securities or did not hold such offices at the date of such Securities. At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Securities of any series executed by the Company to the Trustee for authentication, together with a Company Order for the authentication and delivery of such Securities, and the Trustee in accordance with the Company Order shall authenticate and deliver such Securities. If the form or terms of the Securities of the series have been established by or pursuant to one or more Board Resolutions as permitted by Sections 2.1 and 3.1, in authenticating such Securities, and accepting the additional responsibilities under this Indenture in relation to such Securities, the Trustee shall be entitled to receive, and (subject to Section 6.1) shall be fully protected in relying upon, an Opinion of Counsel stating,

(1) if the form of such Securities has been established by or pursuant to Board Resolution as permitted by Section 2.1, that such form has been established in conformity with the provisions of this Indenture;

(2) if the terms of such Securities have been established by or pursuant to Board Resolution as permitted by Section 3.1, that such terms have been established in conformity with the provisions of this Indenture; and

(3) that such Securities, when authenticated and delivered by the Trustee and issued by the Company in the manner and subject to any conditions specified in such Opinion of Counsel, will constitute valid and legally binding obligations of the Company enforceable in accordance with their terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights and to general equity principles.

If such form or terms have been so established, the Trustee shall not be required to authenticate such Securities if the issue of such Securities pursuant to this Indenture will affect the Trustee's own rights, duties or immunities under the Securities and this Indenture or otherwise in a manner which is not reasonably acceptable to the Trustee.

Notwithstanding the provisions of Section 3.1 and of the preceding paragraph, if all Securities of a series are not to be originally issued at one time, it shall not be necessary to deliver the Officers' Certificate otherwise required pursuant to Section 3.1 or the Company

Order and Opinion of Counsel otherwise required pursuant to such preceding paragraph at or prior to the authentication of each Security of such series if such documents are delivered at or prior to the authentication upon original issuance of the first Security of such series to be issued.

Each Security shall be dated the date of its authentication.

No Security shall be entitled to any benefit under this Indenture or be valid or obligatory for any purpose, unless there appears on such Security a certificate of authentication substantially in the form provided for herein executed by the Trustee by the manual signature of one of its authorized officers, and such certificate upon any Security shall be conclusive evidence, and the only evidence, that such Security has been duly authenticated and delivered hereunder. Notwithstanding the foregoing, if any Security shall have been authenticated and delivered hereunder but never issued and sold by the Company, and the Company shall deliver such Security to the Trustee for cancellation as provided in Section 3.9, for all purposes of this Indenture such Security shall be deemed never to have been authenticated and delivered hereunder and shall never be entitled to the benefits of this Indenture.

#### Section 3.4. Temporary Securities.

Pending the preparation of definitive Securities of any series, the Company may execute, and upon Company Order the Trustee shall authenticate and deliver, temporary Securities which are printed, lithographed, typewritten, mimeographed or otherwise produced, in any denomination, substantially of the tenor of the definitive Securities of such series in lieu of which they are issued and with such appropriate insertions, omissions, substitutions and other variations as the officers executing such Securities may determine, as evidenced by their execution of such Securities.

If temporary Securities of any series are issued, the Company will cause definitive Securities of such series to be prepared without unreasonable delay. After the preparation of definitive Securities, the temporary Securities shall be exchangeable for definitive Securities upon surrender of the temporary Securities at the office or agency of the Company designated for that purpose without charge to the Holder. Upon surrender for cancellation of any one or more temporary Securities, the Company shall execute and the Trustee shall authenticate and deliver in exchange therefor one or more definitive Securities of the same series of authorized denominations having the same Original Issue Date and Stated Maturity and having the same terms as such temporary Securities. Until so exchanged, the temporary Securities of any series shall in all respects be entitled to the same benefits under this Indenture as definitive Securities of such series.

#### Section 3.5. Registration, Transfer and Exchange.

The Company shall cause to be kept at the Corporate Trust Office of the Trustee a register in which, subject to such reasonable regulations as it may prescribe, the Company shall provide for the registration of Securities and of transfers of Securities. Such register is herein sometimes referred to as the "Securities Register." The Trustee is hereby appointed "Securities Registrar" for the purpose of registering Securities and transfers of Securities as herein provided.

Upon surrender for registration of transfer of any Security at the office or agency of the Company designated for that purpose the Company shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Securities of the same series of any authorized denominations, of a like aggregate principal amount, of the same Original Issue Date and Stated Maturity and having the same terms.

At the option of the Holder, Securities may be exchanged for other Securities of the same series of any authorized denominations, of a like aggregate principal amount, of the same Original Issue Date and Stated Maturity and having the same terms, upon surrender of the Securities to be exchanged at such office or agency. Whenever any securities are so surrendered for exchange, the Company shall execute, and the Trustee shall authenticate and deliver, the Securities which the Holder making the exchange is entitled to receive.

All Securities issued upon any transfer or exchange of Securities shall be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Securities surrendered upon such transfer or exchange.

Every Security presented or surrendered for transfer or exchange shall (if so required by the Company or the Securities Registrar) be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to the Company and the Securities Registrar, duly executed by the Holder thereof or his attorney duly authorized in writing.

No service charge shall be made to a Holder for any transfer or exchange of Securities, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any transfer or exchange of Securities.

No service charge shall be made to a Holder for any transfer or exchange of Securities, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any transfer or exchange of Securities.

The provisions of Clauses (1), (2), (3) and (4) below shall apply only to Global Securities:

(1) Each Global Security authenticated under this Indenture shall be registered in the name of the Depositary designated for such Global Security or a nominee thereof and delivered to such Depositary or a nominee thereof or custodian therefor, and each such Global Security shall constitute a single Security for all purposes of this Indenture.

(2) Notwithstanding any other provision in this Indenture, no Global Security may be exchanged in whole or in part for Securities registered, and no transfer of a Global Security in whole or in part may be registered, in the name of any Person other than the Depositary for such Global Security or a nominee thereof unless (A) such Depositary (i) has notified the Company that it is unwilling or unable to continue as Depositary for such Global Security or (ii) has ceased to be a clearing agency registered under the Exchange Act at a time when the Depositary is



required to be so registered to act as depositary, in each case unless the Company has approved a successor Depositary within 90 days, (B) there shall have occurred and be continuing an Event of Default with respect to such Global Security, (C) the Company in its sole discretion determines that such Global Security will be so exchangeable or transferable or (D) there shall exist such circumstances, if any, in addition to or in lieu of the foregoing as have been specified for this purpose as contemplated by Section 3.1.

(3) Subject to Clause (2) above, any exchange of a Global Security for other Securities may be made in whole or in part, and all Securities issued in exchange for a Global Security or any portion thereof shall be registered in such names as the Depositary for such Global Security shall direct.

(4) Every Security authenticated and delivered upon registration of transfer of, or in exchange for or in lieu of, a Global Security or any portion thereof, whether pursuant to this Section, Section 3.4, 3.6, 9.6 or 11.6 or otherwise, shall be authenticated and delivered in the form of, and shall be, a Global Security, unless such Security is registered in the name of a Person other than the Depositary for such Global Security or a nominee thereof.

Neither the Company nor the Trustee shall be required, pursuant to the provisions of this Section, (a) to issue, transfer or exchange any Security of any series during a period beginning at the opening of business 15 days before the day of selection for redemption of Securities pursuant to Article XI and ending at the close of business on the day of mailing of notice of redemption or (b) to transfer or exchange any Security so selected for redemption in whole or in part, except, in the case of any Security to be redeemed in part, any portion thereof not to be redeemed.

#### Section 3.6. Mutilated, Destroyed, Lost and Stolen Securities.

If any mutilated Security is surrendered to the Trustee together with such security or indemnity as may be required by the Company or the Trustee to save each of them harmless, the Company shall execute and the Trustee shall authenticate and deliver in exchange therefor a new Security of the same issue and series of like tenor and principal amount, having the same Original Issue Date and Stated Maturity, and bearing a number not contemporaneously outstanding.

If there shall be delivered to the Company and to the Trustee (i) evidence to their satisfaction of the destruction, loss or theft of any Security, and (ii) such security or indemnity as may be required by them to save each of them harmless, then, in the absence of notice to the Company or the Trustee that such Security has been acquired by a bona fide purchaser, the Company shall execute and upon its request the Trustee shall authenticate and deliver, in lieu of any such destroyed, lost or stolen Security, a new Security of the same issue and series of like tenor and principal amount, having the same Original Issue Date and Stated Maturity as such destroyed, lost or stolen Security, and bearing a number not contemporaneously outstanding.

In case any such mutilated, destroyed, lost or stolen Security has become or is about to become due and payable, the Company in its discretion may, instead of issuing a new Security, pay such Security.

Upon the issuance of any new Security under this Section, the Company may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith.

Every new Security issued pursuant to this Section in lieu of any destroyed, lost or stolen Security shall constitute an original additional contractual obligation of the Company, whether or not the destroyed, lost or stolen Security shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Indenture equally and proportionately with any and all other Securities duly issued hereunder.

The provisions of this Section 3.6 are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities.

**Section 3.7. Payment of Interest; Interest Rights Preserved.**

Interest on any Security of any series which is payable, and is punctually paid or duly provided for, on any Interest Payment Date, shall be paid to the Person in whose name that Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest in respect of Securities of such series, except that, unless otherwise provided in the Securities of such series, interest payable on the Stated Maturity of the principal of a Security shall be paid to the Person to whom principal is paid. The initial payment of interest on any Security of any series which is issued between a Regular Record Date and the related Interest Payment Date shall be payable as provided in such Security or in the Board Resolution pursuant to Section 3.1 with respect to the related series of Securities.

Any interest on any Security which is payable, but is not timely paid or duly provided for, on any Interest Payment Date for Securities of such series (herein called "Defaulted Interest"), shall forthwith cease to be payable to the registered Holder on the relevant Regular Record Date by virtue of having been such Holder, and such Defaulted Interest may be paid by the Company, at its election in each case, as provided in Clause (1) or (2) below:

(1) The Company may elect to make payment of any Defaulted Interest to the Persons in whose names the Securities of such series in respect of which interest is in default (or their respective Predecessor Securities) are registered at the close of business on a Special Record Date for the payment of such Defaulted Interest, which shall be fixed in the following manner. The Company shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Security and the date of the proposed payment, and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as in this Clause provided. Thereupon, the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 days and not less than 10 days prior to

the date of the proposed payment and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Company of such Special Record Date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class, postage prepaid, to each Holder of a Security of such series at the address of such Holder as it appears in the Securities Register not less than 10 days prior to such Special Record Date. The Trustee may, in its discretion, in the name and at the expense of the Company, cause a similar notice to be published at least once in a newspaper, customarily published in the English language on each Business Day and of general circulation in the Borough of Manhattan, The City of New York, but such publication shall not be a condition precedent to the establishment of such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been mailed as aforesaid, such Defaulted Interest shall be paid to the Persons in whose names the Securities of such series (or their respective Predecessor Securities) are registered on such Special Record Date and shall no longer be payable pursuant to the following Clause (2).

(2) The Company may make payment of any Defaulted Interest in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Securities of the series in respect of which interest is in default may be listed and, upon such notice as may be required by such exchange (or by the Trustee if the Securities are not listed), if, after notice given by the Company to the Trustee of the proposed payment pursuant to this Clause, such payment shall be deemed practicable by the Trustee.

Subject to the foregoing provisions of this Section 3.7, each Security delivered under this Indenture upon transfer of or in exchange for or in lieu of any other Security shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Security.

#### Section 3.8. Persons Deemed Owners.

The Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name any Security is registered as the owner of such Security for the purpose of receiving payment of principal of and (subject to Section 3.7) any interest on such Security and for all other purposes whatsoever, whether or not such Security be overdue, and neither the Company, the Trustee nor any agent of the Company or the Trustee shall be affected by notice to the contrary.

#### Section 3.9. Cancellation

All Securities surrendered for payment, redemption, transfer or exchange shall, if surrendered to any Person other than the Trustee, be delivered to the Trustee, and any such Securities and Securities surrendered directly to the Trustee for any such purpose shall be promptly canceled by it. The Company may at any time deliver to the Trustee for cancellation any Securities previously authenticated and delivered hereunder which the Company may have acquired in any manner whatsoever, and all Securities so delivered shall be promptly canceled by the Trustee. No Securities shall be authenticated in lieu of or in exchange for any Securities canceled as provided in this Section, except as expressly permitted by this Indenture. All

canceled Securities shall be destroyed by the Trustee and the Trustee shall deliver to the Company a certificate of such destruction.

#### Section 3.10. Computation of Interest.

Except as otherwise specified as contemplated by Section 3.1 for Securities of any series, interest on the Securities of each series for any period shall be computed on the basis of a 360-day year of twelve 30-day months and interest on the Securities of each series for any partial period shall be computed on the basis of the number of days elapsed in a 360-day year of twelve 30-day months.

#### Section 3.11. Deferrals of Interest Payment Dates.

If specified as contemplated by Section 2.1 or Section 3.1 with respect to the Securities of a particular series, so long as no Event of Default has occurred and is continuing, the Company shall have the right, at any time during the term of such series, from time to time to defer the payment of interest on such Securities for such period or periods as may be specified as contemplated by Section 3.1, but up to not less than 20 consecutive quarters (each, an "Extension Period") during which Extension Periods the Company shall have the right to make partial payments of interest on any Interest Payment Date. No Extension Period shall end on a date other than an Interest Payment Date. At the end of any such Extension Period the Company shall pay all interest then accrued and unpaid on the Securities (together with Additional Interest thereon, if any, at the rate specified for the Securities of such series to the extent permitted by applicable law); provided, however, that no Extension Period shall extend beyond the Stated Maturity of the principal of the Securities of such series; provided, further, that during any such Extension Period, the Company shall not, and shall not permit any Subsidiary to, (i) declare or pay any dividends or distributions on, or redeem, purchase, acquire or make a liquidation payment with respect to, any of the Company's capital stock (which includes common and preferred stock), or (ii) make any payment of principal of or interest or premium, if any, on or repay, repurchase or redeem any debt securities of the Company (including Securities other than the Securities of such series) that ranks pari passu with or junior in interest to the Securities of such series or make any guarantee payments with respect to any guarantee by the Company of the debt securities of any Subsidiary of the Company (including USB Guarantees other than the USB Guarantee related to the Capital Securities issued by the USB Trust holding Securities of such series) if such guarantee rank pari passu with or junior in interest to the securities of such series (other than (a) dividends or distributions in Common Stock of the Company, (b) any declaration of a dividend in connection with the implementation of a stockholders' rights plan, or the issuance of stock under any such plan in the future or the redemption or repurchase of any such rights pursuant thereto, (c) payments under the USB Guarantee related to the Capital Securities issued by the USB Trust holding Securities of such series, and (d) purchases of Common Stock related to the issuance of Common Stock or rights under any of the Company's benefit plans for its directors, officers or employees). Prior to the termination of any such Extension Period, the Company may further extend such Extension Period, provided that such extension does not cause such Extension Period to extend beyond the Stated Maturity of the principal of such Securities. Upon termination of any Extension Period and upon the payment of all accrued and unpaid interest and any Additional Interest then due on any Interest Payment

Date, the Company may elect to begin a new Extension Period, subject to the above requirements. No interest shall be due and payable during an Extension Period, except at the end thereof. The Company shall give the Trustee, the Property Trustee and the Administrative Trustees of the USB Trust holding Securities of such series notice of its election of any Extension Period (or an extension thereof) at least five Business Days prior to the earlier of (i) the next succeeding date on which Distributions on the Capital Securities of such USB Trust would be payable except for the election to begin or extend such Extension Period or (ii) the date the Administrative Trustees of such USB Trust are required to give notice to any automated quotation system or to holders of such Capital Securities of the record date or the date such Distributions are payable, but in any event not less than five Business Days prior to such record date.

The Trustee shall promptly give notice of the Company's election to begin any such Extension Period to the Holders of the Outstanding Securities of such series.

#### Section 3.12. Right of Set-Off.

[RESERVED]

#### Section 3.13. Agreed Tax Treatment.

Each Security issued hereunder shall provide that the Company and, by its acceptance of a Security or a beneficial interest therein, the Holder of, and any Person that acquires a beneficial interest in, such Security agree that for United States Federal, state and local tax purposes it is intended that such Security constitute indebtedness.

#### Section 3.14. Shortening or Extension of Stated Maturity.

If specified as contemplated by Section 2.1 or Section 3.1 with respect to the Securities of a particular series, the Company shall have the right to (i) shorten the Stated Maturity of the principal of the Securities of such series at any time to any date not earlier than the first date on which the Company has the right to redeem the Securities of such series, and (ii) extend the Stated Maturity of the principal of the Securities of such series at any time at its election for one or more periods, but in no event to a date later than the 49th anniversary of the first Interest Payment Date following the Original Issue Date of the Securities of such series; provided that, if the Company elects to exercise its right to extend the Stated Maturity of the principal of the Securities of such series pursuant to clause (ii) above, at the time such election is made and at the time of extension (A) the Company is not in bankruptcy, otherwise insolvent or in liquidation, (B) the Company is not in default in the payment of any interest or principal on such Securities, (C) in the case of any series of Securities issued to a USB Trust, such USB Trust is not in arrears on payments of Distributions on the Capital Securities issued by such USB Trust and no deferred Distributions are accumulated and (D) such Securities are rated not less than BBB- by S&P or Baa3 by Moody's or the equivalent by any other nationally recognized statistical rating organization. In the event the Company elects to shorten or extend the Stated Maturity of the Securities of any series, it shall give notice to the Trustee, and the Trustee shall give notice of

such shortening or extension to the Holders thereof no less than 30 and no more than 60 days prior to the effectiveness thereof.

#### Section 3.15. CUSIP Numbers.

The Company in issuing the Securities may use “CUSIP” numbers (if then generally in use), and, if so, the Trustee shall use “CUSIP” numbers in notices of redemption as a convenience to Holders; provided that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Securities or as contained in any notice of a redemption and that reliance may be placed only on the other identification numbers printed on the Securities, and any such redemption shall not be affected by any defect in or omission of such numbers.

### ARTICLE IV

#### SATISFACTION AND DISCHARGE

##### Section 4.1. Satisfaction and Discharge of Indenture.

This Indenture shall, upon Company Request, cease to be of further effect (except as to any surviving rights of registration of transfer or exchange of Securities herein expressly provided for and as otherwise provided in this Section 4.1) and the Trustee, on demand of and at the expense of the Company, shall execute proper instruments acknowledging satisfaction and discharge of this Indenture, when

(1) either

(A) all Securities theretofore authenticated and delivered (other than (i) Securities which have been destroyed, lost or stolen and which have been replaced or paid as provided in Section 3.6 and (ii) Securities for whose payment money has theretofore been deposited in trust or segregated and held in trust by the Company and thereafter repaid to the Company or discharged from such trust, as provided in Section 10.3) have been delivered to the Trustee for cancellation; or

(B) all such Securities not theretofore delivered to the Trustee for cancellation

(i) have become due and payable, or

(ii) will become due and payable at their Stated Maturity within one year of the date of deposit, or

(iii) are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Company,

and the Company, in the case of Clause (B) (i), (ii) or (iii) above, has deposited or caused to be deposited with the Trustee as trust funds in trust for such purpose an amount in the currency or currencies in which the Securities of such series are payable sufficient to pay and discharge the entire indebtedness on such Securities not theretofore delivered to the Trustee for cancellation, for principal (and premium, if any) and interest (including any Additional Interest) to the date of such deposit (in the case of Securities which have become due and payable) or to the Stated Maturity or Redemption Date, as the case may be;

(2) the Company has paid or caused to be paid all other sums payable hereunder by the Company; and

(3) the Company has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel each stating that all conditions precedent herein provided for relating to the satisfaction and discharge of this Indenture have been complied with.

Notwithstanding the satisfaction and discharge of this Indenture, the obligations of the Company to the Trustee under Section 6.7, the obligations of the Trustee to any Authenticating Agent under Section 6.14 and, if money shall have been deposited with the Trustee pursuant to subclause (B) of clause (1) of this Section, the obligations of the Trustee under Section 4.2 and the last paragraph of Section 10.3 shall survive.

#### Section 4.2. Application of Trust Money.

Subject to the provisions of the last paragraph of Section 10.3, all money deposited with the Trustee pursuant to Section 4.1 shall be held in trust and applied by the Trustee, in accordance with the provisions of the Securities and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the principal (and premium, if any) and interest for the payment of which such money or obligations have been deposited with or received by the Trustee.

### ARTICLE V

#### REMEDIES

##### Section 5.1. Events of Default.

"Event of Default", wherever used herein with respect to the Securities of any series, means any one of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(1) default in the payment of any interest upon any Security of that series, including any Additional Interest in respect thereof, when it becomes due and payable, and continuance of such default for a period of 30 days (subject to the deferral of any due date in the case of an

Extension Period) or, if later, the conclusion of a period consisting 20 or more consecutive quarters, commencing with the quarter following the earliest quarter for which interest (including interest payments deferred pursuant to Section 3.11) has not been paid in full; or

(2) the entry of a decree or order for relief in respect of the Company by a court having jurisdiction in the premises in an involuntary case under the Federal bankruptcy laws, as now or hereafter constituted, and the continuance of any such decree or order unstayed and in effect for a period of 60 consecutive days; or

(3) the commencement by the Company of a voluntary case under the Federal bankruptcy laws, as now or hereafter constituted, or the consent by the Company to the entry of a decree or order for relief in an involuntary case under any such law; or

(4) the related USB Trust shall have voluntarily or involuntarily dissolved, wound-up its business or otherwise terminated its existence, except in connection with (i) the distribution of Securities to holders of the Capital Securities, (ii) the redemption of Securities and the related series of Capital Securities or (iii) a consolidation, merger, conveyance, transfer or lease permitted by Section 8.1 of this Indenture; or

(5) any other Event of Default provided with respect to Securities of that series.

#### Section 5.2. Acceleration of Maturity; Rescission and Annulment.

If an Event of Default with respect to Securities of any series at the time Outstanding occurs and is continuing, then and in every such case the Trustee or the Holders of not less than 25% in principal amount of the Outstanding Securities of that series may declare the principal amount (or, if the Securities of that series are Discount Securities, such portion of the principal amount as may be specified in the terms of that series) of all the Securities of that series to be due and payable immediately, by a notice in writing to the Company (and to the Trustee if given by Holders), provided that, in the case of the Securities of a series issued to a USB Trust, if, upon an Event of Default, the Trustee or the Holders of not less than 25% in principal amount of the Outstanding Securities of that series fail to declare the principal of all the Securities of that series to be immediately due and payable, the holders of at least 25% in aggregate liquidation amount of the corresponding series of Capital Securities then outstanding shall have such right by a notice in writing to the Company and the Trustee; and upon any such declaration such principal amount (or specified portion thereof) of and the accrued interest (including any Additional Interest) on all the Securities of such series shall become immediately due and payable. Payment of principal and interest (including any Additional Interest) on such Securities shall remain subordinated to the extent provided in Article XIII notwithstanding that such amount shall become immediately due and payable as herein provided.

At any time after such a declaration of acceleration with respect to Securities of any series has been made and before a judgment or decree for payment of the money due has been obtained by the Trustee as hereinafter in this Article provided, the Holders of a majority in principal amount of the Outstanding Securities of that series, by written notice to the Company and the Trustee, may rescind and annul such declaration and its consequences if:



(1) the Company has paid or deposited with the Trustee a sum sufficient to pay:

(A) all overdue installments of interest (including any Additional Interest) on all Securities of that series,

(B) the principal of (and premium, if any, on) any Securities of that series which have become due otherwise than by such declaration of acceleration and interest thereon at the rate borne by the Securities, and

(C) all sums paid or advanced by the Trustee hereunder and the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel; and

(2) all Events of Default with respect to Securities of that series, other than the non-payment of the principal of Securities of that series which has become due solely by such acceleration, have been cured or waived as provided in Section 5.13.

In the case of Securities of a series issued to a USB Trust, the holders of a majority in aggregate Liquidation Amount (as defined in the Trust Agreement under which such USB Trust is formed) of the related series of Capital Securities issued by such USB Trust shall also have the right to rescind and annul such declaration and its consequences by written notice to the Company and the Trustee subject to the satisfaction of the conditions set forth in Clauses (1) and (2) above of this Section 5.2.

No such rescission shall affect any subsequent default or impair any right consequent thereon.

### Section 5.3. Collection of Indebtedness and Suits for Enforcement by Trustee.

The Company covenants that if:

(1) default is made in the payment of any installment of interest (including any Additional Interest) on any Security when such interest becomes due and payable and such default continues for a period of 30 days, or

(2) default is made in the payment of the principal of (and premium, if any, on) any Security at the Maturity thereof,

the Company will, upon demand of the Trustee, pay to the Trustee, for the benefit of the Holders of such Securities, the whole amount then due and payable on such Securities for principal, including any sinking fund payment or analogous obligations (and premium, if any) and interest (including any Additional Interest); and, in addition thereto, all amounts owing the Trustee under Section 6.7.

If the Company fails to pay such amounts forthwith upon such demand, the Trustee, in its own name and as trustee of an express trust, may institute a judicial proceeding for the collection of the sums so due and unpaid, and may prosecute such proceeding to judgment or final decree, and may enforce the same against the Company or any other obligor upon the Securities and collect the moneys adjudged or decreed to be payable in the manner provided by law out of the property of the Company or any other obligor upon the Securities, wherever situated.

If an Event of Default with respect to Securities of any series occurs and is continuing, the Trustee may in its discretion proceed to protect and enforce its rights and the rights of the Holders of Securities of such series by such appropriate judicial proceedings as the Trustee shall deem most effectual to protect and enforce any such rights, whether for the specific enforcement of any covenant or agreement in this Indenture or in aid of the exercise of any power granted herein, or to enforce any other proper remedy.

#### Section 5.4. Trustee May File Proofs of Claim.

In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the Company or any other obligor upon the Securities or the property of the Company or of such other obligor or their creditors,

(a) the Trustee (irrespective of whether the principal of the Securities of any series shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand on the Company for the payment of overdue principal (and premium, if any) or interest (including any Additional Interest)) shall be entitled and empowered, by intervention in such proceeding or otherwise,

(i) to file and prove a claim for the whole amount of principal (and premium, if any) and interest (including any Additional Interest) owing and unpaid in respect to the Securities and to file such other papers or documents as may be necessary or advisable and to take any and all actions as are authorized under the Trust Indenture Act in order to have the claims of the Holders and any predecessor to the Trustee under Section 6.7 allowed in any such judicial proceedings; and

(ii) in particular, the Trustee shall be authorized to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same in accordance with Section 5.6; and

(b) any custodian, receiver, assignee, trustee, liquidator, sequestrator (or other similar official) in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee for distribution in accordance with Section 5.6, and in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it and any predecessor Trustee under Section 6.7.

Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement,

adjustment or composition affecting the Securities or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding; provided, however, that the Trustee may, on behalf of the Holders, vote for the election of a trustee in bankruptcy or similar official and be a member of a creditors' or other similar committee.

Section 5.5. Trustee May Enforce Claim Without Possession of Securities.

All rights of action and claims under this Indenture or the Securities may be prosecuted and enforced by the Trustee without the possession of any of the Securities or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall, after provision for the payment of all the amounts owing the Trustee and any predecessor Trustee under Section 6.7, its agents and counsel, be for the ratable benefit of the Holders of the Securities in respect of which such judgment has been recovered.

Section 5.6. Application of Money Collected.

Any money or property collected or to be applied by the Trustee with respect to a series of Securities pursuant to this Article shall be applied in the following order, at the date or dates fixed by the Trustee and, in case of the distribution of such money or property on account of principal (or premium, if any) or interest (including any Additional Interest), upon presentation of the Securities and the notation thereon of the payment if only partially paid and upon surrender thereof if fully paid:

FIRST: To the payment of all amounts due the Trustee and any predecessor Trustee under Section 6.7;

SECOND: Subject to Article XIII, to the payment of the amounts then due and unpaid upon such series of Securities for principal (and premium, if any) and interest (including any Additional Interest), in respect of which or for the benefit of which such money has been collected, ratably, without preference or priority of any kind, according to the amounts due and payable on such series of Securities for principal (and premium, if any) and interest (including any Additional Interest), respectively; and

THIRD: The balance, if any, to the Person or Persons entitled thereto.

Section 5.7. Limitation on Suits.

No Holder of any Securities of any series shall have any right to institute any proceeding, judicial or otherwise, with respect to this Indenture or for the appointment of a receiver, assignee, trustee, liquidator, sequestrator (or other similar official) or for any other remedy hereunder, unless:

(1) such Holder has previously given written notice to the Trustee of a continuing Event of Default with respect to the Securities of that series;

(2) the Holders of not less than 25% in principal amount of the Outstanding Securities of that series shall have made written request to the Trustee to institute proceedings in respect of such Event of Default in its own name as Trustee hereunder;

(3) such Holder or Holders have offered to the Trustee reasonable indemnity against the costs, expenses and liabilities to be incurred in compliance with such request:

(4) the Trustee for 60 days after its receipt of such notice, request and offer of indemnity has failed to institute any such proceeding; and

(5) no direction inconsistent with such written request has been given to the Trustee during such 60-day period by the Holders of a majority in principal amount of the Outstanding Securities of that series;

it being understood and intended that no one or more of such Holders shall have any right in any manner whatever by virtue of, or by availing itself of, any provision of this Indenture to affect, disturb or prejudice the rights of any other Holders of Securities, or to obtain or to seek to obtain priority or preference over any other of such Holders or to enforce any right under this Indenture, except in the manner herein provided and for the equal and ratable benefit of all such Holders.

**Section 5.8. Unconditional Right of Holders to Receive Principal, Premium and Interest; Direct Action by Holders of Capital Securities.**

Notwithstanding any other provision in this Indenture, the Holder of any Security shall have the right which is absolute and unconditional to receive payment of the principal of (and premium, if any) and (subject to Section 3.7) interest (including any Additional Interest) on such Security on the respective Stated Maturities expressed in such Security (or, in the case of redemption, on the Redemption Date) and to institute suit for the enforcement of any such payment, and such right shall not be impaired without the consent of such Holder. In the case of Securities of a series issued to a USB Trust, any holder of the corresponding series of Capital Securities issued by such USB Trust shall have the right, upon the occurrence of an Event of Default described in Section 5.1(1), to institute a suit directly against the Company for enforcement of payment to such holder of principal of (premium, if any) and (subject to Section 3.7) interest (including any Additional Interest) on the Securities having a principal amount equal to the aggregate Liquidation Amount (as defined in the Trust Agreement under which such USB Trust is formed) of such Capital Securities of the corresponding series held by such holder.

**Section 5.9. Restoration of Rights and Remedies.**

If the Trustee, any Holder or any holder of Capital Securities has instituted any proceeding to enforce any right or remedy under this Indenture and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee, such Holder or such holder of Capital Securities, then and in every such case the Company, the Trustee, the Holders and such holder of Capital Securities shall, subject to any determination in such proceeding, be restored severally and respectively to their former positions hereunder, and

thereafter all rights and remedies of the Trustee, the Holders and the holders of Capital Securities shall continue as though no such proceeding had been instituted.

Section 5.10. Rights and Remedies Cumulative.

Except as otherwise provided in the last paragraph of Section 3.6, no right or remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 5.11. Delay or Omission Not Waiver.

No delay or omission of the Trustee, any Holder of any Security or any holder of any Capital Security to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein.

Every right and remedy given by this Article or by law to the Trustee or to the Holders and the right and remedy given to the holders of Capital Securities by Section 5.8 may be exercised from time to time, and as often as may be deemed expedient, by the Trustee, the Holders or the holders of Capital Securities, as the case may be.

Section 5.12. Control by Holders.

The Holders of a majority in principal amount of the Outstanding Securities of any series shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on the Trustee, with respect to the Securities of such series, provided that:

(1) such direction shall not be in conflict with any rule of law or with this Indenture,

(2) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction, and

(3) subject to the provisions of Section 6.1, the Trustee shall have the right to decline to follow such direction if a Responsible Officer or Officers of the Trustee shall, in good faith, determine that the proceeding so directed would be unjustly prejudicial to the Holders not joining in any such direction or would involve the Trustee in personal liability.

Section 5.13. Waiver of Past Defaults.

The Holders of not less than a majority in principal amount of the Outstanding Securities of any series and, in the case of any Securities of a series issued to a USB Trust, the holders of

Capital Securities issued by such USB Trust may waive any past default hereunder and its consequences with respect to such series except a default:

- (1) in the payment of the principal of (or premium, if any) or interest (including any Additional Interest) on any Security of such series, or
- (2) in respect of a covenant or provision hereof which under Article IX cannot be modified or amended without the consent of the Holder of each Outstanding Security of such series affected.

Any such waiver shall be deemed to be on behalf of the Holders of all the Securities of such series or, in the case of a waiver by holders of Capital Securities issued by such USB Trust, by all holders of Capital Securities issued by such USB Trust.

Upon any such waiver, such default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

#### Section 5.14. Undertaking for Costs.

All parties to this Indenture agree, and each Holder of any Security by his acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Indenture, or in any suit against the Trustee for any action taken or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section shall not apply to any suit instituted by the Trustee, to any suit instituted by any Holder, or group of Holders, holding in the aggregate more than 10% in principal amount of the Outstanding Securities of any series, or to any suit instituted by any Holder for the enforcement of the payment of the principal of (or premium, if any) or interest (including any Additional Interest) on any Security on or after the respective Stated Maturities expressed in such Security.

#### Section 5.15. Waiver of Usury, Stay or Extension Laws.

The Company covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any usury, stay or extension law wherever enacted, now or at any time hereafter in force, which may affect the covenants or the performance of this Indenture; and the Company (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

## ARTICLE VI

### THE TRUSTEE

#### Section 6.1. Certain Duties and Responsibilities.

(a) Except during the continuance of an Event of Default;

(1) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

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

(b) In case an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of his own affairs.

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

(1) this Subsection shall not be construed to limit the effect of Subsection (a) of this Section;

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

(3) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of Holders pursuant to Section 5.12 relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture with respect to the Securities of such series.

(d) No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if there shall be reasonable grounds for believing

that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(e) Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section 6.1.

#### Section 6.2. Notice of Defaults.

Within 90 days after actual knowledge by a Responsible Officer of the Trustee of the occurrence of any default hereunder with respect to the Securities of any series, the Trustee shall transmit by mail to all Holders of Securities of such series, as their names and addresses appear in the Securities Register, notice of such default, unless such default shall have been cured or waived; provided, however, that, except in the case of a default in the payment of the principal of (or premium, if any) or interest (including any Additional Interest) on any Security of such series, the Trustee shall be protected in withholding such notice if and so long as the board of directors, the executive committee or a trust committee of directors and/or Responsible Officers of the Trustee in good faith determines that the withholding of such notice is in the interests of the Holders of Securities of such series. For the purpose of this Section, the term “default” means any event which is, or after notice or lapse of time or both would become, an Event of Default with respect to Securities of such series.

#### Section 6.3. Certain Rights of Trustee.

Subject to the provisions of Section 6.1:

(a) the Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, Security or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(b) any request or direction of the Company mentioned herein shall be sufficiently evidenced by a Company Request or Company Order and any resolution of the Board of Directors may be sufficiently evidenced by a Board Resolution;

(c) whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, rely upon an Officers' Certificate;

(d) the Trustee may consult with counsel and the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon;

(e) the Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders pursuant to this



Indenture, unless such Holders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction;

(f) the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, indenture, Security or other paper or document, but the Trustee in its discretion may make such inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company, personally or by agent or attorney; and

(g) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder.

#### Section 6.4. Not Responsible for Recitals or Issuance of Securities.

The recitals contained herein and in the Securities, except the Trustee's certificates of authentication, shall be taken as the statements of the Company, and neither the Trustee nor any Authenticating Agent assumes any responsibility for their correctness. The Trustee makes no representations as to the validity or sufficiency of this Indenture or of the Securities. Neither the Trustee nor any Authenticating Agent shall be accountable for the use or application by the Company of the Securities or the proceeds thereof.

#### Section 6.5. May Hold Securities.

The Trustee, any Authenticating Agent, any Paying Agent, any Securities Registrar or any other agent of the Company, in its individual or any other capacity, may become the owner or pledgee of Securities and, subject to Sections 6.8 and 6.13, may otherwise deal with the Company with the same rights it would have if it were not Trustee, Authenticating Agent, Paying Agent, Securities Registrar or such other agent.

#### Section 6.6. Money Held in Trust.

Money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on any money received by it hereunder except as otherwise agreed with the Company.

#### Section 6.7. Compensation and Reimbursement.

The Company agrees

(1) to pay to the Trustee from time to time compensation for all services rendered by it hereunder in such amounts as the Company and the Trustee shall agree from time to time

(which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust);

(2) to reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any provision of this Indenture (including the reasonable compensation and the expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to its negligence or bad faith; and

(3) to indemnify the Trustee for, and to hold it harmless against, any loss, liability or expense (including the reasonable compensation and the expenses and disbursements of its agents and counsel) incurred without negligence or bad faith, arising out of or in connection with the acceptance or administration of this trust or the performance of its duties hereunder, including the costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder. This indemnification shall survive the termination of this Agreement.

To secure the Company's payment obligations in this Section 6.7, the Company and the Holders agree that the Trustee shall have a lien prior to the Securities on all money or property held or collected by the Trustee. Such lien shall survive the satisfaction and discharge of this Indenture.

When the Trustee incurs expenses or renders services after an Event of Default specified in Section 5.1(2) or (3) occurs, the expenses and the compensation for the services are intended to constitute expenses of administration under the Bankruptcy Reform Act of 1978 or any successor statute.

#### Section 6.8. Disqualification; Conflicting Interests.

The Trustee for the Securities of any series issued hereunder shall be subject to the provisions of Section 310(b) of the Trust Indenture Act. Nothing herein shall prevent the Trustee from filing with the Commission the application referred to in the second to last paragraph of said Section 301(b).

#### Section 6.9. Corporate Trustee Required; Eligibility.

There shall at all times be a Trustee hereunder which shall be

(a) a corporation organized and doing business under the laws of the United States of America or of any State or Territory or the District of Columbia, authorized under such laws to exercise corporate trust powers and subject to supervision or examination by Federal, State, Territorial or District of Columbia authority, or

(b) a corporation or other Person organized and doing business under the laws of a foreign government that is permitted to act as Trustee pursuant to a rule, regulation or order of the Commission, authorized under such laws to exercise corporate trust powers, and subject to

supervision or examination by authority of such foreign government or a political subdivision thereof substantially equivalent to supervision or examination applicable to United States institutional trustees,

in either case having a combined capital and surplus of at least \$50,000,000, subject to supervision or examination by Federal or State authority. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of the aforesaid supervising or examining authority, then, for the purposes of this Section 6.9, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section 6.9, it shall resign immediately in the manner and with the effect hereinafter specified in this Article VI. Neither the Company nor any Person directly or indirectly controlling, controlled by or under common control with the Company shall serve as Trustee for the Securities of any series issued hereunder.

Section 6.10. Resignation and Removal; Appointment of Successor.

(a) No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article VI shall become effective until the acceptance of appointment by the successor Trustee under Section 6.11.

(b) The Trustee may resign at any time with respect to the Securities of one or more series by giving written notice thereof to the Company. If an instrument of acceptance by a successor Trustee shall not have been delivered to the Trustee within 30 days after the giving of such notice of resignation, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee with respect to the Securities of such series.

(c) The Trustee may be removed at any time with respect to the Securities of any series by Act of the Holders of a majority in principal amount of the Outstanding Securities of such series, delivered to the Trustee and to the Company.

(d) If at any time:

(1) the Trustee shall fail to comply with Section 6.8 after written request therefor by the Company or by any Holder who has been a bona fide Holder of a Security for at least six months, or

(2) the Trustee shall cease to be eligible under Section 6.9 and shall fail to resign after written request therefor by the Company or by any such Holder, or

(3) the Trustee shall become incapable of acting or shall be adjudged a bankrupt or insolvent or a receiver of the Trustee or of its property shall be appointed or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation,

then, in any such case, (i) the Company, acting pursuant to the authority of a Board Resolution, may remove the Trustee with respect to all Securities, or (ii) subject to Section 5.14, any Holder who has been a bona fide Holder of a Security for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee with respect to all Securities and the appointment of a successor Trustee or Trustees.

(e) If the Trustee shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of Trustee for any cause with respect to the Securities of one or more series, the Company, by a Board Resolution, shall promptly appoint a successor Trustee with respect to the Securities of that or those series. If, within one year after such resignation, removal or incapability, or the occurrence of such vacancy, a successor Trustee with respect to the Securities of any series shall be appointed by Act of the Holders of a majority in principal amount of the Outstanding Securities of such series delivered to the Company and the retiring Trustee, the successor Trustee so appointed shall, forthwith upon its acceptance of such appointment, become the successor Trustee with respect to the Securities of such series and supersede the successor Trustee appointed by the Company. If no successor Trustee with respect to the Securities of any series shall have been so appointed by the Company or the Holders and accepted appointment in the manner hereinafter provided, any Holder who has been a bona fide Holder of a Security for at least six months may, subject to Section 5.14, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the appointment of a successor Trustee with respect to the Securities of such series.

(f) The Company shall give notice of each resignation and each removal of the Trustee with respect to the Securities of any series and each appointment of a successor Trustee with respect to the Securities of any series by mailing written notice of such event by first-class mail, postage prepaid, to the Holders of Securities of such series as their names and addresses appear in the Securities Register. Each notice shall include the name of the successor Trustee with respect to the Securities of such series and the address of its Corporate Trust Office.

#### Section 6.11. Acceptance of Appointment by Successor.

(a) In case of the appointment hereunder of a successor Trustee with respect to all Securities, every such successor Trustee so appointed shall execute, acknowledge and deliver to the Company and to the retiring Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Trustee shall become effective and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee; but, on the request of the Company or the successor Trustee, such retiring Trustee shall, upon payment of its charges, execute and deliver an instrument transferring to such successor Trustee all the rights, powers and trusts of the retiring Trustee and shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder.

(b) In case of the appointment hereunder of a successor Trustee with respect to the Securities of one or more (but not all) series, the Company, the retiring Trustee and each successor Trustee with respect to the Securities of one or more series shall execute and deliver an indenture supplemental hereto wherein each successor Trustee shall accept such appointment and which (1) shall contain such provisions as shall be necessary or desirable to transfer and confirm to, and to vest in, each successor Trustee all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series to which the appointment of such successor Trustee relates, (2) if the retiring Trustee is not retiring with respect to all Securities, shall contain such provisions as shall be deemed necessary or desirable to confirm that all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series as to which the retiring Trustee is not retiring shall continue to be vested in the retiring Trustee, and (3) shall add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, it being understood that nothing herein or in such supplemental indenture shall constitute such Trustees co-trustees of the same trust and that each such Trustee shall be trustee of a trust or trusts hereunder separate and apart from any trust or trusts hereunder administered by any other such Trustee and upon the execution and delivery of such supplemental indenture the resignation or removal of the retiring Trustee shall become effective to the extent provided therein and each such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts, and duties of the retiring Trustee with respect to the Securities of that or those series to which the appointment of such successor Trustee relates; but, on request of the Company or any successor Trustee, such retiring Trustee shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder with respect to the Securities of that or those series to which the appointment of such successor Trustee relates.

(c) Upon request of any such successor Trustee, the Company shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Trustee all rights, powers and trusts referred to in paragraph (a) or (b) of this Section 6.11, as the case may be.

(d) No successor Trustee shall accept its appointment unless at the time of such acceptance such successor Trustee shall be qualified and eligible under this Article VI.

#### Section 6.12. Merger, Conversion, Consolidation or Succession to Business.

Any corporation into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, provided such corporation shall be otherwise qualified and eligible under this Article VI, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any Securities shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation to such authenticating Trustee may adopt such authentication and deliver the Securities so authenticated, and in case any Securities shall not have been authenticated, any successor to the Trustee may authenticate such Securities either

in the name of any predecessor Trustee or in the name of such successor Trustee, and in all cases the certificate of authentication shall have the full force which it is provided anywhere in the Securities or in this Indenture that the certificate of the Trustee shall have.

**Section 6.13. Preferential Collection of Claims Against Company.**

If and when the Trustee shall be or become a creditor of the Company (or any other obligor upon the Securities), the Trustee shall be subject to the provisions of the Trust Indenture Act regarding the collection of claims against the Company (or any such other obligor).

**Section 6.14. Appointment of Authenticating Agent.**

The Trustee may appoint an Authenticating Agent or Agents with respect to one or more series of Securities which shall be authorized to act on behalf of the Trustee to authenticate Securities of such series issued upon original issue and upon exchange, registration of transfer or partial redemption thereof or pursuant to Section 3.6, and Securities so authenticated shall be entitled to the benefits of this Indenture and shall be valid and obligatory for all purposes as if authenticated by the Trustee hereunder. Wherever reference is made in this Indenture to the authentication and delivery of Securities by the Trustee or the Trustee's certificate of authentication, such reference shall be deemed to include authentication and delivery on behalf of the Trustee by an Authenticating Agent. Each Authenticating Agent shall be acceptable to the Company and shall at all times be a corporation organized and doing business under the laws of the United States of America, or of any State or Territory or the District of Columbia, authorized under such laws to act as Authenticating Agent, having a combined capital and surplus of not less than \$50,000,000 and subject to supervision or examination by Federal or State authority. If such Authenticating Agent publishes reports of condition at least annually, pursuant to law or to the requirements of said supervising or examining authority, then for the purposes of this Section 6.14 the combined capital and surplus of such Authenticating Agent shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time an Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section 6.14, such Authenticating Agent shall resign immediately in the manner and with the effect specified in this Section 6.14.

Any corporation into which an Authenticating Agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which such Authenticating Agent shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of an Authenticating Agent shall be the successor Authenticating Agent hereunder, provided such corporation shall be otherwise eligible under this Section, without the execution or filing of any paper or any further act on the part of the Trustee or the Authenticating Agent.

An Authenticating Agent may resign at any time by giving written notice thereof to the Trustee and to the Company. The Trustee may at any time terminate the agency of an Authenticating Agent by giving written notice thereof to such Authenticating Agent and to the Company. Upon receiving such a notice of resignation or upon such a termination, or in case at any time such Authenticating Agent shall cease to be eligible in accordance with the provisions

of this Section 6.14, the Trustee may appoint a successor Authenticating Agent which shall be acceptable to the Company and shall give notice of such appointment in the manner provided in Section 1.6 to all Holders of Securities of the series with respect to which such Authenticating Agent will serve. Any successor Authenticating Agent upon acceptance of its appointment hereunder shall become vested with all the rights, powers and duties of its predecessor hereunder, with like effect as if originally named as an Authenticating Agent. No successor Authenticating Agent shall be appointed unless eligible under the provision of this Section 6.14.

The Trustee agrees to pay to each Authenticating Agent from time to time reasonable compensation for its services under this Section 6.14, and the Trustee shall be entitled to be reimbursed for such payments, subject to the provisions of Section 6.7.

If an appointment with respect to one or more series is made pursuant to this Section 6.14, the Securities of such series may have endorsed thereon, in addition to the Trustee's certificate of authentication, an alternative certificate of authentication in the following form:

This is one of the Securities referred to in the within mentioned Indenture.

Dated:

DELAWARE TRUST COMPANY, NATIONAL  
ASSOCIATION  
As Trustee

By: \_\_\_\_\_  
As Authenticating Agent

By: \_\_\_\_\_  
Authorized Officer

## ARTICLE VII

### HOLDERS' LISTS AND REPORTS BY TRUSTEE AND COMPANY

#### Section 7.1. Company to Furnish Trustee Names and Addresses of Holders.

The Company will furnish or cause to be furnished to the Trustee:

(a) semi-annually, not more than 15 days after January 15 and July 15 in each year, a list, in such form as the Trustee may reasonably require, of the names and addresses of the Holders as of January 1 and July 1 of such year, and

(b) at such other times as the Trustee may request in writing, within 30 days after the receipt by the Company of any such request, a list of similar form and content as of a date not more than 15 days prior to the time such list is furnished,

excluding from any such list names and addresses received by the Trustee in its capacity as Securities Registrar.

#### Section 7.2. Preservation of Information, Communications to Holders.

(a) The Trustee shall preserve, in as current a form as is reasonably practicable, the names and addresses of Holders contained in the most recent list furnished to the Trustee as provided in Section 7.1 and the names and addresses of Holders received by the Trustee in its capacity as Securities Registrar. The Trustee may destroy any list furnished to it as provided in Section 7.1 upon receipt of a new list so furnished.

(b) The rights of Holders to communicate with other Holders with respect to their rights under this Indenture or under the Securities, and the corresponding rights and privileges of the Trustee, shall be as provided in the Trust Indenture Act.

(c) Every Holder of Securities, by receiving and holding the same, agrees with the Company and the Trustee that neither the Company nor the Trustee nor any agent of either of them shall be held accountable by reason of the disclosure of information as to the names and addresses of the Holders made pursuant to the Trust Indenture Act.

#### Section 7.3. Reports by Trustee.

(a) The Trustee shall transmit to Holders such reports concerning the Trustee and its actions under this Indenture as may be required pursuant to the Trust Indenture Act, at the times and in the manner provided pursuant thereto.

(b) Reports so required to be transmitted at stated intervals of not more than 12 months shall be transmitted no later than July 15 in each calendar year, commencing with the first July 15 after the first issuance of Securities under this Indenture.

(c) A copy of each such report shall, at the time of such transmission to Holders, be filed by the Trustee with each stock exchange upon which any Securities are listed and also with the Commission. The Company will notify the Trustee when any Securities are listed on any stock exchange.

#### Section 7.4. Reports by Company.

The Company shall file with the Trustee and with the Commission, and transmit to Holders, such information, documents and other reports, and such summaries thereof, as may be required pursuant to the Trust Indenture Act at the times and in the manner provided in the Trust Indenture Act; provided that any such information, documents or reports required to be filed with the Commission pursuant to Section 13 or Section 15(d) of the Exchange Act shall be filed with



the Trustee within 15 days after the same is required to be filed with the Commission. Notwithstanding that the Company may not be required to remain subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, the Company shall continue to file with the Commission and provide the Trustee with the annual reports and the information, documents and other reports which are specified in Sections 13 and 15(d) of the Exchange Act. The Company also shall comply with the other provisions of Trust Indenture Act Section 314(a).

## ARTICLE VIII

### CONSOLIDATION, MERGER, CONVEYANCE, TRANSFER OR LEASE

#### Section 8.1. Company May Consolidate, Etc., Only on Certain Terms.

The Company shall not consolidate with or merge into any other Person or convey, transfer or lease its properties and assets substantially as an entirety to any Person, and no Person shall consolidate with or merge into the Company or convey, transfer or lease its properties and assets substantially as an entirety to the Company, unless:

(1) in case the Company shall consolidate with or merge into another Person or convey, transfer or lease its properties and assets substantially as an entirety to any Person, the corporation formed by such consolidation or into which the Company is merged or the Person which acquires by conveyance or transfer, or which leases, the properties and assets of the Company substantially as an entirety shall be a corporation, partnership or trust organized and existing under the laws of the United States of America or any State or the District of Columbia, and shall expressly assume, by an indenture supplemental hereto, executed and delivered to the Trustee, in form satisfactory to the Trustee, the due and punctual payment of the principal of (and premium, if any) and interest (including any Additional Interest) on all the Securities and the performance of every covenant of this Indenture on the part of the Company to be performed or observed;

(2) immediately after giving effect to such transaction, no Event of Default, and no event which, after notice or lapse of time, or both, would become an Event of Default, shall have happened and be continuing;

(3) in the case of the Securities of a series issued to a USB Trust, such consolidation, merger, conveyance, transfer or lease is permitted under the related Trust Agreement and related USB Guarantee and does not give rise to any breach or violation of the related Trust Agreement or related USB Guarantee; and

(4) the Company has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that such consolidation, merger, conveyance, transfer or lease and any such supplemental indenture comply with this Article and that all conditions precedent herein provided for relating to such transaction have been complied with; and the Trustee, subject to Section 6.1, may rely upon such Officers' Certificate and Opinion of Counsel as conclusive evidence that such transaction complies with this Section 8.1.

## Section 8.2. Successor Corporation Substituted.

Upon any consolidation or merger by the Company with or into any other Person, or any conveyance, transfer or lease by the Company of its properties and assets substantially as an entirety to any Person in accordance with Section 8.1, the successor corporation formed by such consolidation or into which the Company is merged or to which such conveyance, transfer or lease is made shall succeed to, and be substituted for, and may exercise every right and power of, the Company under this Indenture with the same effect as if such successor Person had been named as the Company herein; and in the event of any such conveyance, transfer or lease the Company shall be discharged from all obligations and covenants under the Indenture and the Securities and may be dissolved and liquidated.

Such successor Person may cause to be signed, and may issue either in its own name or in the name of the Company, any or all of the Securities issuable hereunder which theretofore shall not have been signed by the Company and delivered to the Trustee; and, upon the order of such successor Person instead of the Company and subject to all the terms, conditions and limitations in this Indenture prescribed, the Trustee shall authenticate and shall deliver any Securities which previously shall have been signed and delivered by the officers of the Company to the Trustee for authentication pursuant to such provisions and any Securities which such successor Person thereafter shall cause to be signed and delivered to the Trustee on its behalf for the purpose pursuant to such provisions. All the Securities so issued shall in all respects have the same legal rank and benefit under this Indenture as the Securities theretofore or thereafter issued in accordance with the terms of this Indenture as though all of such Securities had been issued at the date of the execution hereof.

In case of any such consolidation, merger, sale, conveyance or lease, such changes in phraseology and form may be made in the Securities thereafter to be issued as may be appropriate.

## ARTICLE IX

### SUPPLEMENTAL INDENTURES

#### Section 9.1. Supplemental Indentures without Consent of Holders.

Without the consent of any Holders, the Company, when authorized by a Board Resolution, and the Trustee, at any time and from time to time, may enter into one or more indentures supplemental hereto, in form satisfactory to the Trustee, provided, however, that the form and terms of Securities of any series may be established by a Board Resolution, as set forth in the Officers' Certificate delivered to the Trustee pursuant to Section 3.1, without entering into a supplemental indenture for all purposes hereunder, for any of the following purposes:

(1) to evidence the succession of another Person to the Company, and the assumption by any such successor of the covenants of the Company herein and in the Securities contained; or

(2) to convey, transfer, assign, mortgage or pledge any property to or with the Trustee or to surrender any right or power herein conferred upon the Company; or

(3) to establish the form or terms of Securities of any series as permitted by Sections 2.1 or 3.1; or

(4) to add to the covenants of the Company for the benefit of the Holders of all or any series of Securities (and if such covenants are to be for the benefit of less than all series of Securities, stating that such covenants are expressly being included solely for the benefit of such series) or to surrender any right or power herein conferred upon the Company; or

(5) to add any additional Events of Default for the benefit of the Holders of all or any series of Securities (and if such additional Events of Default are to be for the benefit of less than all series of Securities, stating that such additional Events of Default are expressly being included solely for the benefit of such series); or

(6) to change or eliminate any of the provisions of this Indenture, provided that any such change or elimination shall become effective only when there is no Security Outstanding of any series created prior to the execution of such supplemental indenture which is entitled to the benefit of such provision; or

(7) to cure any ambiguity, to correct or supplement any provision herein which may be defective or inconsistent with any other provision herein, or to make any other provisions with respect to matters or questions arising under this Indenture, provided that such action pursuant to this clause (7) shall not adversely affect the interest of the Holders of Securities of any series in any material respect or, in the case of the Securities of a series issued to a USB Trust and for so long as any of the corresponding series of Capital Securities issued by such USB Trust shall remain outstanding, the holders of such Capital Securities; or

(8) to evidence and provide for the acceptance of appointment hereunder by a successor Trustee with respect to the Securities of one or more series and to add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, pursuant to the requirements of Section 6.11(b); or

(9) to comply with the requirements of the Commission in order to effect or maintain the qualification of this Indenture under the Trust Indenture Act.

#### Section 9.2. Supplemental Indentures with Consent of Holders.

With the consent of the Holders of not less than a majority in principal amount of the Outstanding Securities of each series affected by such supplemental indenture, by Act of said Holders delivered to the Company and the Trustee, the Company, when authorized by a Board Resolution, and the Trustee may enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or of modifying in any manner the rights of the Holders of Securities

of such series under this Indenture; provided, however, that no such supplemental indenture shall, without the consent of the Holder of each Outstanding Security affected thereby,

(1) except to the extent permitted by Section 3.11 or as otherwise specified as contemplated by Section 2.1 or Section 3.1 with respect to the deferral of the payment of interest on the Securities of any series, change the Stated Maturity of the principal of, or any installment of interest (including any Additional Interest) on, any Security, or reduce the principal amount thereof or the rate of interest thereon or reduce any premium payable upon the redemption thereof, or reduce the amount of principal of a Discount Security that would be due and payable upon a declaration of acceleration of the Maturity thereof pursuant to Section 5.2, or change the place of payment where, or the coin or currency in which, any Security or interest thereon is payable, or impair the right to institute suit for the enforcement of any such payment on or after the Stated Maturity thereof (or, in the case of redemption, on or after the Redemption Date), or

(2) reduce the percentage in principal amount of the Outstanding Securities of any series, the consent of whose Holders is required for any such supplemental indenture, or the consent of whose Holders is required for any waiver (of compliance with certain provisions of this Indenture or certain defaults hereunder and their consequences) provided for in this Indenture, or

(3) modify any of the provisions of this Section, Section 5.13 or Section 10.5, except to increase any such percentage or to provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the Holder of each Security affected thereby; or

(4) modify the provisions in Article XIII of this Indenture with respect to the subordination of Outstanding Securities of any series in a manner adverse to the Holders thereof;

provided, further, that, in the case of the Securities of a series issued to a USB Trust, so long as any of the corresponding series of Capital Securities issued by such USB Trust remains outstanding, (i) no such amendment shall be made that adversely affects the holders of such Capital Securities in any material respect, and no termination of this Indenture shall occur, and no waiver of any Event of Default or compliance with any covenant under this Indenture shall be effective, without the prior consent of the holders of at least a majority of the aggregate liquidation preference of such Capital Securities then outstanding unless and until the principal (and premium, if any) of the Securities of such series and all accrued and, subject to Section 3.7, unpaid interest (including any Additional Interest) thereon have been paid in full and (ii) no amendment shall be made to Section 5.8 of this Indenture that would impair the rights of the holders of Capital Securities provided therein without the prior consent of the holders of each Capital Security then outstanding unless and until the principal (and premium, if any) of the Securities of such series and all accrued and (subject to Section 3.7) unpaid interest (including any Additional Interest) thereon have been paid in full.

A supplemental indenture that changes or eliminates any covenant or other provision of this Indenture that has expressly been included solely for the benefit of one or more particular series of Securities or Capital Securities, or which modifies the rights of the Holders of Securities

or holders of Capital Securities of such series with respect to such covenant or other provision, shall be deemed not to affect the rights under this Indenture of the Holders of Securities or holders of Capital Securities of any other series.

It shall not be necessary for any Act of Holders under this Section to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such Act shall approve the substance thereof.

#### Section 9.3. Execution of Supplemental Indentures.

In executing or accepting the additional series of Securities created by any supplemental indenture permitted by this Article or the modifications thereby of any series of Securities previously created by this Indenture, the Trustee shall be entitled to receive, and (subject to Section 6.1) shall be fully protected in relying upon, an Officers' Certificate and an Opinion of Counsel stating that the execution of such supplemental indenture is authorized or permitted by this Indenture, and that all conditions precedent have been complied with. The Trustee may, but shall not be obligated to, enter into any such supplemental indenture which affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

#### Section 9.4. Effect of Supplemental Indentures.

Upon the execution of any supplemental indenture under this Article IX or delivery to the Trustee of the Officers' Certificate pursuant to Section 3.1 hereof (which Officers' Certificate shall have the effect of a supplemental indenture for all purposes hereunder), this Indenture shall be modified in accordance therewith, and such supplemental indenture shall form a part of this Indenture for all purposes; and every Holder of Securities theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

#### Section 9.5. Conformity with Trust Indenture Act.

Every supplemental indenture executed pursuant to this Article IX and every Officers' Certificate delivered to the trustee pursuant to Section 3.1 hereof shall conform to the requirements of the Trust Indenture Act as then in effect.

#### Section 9.6. Reference in Securities to Supplemental Indentures.

Securities authenticated and delivered after the execution of any supplemental indenture pursuant to this Article IX or delivery to the Trustee of the Officers' Certificate pursuant to Section 3.1 hereof (which Officers' Certificate shall have the effect of a supplemental indenture for all purposes hereunder) may, and shall if required by the Company, bear a notation in form approved by the Company as to any matter provided for in such supplemental indenture or such Officers' Certificate. If the Company shall so determine, new Securities of any series so modified as to conform, in the opinion of the Company, to any such supplemental indenture or such Officer's Certificate may be prepared and executed by the Company and authenticated and delivered by the Trustee in exchange for Outstanding Securities of such series.

ARTICLE X  
COVENANTS

Section 10.1. Payment of Principal, Premium and Interest.

The Company covenants and agrees for the benefit of each series of securities that it will duly and punctually pay the principal of (and premium, if any) and interest on the Securities of that series in accordance with the terms of such Securities and this Indenture.

Section 10.2. Maintenance of Office or Agency.

The Company will maintain in each Place of Payment for any series of Securities, an office or agency where Securities of that series may be presented or surrendered for payment and an office or agency where Securities of that series may be surrendered for transfer or exchange and where notices and demands to or upon the Company in respect of the Securities of that series and this Indenture may be served. The Company initially appoints the Trustee, acting through its Corporate Trust Office, as its agent for said purposes. The Company will give prompt written notice to the Trustee of any change in the location of any such office or agency. If at any time the Company shall fail to maintain such office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee, and the Company hereby appoints the Trustee as its agent to receive all such presentations, surrenders, notices and demands.

The Company may also from time to time designate one or more other offices or agencies where the Securities may be presented or surrendered for any or all of such purposes, and may from time to time rescind such designations; provided, however, that no such designation or rescission shall in any manner relieve the Company of its obligation to maintain an office or agency in each Place of Payment for Securities of any series for such purposes. The Company will give prompt written notice to the Trustee of any such designation and any change in the location of any such office or agency.

Section 10.3. Money for Security Payments to be Held in Trust.

If the Company shall at any time act as its own Paying Agent with respect to any series of Securities, it will, on or before each due date of the principal of (and premium, if any) or interest on any of the Securities of such series, segregate and hold in trust for the benefit of the Persons entitled thereto a sum sufficient to pay the principal (and premium, if any) or interest so becoming due until such sums shall be paid to such Persons or otherwise disposed of as herein provided, and will promptly notify the Trustee of its failure so to act.

Whenever the Company shall have one or more Paying Agents, it will, prior to 10:00 a.m. New York City time on each due date of the principal of or interest on any Securities, deposit with a Paying Agent a sum sufficient to pay the principal (and premium, if any) or interest so becoming due, such sum to be held in trust for the benefit of the Persons entitled to such

principal and premium (if any) or interest, and (unless such Paying Agent is the Trustee) the Company will promptly notify the Trustee of its failure so to act.

The Company will cause each Paying Agent other than the Trustee to execute and deliver to the Trustee an instrument in which such Paying Agent shall agree with the Trustee, subject to the provisions of this Section 10.3, that such Paying Agent will:

(1) hold all sums held by it for the payment of the principal of (and premium, if any) or interest on Securities in trust for the benefit of the Persons entitled thereto until such sums shall be paid to such Persons or otherwise disposed of as herein provided;

(2) give the Trustee notice of any default by the Company (or any other obligor upon the Securities) in the making of any payment of principal (and premium, if any) or interest:

(3) at any time during the continuance of any such default, upon the written request of the Trustee, forthwith pay to the Trustee all sums so held in trust by such Paying Agent; and

(4) comply with the provisions of the Trust Indenture Act applicable to it as a Paying Agent.

The Company may at any time, for the purpose of obtaining the satisfaction and discharge of this Indenture or for any other purpose, pay, or by Company Order direct any Paying Agent to pay, to the Trustee all sums held in trust by the Company or such Paying Agent, such sums to be held by the Trustee upon the same trusts as those upon which such sums were held by the Company or such Paying Agent; and, upon such payment by any Paying Agent to the Trustee, such Paying Agent shall be released from all further liability with respect to such money.

Any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of (and premium, if any) or interest on any Security and remaining unclaimed for two years after such principal (and premium, if any) or interest has become due and payable shall (unless otherwise required by mandatory provision of applicable escheat or abandoned or unclaimed property law) be paid on Company Request to the Company, or (if then held by the Company) shall (unless otherwise required by mandatory provision of applicable escheat or abandoned or unclaimed property law) be discharged from such trust; and the Holder of such Security shall thereafter, as an unsecured general creditor, look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, shall thereupon cease; provided, however, that the Trustee or such Paying Agent, before being required to make any such repayment, may at the expense of the Company cause to be published once, in a newspaper published in the English language, customarily published on each Business Day and of general circulation in the Borough of Manhattan, The City of New York, notice that such money remains unclaimed and that, after a date specified therein, which shall not be less than 30 days from the date of such publication, any unclaimed balance of such money then remaining will be repaid to the Company.

#### Section 10.4. Statement as to Compliance.

The Company shall deliver to the Trustee, within 120 days after the end of each calendar year of the Company ending after the date hereof, an Officers' Certificate covering the preceding calendar year, stating whether or not to the best knowledge of the signers thereof the Company is in default in the performance, observance or fulfillment of or compliance with any of the terms, provisions, covenants and conditions of this Indenture, and if the Company shall be in default, specifying all such defaults and the nature and status thereof of which they may have knowledge. For the purpose of this Section 10.4, compliance shall be determined without regard to any grace period or requirement of notice provided pursuant to the terms of this Indenture.

#### Section 10.5. Waiver of Certain Covenants.

The Company may omit in any particular instance to comply with any covenant or condition provided pursuant to Sections 3.1, 9.1(3), or 9.1(4) with respect to the Securities of any series, if before or after the time for such compliance the Holders of at least a majority in principal amount of the Outstanding Securities of such series shall, by Act of such Holders, either waive such compliance in such instance or generally waive compliance with such covenant or condition, but no such waiver shall extend to or affect such covenant or condition except to the extent so expressly waived, and, until such waiver shall become effective, the obligations of the Company in respect of any such covenant or condition shall remain in full force and effect.

#### Section 10.6. Additional Sums.

In the case of the Securities of a series issued to a USB Trust, so long as no Event of Default has occurred and is continuing and except as otherwise specified as contemplated by Section 2.1 or Section 3.1, in the event that (i) such USB Trust is the Holder of all of the Outstanding Securities of such series, (ii) a Tax Event in respect of such USB Trust shall have occurred and be continuing and (iii) the Company shall not have (A) redeemed the Securities of such series pursuant to Section 11.7(b) or (B) terminated such USB Trust pursuant to Section 9.2(b) of the related Trust Agreement, the Company shall pay to such USB Trust (and its permitted successors or assigns under the related Trust Agreement) for so long as such USB Trust (or its permitted successor or assignee) is the registered holder of any Securities of such series, such additional amounts as may be necessary in order that the amount of Distributions (including any Additional Amounts (as defined in such Trust Agreement)) then due and payable by such USB Trust on the related Capital Securities and Common Securities that at any time remain outstanding in accordance with the terms thereof shall not be reduced as a result of any Additional Taxes (the "Additional Sums"). Whenever in this Indenture or the Securities there is a reference in any context to the payment of principal of or interest on the Securities, such mention shall be deemed to include mention of the payments of the Additional Sums provided for in this paragraph to the extent that, in such context, Additional Sums are, were or would be payable in respect thereof pursuant to the provisions of this paragraph and express mention of the payment of Additional Sums (if applicable) in any provisions hereof shall not be construed as excluding Additional Sums in those provisions hereof where such express mention is not made; provided,



however, that the deferral of the payment of interest pursuant to Section 3.11 or the Securities shall not defer the payment of any Additional Sums that may be due and payable.

#### Section 10.7. Additional Covenants.

The Company covenants and agrees with each Holder of Securities of any series that it shall not, and it shall not permit any Subsidiary of the Company to, (a) declare or pay any dividends or distributions on, or redeem purchase, acquire or make a liquidation payment with respect to, any shares of the Company's capital stock (which includes common and preferred stock), or (b) make any payment of principal of or interest or premium, if any, on or repay, repurchase or redeem any debt securities of the Company (including Securities other than the Securities of such series) that rank pari passu with or junior in interest to the Securities of such series or make any guarantee payments with respect to any guarantee by the Company of debt securities of any subsidiary of the Company (including USB Guarantees other than the USB Guarantee related to the Capital Securities issued by the USB Trust holding Securities of such series) if such guarantee ranks pari passu with or junior in interest to the Securities (other than (a) dividends or distributions in Common Stock of the Company, (b) any declaration of a dividend in connection with the implementation of a rights plan or the issuance of stock under any such plan or the redemption or repurchase of any such rights pursuant thereto, (c) payments under the USB Guarantee related to the Capital Securities issued by the USB Trust holding Securities of such series, and (d) purchases of Common Stock related to the issuance of Common Stock or rights under any of the Company's benefit plans for its directors, officers or employees) if at such time (i) there shall have occurred any event of which the Company has actual knowledge that (A) with the giving of notice or the lapse of time or both, would constitute an Event of Default with respect to the Securities of such series and (B) in respect of which the Company shall not have taken reasonable steps to cure, (ii) if the Securities of such series are held by a USB Trust, the Company shall be in default with respect to its payment of any obligations under the USB Guarantee relating to the Capital Securities issued by such USB Trust or (iii) the Company shall have given notice of its election to begin an Extension Period with respect to the Securities of such series as provided herein and shall not have rescinded such notice, or such Extension Period, or any extension thereof, shall be continuing.

The Company also covenants with each Holder of Securities of a series issued to a USB Trust (i) to maintain directly or indirectly 100% ownership of the Common Securities of such USB Trust; provided, however, that any permitted successor of the Company hereunder may succeed to the Company's ownership of such Common Securities, (ii) not to voluntarily terminate, wind-up or liquidate such USB Trust, except (a) in connection with a distribution of the Securities of such series to the holders of Trust Securities in liquidation of such USB Trust or (b) in connection with certain mergers, consolidations or amalgamations permitted by the related Trust Agreement and (iii) to use its reasonable efforts, consistent with the terms and provisions of such Trust Agreement, to cause such USB Trust to remain classified as a grantor trust and not an association taxable as a corporation for United States federal income tax purposes.

## ARTICLE XI

### REDEMPTION OF SECURITIES

#### Section 11.1. Applicability of This Article.

Redemption of Securities of any series (whether by operation of a sinking fund or otherwise) as permitted or required by any form of Security issued pursuant to this Indenture shall be made in accordance with such form of Security and this Article; provided, however, that if any provision of any such form of Security shall conflict with any provision of this Article, the provision of such form of Security shall govern. Except as otherwise set forth in the form of Security for such series, each Security of such series shall be subject to partial redemption only in the amount of \$100,000 or, in the case of the Securities of a series issued to a USB Trust, \$100,000, or integral multiples of \$1,000 in excess thereof.

#### Section 11.2. Election to Redeem; Notice to Trustee.

The election of the Company to redeem any Securities shall be evidenced by or pursuant to a Board Resolution. In case of any redemption at the election of the Company of less than all of the Securities of any particular series and having the same terms, the Company shall, not less than 30 nor more than 60 days prior to the Redemption Date (unless a shorter notice shall be satisfactory to the Trustee), notify the Trustee of such date and of the principal amount of Securities of that series to be redeemed. In the case of any redemption of Securities prior to the expiration of any restriction on such redemption provided in the terms of such Securities, the Company shall furnish the Trustee with an Officers' Certificate and an Opinion of Counsel evidencing compliance with such restriction.

#### Section 11.3. Selection of Securities to be Redeemed.

If less than all the Securities of any series are to be redeemed (unless all the Securities of such series and of a specified tenor are to be redeemed or unless such redemption affects only a single Security), the particular Securities to be redeemed shall be selected not more than 60 days prior to the Redemption Date by the Trustee, from the Outstanding Securities of such series not previously called for redemption, by such method as the Trustee shall deem fair and appropriate and which may provide for the selection for redemption of a portion of the principal amount of any Security of such series, provided that the portion of the principal amount of any Security not redeemed shall be in an authorized denomination (which shall not be less than the minimum authorized denomination) for such Security. If less than all the Securities of such series and of a specified tenor are to be redeemed (unless such redemption affects only a single Security), the particular Securities to be redeemed shall be selected not more than 60 days prior to the Redemption Date by the Trustee, from the Outstanding Securities of such series and specified tenor not previously called for redemption in accordance with the preceding sentence.

The Trustee shall promptly notify the Company in writing of the Securities selected for partial redemption and the principal amount thereof to be redeemed. For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to the redemption of

Securities shall relate, in the case of any Security redeemed or to be redeemed only in part, to the portion of the principal amount of such Security which has been or is to be redeemed. If the Company shall so direct, Securities registered in the name of the Company, any Affiliate or any Subsidiary thereof shall not be included in the Securities selected for redemption.

#### Section 11.4. Notice of Redemption.

Notice of redemption shall be given by first-class mail, postage prepaid, mailed not later than the thirtieth day, and not earlier than the sixtieth day, prior to the Redemption Date, to each Holder of Securities to be redeemed, at the address of such Holder as it appears in the Securities Register.

With respect to Securities of each series to be redeemed, each notice of redemption shall state:

- (a) the Redemption Date;
- (b) the Redemption Price;
- (c) if less than all Outstanding Securities of such particular series and having the same terms are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the particular Securities to be redeemed;
- (d) that on the Redemption Date, the Redemption Price will become due and payable upon each such Security or portion thereof, and that interest thereon, if any, shall cease to accrue on and after said date;
- (e) the place or places where such Securities are to be surrendered for payment of the Redemption Price; and
- (f) that the redemption is for a sinking fund, if such is the case.

Notice of redemption of Securities to be redeemed at the election of the Company shall be given by the Company or, at the Company's request, by the Trustee in the name and at the expense of the Company and shall not be irrevocable. The notice if mailed in the manner herein provided shall be conclusively presumed to have been duly given, whether or not the Holder receives such notice. In any case, a failure to give such notice by mail or any defect in the notice to the Holder of any Security designated for redemption as a whole or in part shall not affect the validity of the proceedings for the redemption of any other Security.

#### Section 11.5. Deposit of Redemption Price.

Prior to 10:00 a.m. New York City time on the Redemption Date specified in the notice of redemption given as provided in Section 11.4, the Company will deposit with the Trustee or with one or more Paying Agents (or if the Company is acting as its own Paying Agent, the Company will segregate and hold in trust as provided in Section 10.3) an amount of money

sufficient to pay the Redemption Price of, and any accrued interest (including Additional Interest) on, all the Securities which are to be redeemed on that date.

**Section 11.6. Payment of Securities Called for Redemption.**

If any notice of redemption has been given as provided in Section 11.4, the Securities or portion of Securities with respect to which such notice has been given shall become due and payable on the date and at the place or places stated in such notice at the applicable Redemption Price. On presentation and surrender of such Securities at a Place of Payment in said notice specified, the said securities or the specified portions thereof shall be paid and redeemed by the Company at the applicable Redemption Price, together with accrued interest (including any Additional Interest) to the Redemption Date; provided, however, that, unless otherwise specified as contemplated by Section 3.1, installments of interest whose Stated Maturity is on or prior to the Redemption Date will be payable to the Holders of such Securities, or one or more Predecessor Securities, registered as such at the close of business on the relevant Record Dates according to their terms and the provisions of Section 3.7.

Upon presentation of any Security redeemed in part only, the Company shall execute and the Trustee shall authenticate and deliver to the Holder thereof, at the expense of the Company, a new Security or Securities of the same series, of authorized denominations, in aggregate principal amount equal to the portion of the Security not redeemed so presented and having the same Original Issue Date, Stated Maturity and terms. If a Global Security is so surrendered, such new Security will also be a new Global Security.

If any Security called for redemption shall not be so paid upon surrender thereof for redemption, the principal of and premium, if any, on such Security shall, until paid, bear interest from the Redemption Date at the rate prescribed therefor in the Security.

**Section 11.7. Right of Redemption of Securities Initially Issued to a USB Trust.**

In the case of the Securities of a series initially issued to a USB Trust, except as otherwise specified as contemplated by Section 3.1, the Company, at its option, may redeem such Securities (i) on or after the date five years after the Original Issue Date of such Securities, in whole at any time or in part from time to time, or (ii) upon the occurrence and during the continuation of a Tax Event, at any time within 90 days following the occurrence of such Tax Event in respect of such USB Trust, in whole (but not in part), in each case at a Redemption Price equal to 100% of the principal amount thereof.

ARTICLE XII  
SINKING FUNDS

Section 12.1. Applicability of Article.

The provisions of this Article shall be applicable to any sinking fund for the retirement of Securities of any series except as otherwise specified as contemplated by Section 3.1 for such Securities.

The minimum amount of any sinking fund payment provided for by the terms of any Securities of any series is herein referred to as a “mandatory sinking fund payment”, and any sinking fund payment in excess of such minimum amount which is permitted to be made by the terms of such Securities of any series is herein referred to as an “optional sinking fund payment”. If provided for by the terms of any Securities of any series, the cash amount of any sinking fund payment may be subject to reduction as provided in Section 12.2. Each sinking fund payment shall be applied to the redemption of Securities of any series as provided for by the terms of such Securities.

Section 12.2. Satisfaction of Sinking Fund Payments with Securities.

In lieu of making all or any part of a mandatory sinking fund payment with respect to any Securities of a series in cash, the Company may at its option, at any time no more than 16 months and no less than 30 days prior to the date on which such sinking fund payment is due, deliver to the Trustee Securities of such series (together with the unmatured coupons, if any, appertaining thereto) theretofore purchased or otherwise acquired by the Company, except Securities of such series that have been redeemed through the application of mandatory or optional sinking fund payments pursuant to the terms of the Securities of such series, accompanied by a Company Order instructing the Trustee to credit such obligations and stating that the Securities of such series were originally issued by the Company by way of bona fide sale or other negotiation for value; provided that the Securities to be so credited have not been previously so credited. The Securities to be so credited shall be received and credited for such purpose by the Trustee at the redemption price for such Securities, as specified in the Securities so to be redeemed, for redemption through operation of the sinking fund and the amount of such sinking fund payment shall be reduced accordingly.

Section 12.3. Redemption of Securities for Sinking Fund.

Not less than 60 days prior to each sinking fund payment date for any series of Securities, the Company will deliver to the Trustee an Officers' Certificate specifying the amount of the next ensuing sinking fund payment for such Securities pursuant to the terms of such Securities, the portion thereof, if any, which is to be satisfied by payment of cash in the currency in which the Securities of such series are payable (except as provided pursuant to Section 3.1) and the portion thereof, if any, which is to be satisfied by delivering and crediting Securities pursuant to Section 12.2 and will also deliver to the Trustee any Securities to be so delivered. Such Officers' Certificate shall be irrevocable and upon its delivery the Company shall be obligated to make the

cash payment or payments therein referred to, if any, on or before the succeeding sinking fund payment date. In the case of the failure of the Company to deliver such Officers' Certificate (or, as required by this Indenture, the Securities and coupons, if any, specified in such Officers' Certificate), the sinking fund payment due on the succeeding sinking fund payment date for such series shall be paid entirely in cash and shall be sufficient to redeem the principal amount of the Securities of such series subject to a mandatory sinking fund payment without the right to deliver or credit securities as provided in Section 12.2 and without the right to make the optional sinking fund payment with respect to such series at such time.

Any sinking fund payment or payments (mandatory or optional) made in cash plus any unused balance of any preceding sinking fund payments made with respect to the Securities of any particular series shall be applied by the Trustee (or by the Company if the Company is acting as its own Paying Agent) on the sinking fund payment date on which such payment is made (or, if such payment is made before a sinking fund payment date, on the sinking fund payment date immediately following the date of such payment) to the redemption of Securities of such series at the Redemption Price specified in such Securities with respect to the sinking fund. Any sinking fund moneys not so applied or allocated by the Trustee (or, if the Company is acting as its own Paying Agent, segregated and held in trust by the Company as provided in Section 10.3) for such series and together with such payment (or such amount so segregated) shall be applied in accordance with the provisions of this Section 12.3. Any and all sinking fund moneys with respect to the Securities of any particular series held by the Trustee (or if the Company is acting as its own Paying Agent, segregated and held in trust as provided in Section 10.3) on the last sinking fund payment date with respect to Securities of such series and not held for the payment or redemption of particular Securities of such series shall be applied by the Trustee (or by the Company if the Company is acting as its own Paying Agent), together with other moneys, if necessary, to be deposited (or segregated) sufficient for the purpose, to the payment of the principal of the Securities of such series at Maturity. The Trustee shall select the Securities to be redeemed upon such sinking fund payment date in the manner specified in Section 11.3 and cause notice of the redemption thereof to be given in the name of and at the expense of the Company in the manner provided in Section 11.4. Such notice having been duly given, the redemption of such Securities shall be made upon the terms and in the manner stated in Section 11.6. On or before each sinking fund payment date, the Company shall pay to the Trustee (or, if the Company is acting as its own Paying Agent, the Company shall segregate and hold in trust as provided in Section 10.3) in cash a sum in the currency in which Securities of such series are payable (except as provided pursuant to Section 3.1) equal to the principal and any interest accrued to the Redemption Date for Securities or portions thereof to be redeemed on such sinking fund payment date pursuant to this Section 12.3.

Neither the Trustee nor the Company shall redeem any Securities of a series with sinking fund moneys or mail any notice of redemption of Securities of such series by operation of the sinking fund for such series during the continuance of a default in payment of interest, if any, on any Securities of such series or of any Event of Default (other than an Event of Default occurring as a consequence of this paragraph) with respect to the Securities of such series, except that if the notice of redemption shall have been provided in accordance with the provisions hereof, the Trustee (or the Company, if the Company is then acting as its own Paying Agent) shall redeem such Securities if cash sufficient for that purpose shall be deposited with the Trustee (or

segregated by the Company) for that purpose in accordance with the terms of this Article XII. Except as aforesaid, any moneys in the sinking fund for such series at the time when any such default or Event of Default shall occur and any moneys thereafter paid into such sinking fund shall, during the continuance of such default or Event of Default, be held as security for the payment of the Securities and coupons, if any, of such series; provided, however, that in case such default or Event of Default shall have been cured or waived herein, such moneys shall thereafter be applied on the next sinking fund payment date for the Securities of such series on which such moneys may be applied pursuant to the provisions of this Section 12.3.

## ARTICLE XIII

### SUBORDINATION OF SECURITIES

#### Section 13.1. Securities Subordinate to Senior and Subordinated Debt.

The Company covenants and agrees, and each Holder of a Security, by its acceptance thereof, likewise covenants and agrees, that, to the extent and in the manner hereinafter set forth in this Article XIII, the payment of the principal of (and premium, if any) and interest (including any Additional Interest) on each and all of the Securities are hereby expressly made subordinate and subject in right of payment to the prior payment in full of all amounts then due and payable in respect of all Senior and Subordinated Debt.

#### Section 13.2. Payment Over of Proceeds Upon Dissolution, Etc.

In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the Company (each such event, if any, herein sometimes referred to as a "Proceeding"), then the holders of Senior and Subordinated Debt shall be entitled to receive payment in full of Allocable Amounts of such Senior and Subordinated Debt, or provision shall be made for such payment in cash or cash equivalents or otherwise in a manner satisfactory to the holders of Senior and Subordinated Debt, before the Holders of the Securities are entitled to receive or retain any payment or distribution of any kind or character, whether in cash, property or securities (including any payment or distribution which may be payable or deliverable by reason of the payment of any other Debt of the Company subordinated to the payment of the Securities, such payment or distribution being hereinafter referred to as a "Junior Subordinated Payment"), on account of principal of (or premium, if any) or interest (including any Additional Interest) on the Securities or on account of the purchase or other acquisition of Securities by the Company or any Subsidiary and to that end the holders of Senior and Subordinated Debt shall be entitled to receive, for application to the payment thereof, any payment or distribution of any kind or character, whether in cash, property or securities, including any Junior Subordinated Payment, which may be payable or deliverable in respect of the Securities in any such Proceeding.

In the event that, notwithstanding the foregoing provisions of this Section 13.2, the Trustee or the Holder of any Security shall have received any payment or distribution of assets of the Company of any kind or character, whether in cash, property or securities, including any Junior Subordinated Payment, before all Allocable Amounts of all Senior and Subordinated Debt

are paid in full or payment thereof is provided for in cash or cash equivalents or otherwise in a manner satisfactory to the holders of Senior and Subordinated Debt, and if such fact shall, at or prior to the time of such payment or distribution, have been made known to the Trustee or, as the case may be, such Holder, then and in such event such payment or distribution shall be paid over or delivered forthwith to the trustee in bankruptcy, receiver, liquidating trustee, custodian, assignee, agent or other Person making payment or distribution of assets of the Company for application to the payment of all Allocable Amounts of all Senior and Subordinated Debt remaining unpaid, to the extent necessary to pay all Allocable Amounts of all Senior and Subordinated Debt in full, after giving effect to any concurrent payment or distribution to or for the holders of Senior and Subordinated Debt.

For purposes of this Article XIII only, the words “any payment or distribution of any kind or character, whether in cash, property or securities” shall not be deemed to include shares of stock of the Company as reorganized or readjusted, or securities of the Company or any other corporation provided for by a plan of reorganization or readjustment which securities are subordinated in right of payment to all then outstanding Senior and Subordinated Debt to substantially the same extent as the Securities are so subordinated as provided in this Article XIII. The consolidation of the Company with, or the merger of the Company into, another Person or the liquidation or dissolution of the Company following the sale of all or substantially all of its properties and assets as an entirety to another Person upon the terms and conditions set forth in Article VIII shall not be deemed a Proceeding for the purposes of this Section 13.2 if the Person formed by such consolidation or into which the Company is merged or the Person which acquires by sale such properties and assets as an entirety, as the case may be, shall, as a part of such consolidation, merger, or sale comply with the conditions set forth in Article VIII.

### Section 13.3. Prior Payment to Senior and Subordinated Debt Upon Acceleration of Securities.

In the event that any Securities are declared due and payable before their Stated Maturity, then and in such event the holders of the Senior and Subordinated Debt outstanding at the time such Securities so become due and payable shall be entitled to receive payment in full of all Allocable Amounts due on or in respect of such Senior and Subordinated Debt (including any amounts due upon acceleration), or provision shall be made for such payment in cash or cash equivalents or otherwise in a manner satisfactory to the holders of Senior and Subordinated Debt, before the Holders of the Securities are entitled to receive any payment or distribution of any kind or character, whether in cash, properties or securities (including any Junior Subordinated Payment) by the Company on account of the principal of (or premium, if any) or interest (including any Additional Interest) on the Securities or on account of the purchase or other acquisition of Securities by the Company or any Subsidiary; provided, however, that nothing in this Section 13.3 shall prevent the satisfaction of any sinking fund payment in accordance with this Indenture or as otherwise specified as contemplated by Section 3.1 for the Securities of any series by delivering and crediting pursuant to Section 12.2 or as otherwise specified as contemplated by Section 3.1 for the Securities of any series Securities which have been acquired (upon redemption or otherwise) prior to such declaration of acceleration.

In the event that, notwithstanding the foregoing, the Company shall make any payment to the Trustee or the Holder of any Security prohibited by the foregoing provisions of this Section



13.3, and if such fact shall, at or prior to the time of such payment, have been made known to the Trustee or, as the case may be, such Holder, then and in such event such payment shall be paid over and delivered forthwith to the Company.

The provisions of this Section 13.3 shall not apply to any payment with respect to which Section 13.2 would be applicable.

Section 13.4. No Payment When Senior and Subordinated Debt in Default.

(a) In the event and during the continuation of any default in the payment of principal of (or premium, if any) or interest on any Senior and Subordinated Debt, or in the event that any event of default with respect to any Senior and Subordinated Debt shall have occurred and be continuing and shall have resulted in such Senior and Subordinated Debt becoming or being declared due and payable prior to the date on which it would otherwise have become due and payable, unless and until such event of default shall have been cured or waived or shall have ceased to exist and such acceleration shall have been rescinded or annulled, or (b) in the event any judicial proceeding shall be pending with respect to any such default in payment or such event or default, then no payment or distribution of any kind or character, whether in cash, properties or securities (including any Junior Subordinated Payment) shall be made by the Company on account of principal of (or premium, if any) or interest (including any Additional Interest), if any, on the Securities or on account of the purchase or other acquisition of Securities by the Company or any Subsidiary, in each case unless and until all Allocable Amounts of such Senior and Subordinated Debt are paid in full; provided, however, that nothing in this Section 13.4 shall prevent the satisfaction of any sinking fund payment in accordance with this Indenture or as otherwise specified as contemplated by Section 3.1 for the Securities of any series by delivering and crediting pursuant to Section 12.2 or as otherwise specified as contemplated by Section 3.1 for the Securities of any series Securities which have been acquired (upon redemption or otherwise) prior to such default in payment or event of default.

In the event that, notwithstanding the foregoing, the Company shall make any payment to the Trustee or the Holder of any Security prohibited by the foregoing provisions of this Section 13.4, and if such fact shall, at or prior to the time of such payment, have been made known to the Trustee or, as the case may be, such Holder, then and in such event such payment shall be paid over and delivered forthwith to the Company.

The provisions of this Section 13.4 shall not apply to any payment with respect to which Section 13.2 would be applicable.

Section 13.5. Payment Permitted If No Default.

Nothing contained in this Article XIII or elsewhere in this Indenture or in any of the Securities shall prevent (a) the Company, at any time except during the pendency of any Proceeding referred to in Section 13.2 or under the conditions described in Sections 13.3 and 13.4, from making payments at any time of principal of (and premium, if any) or interest (including Additional Interest) on the Securities, or (b) the application by the Trustee of any money deposited with it hereunder to the payment of or on account of the principal of (and

premium, if any) or interest (including any Additional Interest) on the Securities or the retention of such payment by the Holders, if, at the time of such application by the Trustee, it did not have knowledge that such payment would have been prohibited by the provisions of this Article XIII.

**Section 13.6. Subrogation to Rights of Holders of Senior and Subordinated Debt.**

Subject to the payment in full of all amounts due or to become due on all Senior and Subordinated Debt, or the provision for such payment in cash or cash equivalents or otherwise in a manner satisfactory to the holders of Senior and Subordinated Debt, the Holders of the Securities shall be subrogated to the extent of the payments or distributions made to the holders of such Senior and Subordinated Debt pursuant to the provisions of this Article XIII (equally and ratably with the holders of all indebtedness of the Company which by its express terms is subordinated to Senior and Subordinated Debt of the Company to substantially the same extent as the Securities are subordinated to the Senior and Subordinated Debt and is entitled to like rights of subrogation by reason of any payments or distributions made to holders of such Senior and Subordinated Debt) to the rights of the holders of such Senior and Subordinated Debt to receive payments and distributions of cash, property and securities applicable to the Senior and Subordinated Debt until the principal of (and premium, if any) and interest on the Securities shall be paid in full. For purposes of such subrogation, no payments or distributions to the holders of the Senior and Subordinated Debt of any cash, property or securities to which the Holders of the Securities or the Trustee would be entitled except for the provisions of this Article, and no payments over pursuant to the provisions of this Article XIII to the holders of Senior and Subordinated Debt by Holders of the Securities or the Trustee, shall, as among the Company, its creditors other than holders of Senior and Subordinated Debt, and the Holders of the Securities, be deemed to be a payment or distribution by the Company to or on account of the Senior and Subordinated Debt.

**Section 13.7. Provisions Solely to Define Relative Rights.**

The provisions of this Article XIII are and are intended solely for the purpose of defining the relative rights of the Holders of the Securities on the one hand and the holders of Senior and Subordinated Debt on the other hand. Nothing contained in this Article XIII or elsewhere in this Indenture or in the Securities is intended to or shall (a) impair, as between the Company and the Holders of the Securities, the obligations of the Company, which are absolute and unconditional, to pay to the Holders of the Securities the principal of (and premium, if any) and interest (including any Additional Interest) on the Securities as and when the same shall become due and payable in accordance with their terms; or (b) affect the relative rights against the Company of the Holders of the Securities and creditors of the Company other than their rights in relation to the holders of Senior and Subordinated Debt; or (c) prevent the Trustee or the Holder of any Security from exercising all remedies otherwise permitted by applicable law upon default under this Indenture including, without limitation, filing and voting claims in any Proceeding, subject to the rights, if any, under this Article XIII of the holders of Senior and Subordinated Debt to receive cash, property and securities otherwise payable or deliverable to the Trustee or such Holder.

#### Section 13.8. Trustee to Effectuate Subordination.

Each Holder of a Security by his or her acceptance thereof authorizes and directs the Trustee on his or her behalf to take such action as may be necessary or appropriate to acknowledge or effectuate the subordination provided in this Article XIII and appoints the Trustee his or her attorney-in-fact for any and all such purposes.

#### Section 13.9. No Waiver of Subordination Provisions.

No right of any present or future holder of any Senior and Subordinated Debt to enforce subordination as herein provided shall at any time in any way be prejudiced or impaired by any act or failure to act on the part of the Company or by any act or failure to act, in good faith, by any such holder, or by any noncompliance by the Company with the terms, provisions and covenants of this Indenture, regardless of any knowledge thereof that any such holder may have or be otherwise charged with.

Without in any way limiting the generality of the immediately preceding paragraph, the holders of Senior and Subordinated Debt may, at any time and from to time, without the consent of or notice to the Trustee or the Holders of the Securities, without incurring responsibility to the Holders of the Securities and without impairing or releasing the subordination provided in this Article or the obligations hereunder of the Holders of the Securities to the holders of Senior and Subordinated Debt, do any one or more of the following: (i) change the manner, place or terms of payment or extend the time of payment of, or renew or alter, Senior and Subordinated Debt, or otherwise amend or supplement in any manner Senior and Subordinated Debt or any instrument evidencing the same or any agreement under which Senior and Subordinated Debt is outstanding; (ii) sell, exchange, release or otherwise deal with any property pledged, mortgaged or otherwise securing Senior and Subordinated Debt; (iii) release any Person liable in any manner for the collection of Senior and Subordinated Debt; and (iv) exercise or refrain from exercising any rights against the Company and any other Person.

#### Section 13.10. Notice to Trustee.

The Company shall give prompt written notice to the Trustee of any fact known to the Company which would prohibit the making of any payment to or by the Trustee in respect of the Securities. Notwithstanding the provisions of this Article XIII or any other provision of this Indenture, the Trustee shall not be charged with knowledge of the existence of any facts which would prohibit the making of any payment to or by the Trustee in respect of the Securities, unless and until the Trustee shall have received written notice thereof from the Company or a holder of Senior and Subordinated Debt or from any trustee, agent or representative therefor; provided, however, that if the Trustee shall not have received the notice provided for in this Section 13.10 at least two Business Days prior to the date upon which by the terms hereof any monies may become payable for any purpose (including, without limitation, the payment of the principal of (and premium, if any) or interest (including any Additional Interest) on any Security), then, anything herein contained to the contrary notwithstanding, the Trustee shall have full power and authority to receive such monies and to apply the same to the purpose for which they

were received and shall not be affected by any notice to the contrary which may be received by it within two Business Days prior to such date.

Subject to the provisions of Section 6.1, the Trustee shall be entitled to rely on the delivery to it of a written notice by a Person representing himself to be a holder of Senior and Subordinated Debt (or a trustee therefor) to establish that such notice has been given by a holder of Senior and Subordinated Debt (or a trustee therefor). In the event that the Trustee determines in good faith that further evidence is required with respect to the right of any Person as a holder of Senior and Subordinated Debt to participate in any payment or distribution pursuant to this Article, the Trustee may request such Person to furnish evidence to the reasonable satisfaction of the Trustee as to the amount of Senior and Subordinated Debt held by such Person, the extent to which such Person is entitled to participate in such payment or distribution and any other facts pertinent to the rights of such Person under this Article, and if such evidence is not furnished, the Trustee may defer any payment to such Person pending judicial determination as to the right of such Person to receive such payment.

Section 13.11. Reliance on Judicial Order or Certificate of Liquidating Agent.

Upon any payment or distribution of assets of the Company referred to in this Article XIII, the Trustee, subject to the provisions of Section 6.1, and the Holders of the Securities shall be entitled to rely upon any order or decree entered by any court of competent jurisdiction in which such Proceeding is pending, or a certificate of the trustee in bankruptcy, receiver, liquidating trustee, custodian, assignee for the benefit of creditors, agent or other Person making such payment or distribution, delivered to the Trustee or to the Holders of Securities, for the purpose of ascertaining the Persons entitled to participate in such payment or distribution, the holders of the Senior and Subordinated Debt and other indebtedness of the Company, the amount thereof or payable thereon, the amount or amounts paid or distributed thereon and all other facts pertinent thereto or to this Article XIII.

Section 13.12. Trustee Not Fiduciary for Holders of Senior and Subordinated Debt.

The Trustee, in its capacity as trustee under this Indenture, shall not be deemed to owe any fiduciary duty to the holders of Senior and Subordinated Debt and shall not be liable to any such holders if it shall in good faith mistakenly pay over or distribute to Holders of Securities or to the Company or to any other Person cash, property or securities to which any holders of Senior and Subordinated Debt shall be entitled by virtue of this Article or otherwise.

Section 13.13. Rights of Trustee as Holder of Senior and Subordinated Debt; Preservation of Trustee's Rights.

The Trustee in its individual capacity shall be entitled to all the rights set forth in this Article XIII with respect to any Senior and Subordinated Debt which may at any time be held by it, to the same extent as any other holder of Senior and Subordinated Debt, and nothing in this Indenture shall deprive the Trustee of any of its rights as such holder.

Section 13.14. Article Applicable to Paying Agents.

In case at any time any Paying Agent other than the Trustee shall have been appointed by the Company and be then acting hereunder, the term "Trustee" as used in this Article XIII shall in such case (unless the context otherwise requires) be construed as extending to and including such Paying Agent within its meaning as fully for all intents and purposes as if such Paying Agent were named in this Article XIII in addition to or in place of the Trustee.

Section 13.15. Certain Conversions or Exchanges Deemed Payment.

For the purposes of this Article XIII only, (a) the issuance and delivery of junior securities upon conversion or exchange of Securities shall not be deemed to constitute a payment or distribution on account of the principal of (or premium, if any) or interest (including any Additional Interest) on Securities or on account of the purchase or other acquisition of Securities, and (b) the payment, issuance or delivery of cash, property or securities (other than junior securities) upon conversion or exchange of a Security shall be deemed to constitute payment on account of the principal of such security. For the purposes of this Section 13.15, the term "junior securities" means (i) shares of any stock of any class of the Company and (ii) securities of the Company which are subordinated in right of payment to all Senior and Subordinated Debt which may be outstanding at the time of issuance or delivery of such securities to substantially the same extent as, or to a greater extent than, the Securities are so subordinated as provided in this Article XIII.

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This instrument may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed, and their respective corporate seals to be hereunto affixed and attested, all as of the day and year first above written.

U.S. BANCORP

By: /s/ Daryl N. Bible

Its: Executive Vice President and Treasurer

Attest:

By /s/ Laura F. Bednarski

Its Assistant Secretary

DELAWARE TRUST COMPANY, NATIONAL  
ASSOCIATION  
as Trustee

By: /s/ Steve Finklea

Its: Vice President

Attest:

By /s/ Sterling C. Correia

Its /s/ Vice President

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RESTATED  
CERTIFICATE OF TRUST  
OF  
USB CAPITAL VII

THIS RESTATED CERTIFICATE OF TRUST of USB CAPITAL VII (the "Trust"), dated as of April 28, 2005, is being duly executed and filed by the undersigned, as trustees, to amend and restate under the Delaware Statutory Trust Act (12 Del. C. (Section) 3801 et seq.) the Certificate of Trust of the Trust which was originally filed on May 8, 2001.

The Certificate of Trust is hereby amended and restated in its entirety to read as follows:

1. NAME. The name of the statutory trust is USB Capital VII.
2. DELAWARE TRUSTEE. The name and business address of the trustee of the Trust with a principal place of business in the State of Delaware are Delaware Trust Company, National Association, 300 Delaware Avenue, 9th Floor, Wilmington, Delaware 19801.
3. EFFECTIVE DATE. This Restated Certificate of Trust shall be effective upon filing.

IN WITNESS WHEREOF, the undersigned, being the trustees of the Trust, have executed this Restated Certificate of Trust as of the date first above written.

DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION,  
as Trustee

By: /s/ Steve Finklea  
Name: Steve Finklea  
Title: Vice President

/s/ David M. Moffet  
David M. Moffett, as Administrative Trustee

/s/ Daryl N. Bible  
Daryl N. Bible, as Administrative Trustee

/s/ Lee R. Mitau  
Lee R. Mitau, as Administrative Trustee





## CERTIFICATE OF TRUST

OF

## USB CAPITAL VIII

THIS CERTIFICATE OF TRUST of USB CAPITAL VIII (the "Trust"), dated as of April 28, 2005, is being duly executed and filed by the undersigned, as trustees, to form a statutory trust under the Delaware Statutory Trust Act (12 Del. C. (Section) 3801 et seq.).

1. NAME. The name of the statutory trust being formed hereby is USB Capital VIII.

2. DELAWARE TRUSTEE. The name and business address of the trustee of the Trust with a principal place of business in the State of Delaware are Delaware Trust Company, National Association, 300 Delaware Avenue, 9th Floor, Wilmington, Delaware 19801.

3. EFFECTIVE DATE. This Certificate of Trust shall be effective upon filing.

IN WITNESS WHEREOF, the undersigned, being the trustees of the Trust, have executed this Certificate of Trust as of the date first above written.

DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION  
as Trustee

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President

/s/ David M. Moffet

David M. Moffett, as Administrative Trustee

/s/ Daryl N. Bible

Daryl N. Bible, as Administrative Trustee

/s/ Lee R. Mitau

Lee R. Mitau, as Administrative Trustee



CERTIFICATE OF TRUST

OF

USB CAPITAL IX

THIS CERTIFICATE OF TRUST of USB CAPITAL IX (the "Trust"), dated as of April 28, 2005, is being duly executed and filed by the undersigned, as trustees, to form a statutory trust under the Delaware Statutory Trust Act (12 Del. C. (Section) 3801 et seq.).

1. NAME. The name of the statutory trust being formed hereby is USB Capital IX.

2. DELAWARE TRUSTEE. The name and business address of the trustee of the Trust with a principal place of business in the State of Delaware are Delaware Trust Company, National Association, 300 Delaware Avenue, 9th Floor, Wilmington, Delaware 19801.

3. EFFECTIVE DATE. This Certificate of Trust shall be effective upon filing.

IN WITNESS WHEREOF, the undersigned, being the trustees of the Trust, have executed this Certificate of Trust as of the date first above written.

DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION  
as Trustee

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President

/s/ David M. Moffet

David M. Moffett, as Administrative Trustee

/s/ Daryl N. Bible

Daryl N. Bible, as Administrative Trustee

/s/ Lee R. Mitau

Lee R. Mitau, as Administrative Trustee



CERTIFICATE OF TRUST

OF

USB CAPITAL X

THIS CERTIFICATE OF TRUST of USB CAPITAL X (the "Trust"), dated as of April 28, 2005, is being duly executed and filed by the undersigned, as trustees, to form a statutory trust under the Delaware Statutory Trust Act (12 Del. C. (Section) 3801 et seq.).

1. NAME. The name of the statutory trust being formed hereby is USB Capital X.

2. DELAWARE TRUSTEE. The name and business address of the trustee of the Trust with a principal place of business in the State of Delaware are Delaware Trust Company, National Association, 300 Delaware Avenue, 9th Floor, Wilmington, Delaware 19801.

3. EFFECTIVE DATE. This Certificate of Trust shall be effective upon filing.

IN WITNESS WHEREOF, the undersigned, being the trustees of the Trust, have executed this Certificate of Trust as of the date first above written.

DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION  
as Trustee

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President

/s/ David M. Moffet

David M. Moffett, as Administrative Trustee

/s/ Daryl N. Bible

Daryl N. Bible, as Administrative Trustee

/s/ Lee R. Mitau

Lee R. Mitau, as Administrative Trustee



CERTIFICATE OF TRUST

OF

USB CAPITAL XI

THIS CERTIFICATE OF TRUST of USB CAPITAL XI (the "Trust"), dated as of April 28, 2005, is being duly executed and filed by the undersigned, as trustees, to form a statutory trust under the Delaware Statutory Trust Act (12 Del. C. (Section) 3801 et seq.).

1. NAME. The name of the statutory trust being formed hereby is USB Capital XI.

2. DELAWARE TRUSTEE. The name and business address of the trustee of the Trust with a principal place of business in the State of Delaware are Delaware Trust Company, National Association, 300 Delaware Avenue, 9th Floor, Wilmington, Delaware 19801.

3. EFFECTIVE DATE. This Certificate of Trust shall be effective upon filing.

IN WITNESS WHEREOF, the undersigned, being the trustees of the Trust, have executed this Certificate of Trust as of the date first above written.

DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION  
as Trustee

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President

/s/ David M. Moffet

David M. Moffett, as Administrative Trustee

/s/ Daryl N. Bible

Daryl N. Bible, as Administrative Trustee

/s/ Lee R. Mitau

Lee R. Mitau, as Administrative Trustee





CERTIFICATE OF TRUST

OF

USB CAPITAL XII

THIS CERTIFICATE OF TRUST of USB CAPITAL XII (the "Trust"), dated as of April 28, 2005, is being duly executed and filed by the undersigned, as trustees, to form a statutory trust under the Delaware Statutory Trust Act (12 Del. C. (Section) 3801 et seq.).

1. NAME. The name of the statutory trust being formed hereby is USB Capital XII.

2. DELAWARE TRUSTEE. The name and business address of the trustee of the Trust with a principal place of business in the State of Delaware are Delaware Trust Company, National Association, 300 Delaware Avenue, 9th Floor, Wilmington, Delaware 19801.

3. EFFECTIVE DATE. This Certificate of Trust shall be effective upon filing.

IN WITNESS WHEREOF, the undersigned, being the trustees of the Trust, have executed this Certificate of Trust as of the date first above written.

DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION  
as Trustee

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President

/s/ David M. Moffet

David M. Moffett, as Administrative Trustee

/s/ Daryl N. Bible

Daryl N. Bible, as Administrative Trustee

/s/ Lee R. Mitau

Lee R. Mitau, as Administrative Trustee



CERTIFICATE OF TRUST

OF

USB CAPITAL XIII

THIS CERTIFICATE OF TRUST of USB CAPITAL XIII (the "Trust"), dated as of April 28, 2005, is being duly executed and filed by the undersigned, as trustees, to form a statutory trust under the Delaware Statutory Trust Act (12 Del. C. (Section) 3801 et seq.).

1. NAME. The name of the statutory trust being formed hereby is USB Capital XIII.

2. DELAWARE TRUSTEE. The name and business address of the trustee of the Trust with a principal place of business in the State of Delaware are Delaware Trust Company, National Association, 300 Delaware Avenue, 9th Floor, Wilmington, Delaware 19801.

3. EFFECTIVE DATE. This Certificate of Trust shall be effective upon filing.

IN WITNESS WHEREOF, the undersigned, being the trustees of the Trust, have executed this Certificate of Trust as of the date first above written.

DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION  
as Trustee

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President

/s/ David M. Moffet

David M. Moffett, as Administrative Trustee

/s/ Daryl N. Bible

Daryl N. Bible, as Administrative Trustee

/s/ Lee R. Mitau

Lee R. Mitau, as Administrative Trustee



CERTIFICATE OF TRUST

OF

USB CAPITAL XIV

THIS CERTIFICATE OF TRUST of USB CAPITAL XIV (the "Trust"), dated as of April 28, 2005, is being duly executed and filed by the undersigned, as trustees, to form a statutory trust under the Delaware Statutory Trust Act (12 Del. C. (Section) 3801 et seq.).

1. NAME. The name of the statutory trust being formed hereby is USB Capital XIV.

2. DELAWARE TRUSTEE. The name and business address of the trustee of the Trust with a principal place of business in the State of Delaware are Delaware Trust Company, National Association, 300 Delaware Avenue, 9th Floor, Wilmington, Delaware 19801.

3. EFFECTIVE DATE. This Certificate of Trust shall be effective upon filing.

IN WITNESS WHEREOF, the undersigned, being the trustees of the Trust, have executed this Certificate of Trust as of the date first above written.

DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION  
as Trustee

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President

/s/ David M. Moffet

David M. Moffett, as Administrative Trustee

/s/ Daryl N. Bible

Daryl N. Bible, as Administrative Trustee

/s/ Lee R. Mitau

Lee R. Mitau, as Administrative Trustee



CERTIFICATE OF TRUST

OF

USB CAPITAL XV

THIS CERTIFICATE OF TRUST of USB CAPITAL XV (the "Trust"), dated as of April 28, 2005, is being duly executed and filed by the undersigned, as trustees, to form a statutory trust under the Delaware Statutory Trust Act (12 Del. C. (Section) 3801 et seq.).

1. NAME. The name of the statutory trust being formed hereby is USB Capital XV.

2. DELAWARE TRUSTEE. The name and business address of the trustee of the Trust with a principal place of business in the State of Delaware are Delaware Trust Company, National Association, 300 Delaware Avenue, 9th Floor, Wilmington, Delaware 19801.

3. EFFECTIVE DATE. This Certificate of Trust shall be effective upon filing.

IN WITNESS WHEREOF, the undersigned, being the trustees of the Trust, have executed this Certificate of Trust as of the date first above written.

DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION  
as Trustee

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President

/s/ David M. Moffet

David M. Moffett, as Administrative Trustee

/s/ Daryl N. Bible

Daryl N. Bible, as Administrative Trustee

/s/ Lee R. Mitau

Lee R. Mitau, as Administrative Trustee





CERTIFICATE OF TRUST

OF

USB CAPITAL XVI

THIS CERTIFICATE OF TRUST of USB CAPITAL XVI (the "Trust"), dated as of April 28, 2005, is being duly executed and filed by the undersigned, as trustees, to form a statutory trust under the Delaware Statutory Trust Act (12 Del. C. (Section) 3801 et seq.).

1. NAME. The name of the statutory trust being formed hereby is USB Capital XVI.

2. DELAWARE TRUSTEE. The name and business address of the trustee of the Trust with a principal place of business in the State of Delaware are Delaware Trust Company, National Association, 300 Delaware Avenue, 9th Floor, Wilmington, Delaware 19801.

3. EFFECTIVE DATE. This Certificate of Trust shall be effective upon filing.

IN WITNESS WHEREOF, the undersigned, being the trustees of the Trust, have executed this Certificate of Trust as of the date first above written.

DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION  
as Trustee

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President

/s/ David M. Moffet

David M. Moffett, as Administrative Trustee

/s/ Daryl N. Bible

Daryl N. Bible, as Administrative Trustee

/s/ Lee R. Mitau

Lee R. Mitau, as Administrative Trustee



## FIRST AMENDED AND RESTATED TRUST AGREEMENT

This FIRST AMENDED AND RESTATED TRUST AGREEMENT (this “Trust Agreement”), dated as of April 27, 2005 is entered into by and among (i) U.S. Bancorp, a Delaware corporation (the “Depositor”), (ii) Delaware Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America, as trustee of the Trust (the “Replacement Trustee”), and (iii) David M. Moffett, Daryl N. Bible and Lee R. Mitau, each an individual employed by the Depositor, as administrative trustees of the Trust (each of such trustees in (iii), an “Administrative Trustee” and collectively with the Replacement Trustee, the “Trustees”).

## RECITALS

WHEREAS, the Sponsor established USB Capital VII (the “Trust”), a statutory trust under the Delaware Statutory Trust Act (as defined, together with other capitalized terms, herein) pursuant to a Trust Agreement dated as of May 8, 2001 (the “Original Trust Agreement”), among the Depositor, the Administrative Trustees and Wilmington Trust Company as trustee, and a Certificate of Trust (the “Certificate of Trust”) filed with the Secretary of State of the State of Delaware on May 8, 2001;

WHEREAS, Wilmington Trust Company was removed and replaced by the Depositor with the Replacement Trustee; and

WHEREAS, the parties hereto, by this Trust Agreement, amend and restate each and every term and provision of the Original Trust Agreement;

NOW, THEREFORE, the Depositor and the Trustees hereby agree as follows:

1. The Trust created hereby shall be known as “USB Capital VII”, in which name the Trustees, or the Depositor to the extent provided herein, may conduct the business of the Trust, make and execute contracts, and sue and be sued.

2. The Depositor has assigned, transferred, conveyed and set over to the Trustees, the sum of \$10. The Trustees hereby acknowledge receipt of such amount in trust from the Depositor, which amount shall constitute the initial trust estate. The Trustees hereby declare that they will hold the trust estate in trust for the Depositor. It is the intention of the parties hereto that the Trust created hereby constitute a statutory trust under Chapter 38 of Title 12 of the Delaware Code, 12 Del. C. Section 3801 et seq. (the “Delaware Statutory Trust Act”), and that this document constitute the governing instrument of the Trust. The Trustees hereby are authorized and directed to execute and file a restated certificate of trust with the Secretary of the State of Delaware in accordance with the provisions of the Delaware Statutory Trust Act.

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3. The Depositor and the Trustees will enter into an Amended and Restated Trust Agreement, satisfactory to each such party and substantially in the form to be included as an exhibit to the 1933 Act Registration Statement referred to below, to provide for the contemplated operation of the Trust created hereby and the issuance of the Capital Securities and the Common Securities referred to therein. Prior to the execution and delivery of such Amended and Restated Trust Agreement, the Trustees shall not have any duty or obligation hereunder or with respect to the trust estate, except as otherwise required by applicable law or as may be necessary to obtain prior to such execution and delivery any licenses, consents or approvals required by applicable law or otherwise.

4. The Trustees hereby authorize and direct the Depositor, as an agent of the Trust (i) to file with the Securities and Exchange Commission (the "Commission") and execute, in each case on behalf of the Trust, (a) a Registration Statement on Form S-3 (the "1933 Act Registration Statement"), including any pre-effective or post-effective amendments to the 1933 Act Registration Statement, relating to the registration under the Securities Act of 1933, as amended, of the Capital Securities of the Trust and certain other securities and (b) a Registration Statement on Form 8-A (the "1934 Act Registration Statement") (including all pre-effective and post-effective amendments thereto) relating to the registration of the Capital Securities of the Trust under Section 12(b) of the Securities Exchange Act of 1934, as amended; (ii) to file with the New York Stock Exchange (the "Exchange") and execute on behalf of the Trust a listing application and all other applications, statements, certificates, agreements and other instruments as shall be necessary or desirable to cause the Capital Securities to be listed on the Exchange; (iii) to file and execute on behalf of the Trust such applications, reports, surety bonds, irrevocable consents, appointments of attorney for service of process and other papers and documents as shall be necessary or desirable to register the Capital Securities under the securities or blue sky laws of such jurisdictions as the Depositor, on behalf of the Trust, may deem necessary or desirable; (iv) to execute and deliver letters or documents to, or instruments for filing with, a depository relating to the Capital Securities of the Trust, and (v) to execute on behalf of the Trust an underwriting agreement relating to the Capital Securities, among the Trust, the Depositor and the several underwriters named therein, substantially in the form included as an exhibit to the 1933 Act Registration Statement. In the event that any filing referred to above is required by the rules and regulations of the Commission, the Exchange or state securities or blue sky laws to be executed on behalf of the Trust by one or more of the Trustees, each of the Trustees, in its or his capacity as Trustee of the Trust, is hereby authorized and, to the extent so required, directed to join in any such filing and to execute on behalf of the Trust any and all of the foregoing, it being understood that Delaware Trust Company, National Association, in its capacity as Trustee of the Trust, shall not be required to join in any such filing or execute on behalf of the Trust any such document unless required by the rules and regulations of the Commission, the Exchange or state securities or blue sky laws. In connection with the filings referred to above, the Depositor and David M. Moffett, Daryl N. Bible and Lee R. Mitau, each an administrative trustee, solely in their capacities as Trustees of the Trust, hereby constitutes and appoints David M. Moffett, Daryl N. Bible and Lee R. Mitau, and each of them, as its or his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for the Depositor or such Trustee or in the Depositor's or such Trustee's name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to any such filings (including the 1933 Act Registration Statement and the 1934 Act Registration Statement) and to file the same,

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with all exhibits thereto and other documents in connection therewith, with the Commission, the Exchange and administrators of state securities or blue sky laws, granting unto said attorneys-in-fact and agents full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as the Depositor or such Trustee might or could do in person, thereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or their respective substitute or substitutes, shall do or cause to be done by virtue thereof.

5. This Trust Agreement may be executed in one or more counterparts.

6. The number of Trustees initially shall be four (4) and thereafter the number of the Trustees shall be such number as shall be fixed from time to time by a written instrument signed by the Depositor which may increase or decrease the number of Trustees; provided, however, that to the extent required by the Delaware Statutory Trust Act, one Trustee shall be either a natural person who is a resident of the State of Delaware, or, if not a natural person, an entity which has its principal place of business in the State of Delaware and otherwise meets the requirements of applicable Delaware law. Subject to the foregoing, the Depositor is entitled to appoint or remove without cause any Trustee at any time. The Trustees may resign upon thirty days' prior written notice to the Depositor.

7. This Trust Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware (without regard to conflict of laws principles).

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

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

(c) The Depositor agrees, to the fullest extent permitted by applicable law, (i) to indemnify and hold harmless each Fiduciary Indemnified Person from and against any loss,

damage, liability, tax, penalty, expense or claim of any kind or nature whatsoever incurred by or asserted against the Fiduciary Indemnified Persons by reason of the creation, operation or termination of the Trust or the transactions contemplated by this Trust Agreement, except that no Fiduciary Indemnified Person shall be entitled to be indemnified in respect of any loss, damage or claim incurred by the Fiduciary Indemnified Persons by reason of gross negligence or willful misconduct with respect to such acts or omissions, and (ii) to advance expenses (including legal fees) incurred by a Fiduciary Indemnified Person in defending any claim, demand, action, suit or proceeding shall, from time to time, prior to the final disposition of such claim, demand, action, suit or proceeding, upon receipt by the Trust of an undertaking by or on behalf of such Fiduciary Indemnified Persons to repay such amount if it shall be determined that such Fiduciary Indemnified Person is not entitled to be indemnified as authorized in the preceding subsection.

(d) The provisions of this Section shall survive the termination of this Trust Agreement or the earlier resignation or removal of the Fiduciary Indemnified Persons.

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

DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION,  
as Trustee

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President

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U.S. BANCORP, as Depositor

By: /s/ Laura F. Bednarski

Name: Laura F. Bednarski

Title: Vice President

/s/ David M. Moffet

David M. Moffett, as Administrative Trustee

/s/ Daryl N. Bible

Daryl N. Bible, as Administrative Trustee

/s/ Lee R. Mitau

Lee R. Mitau, as Administrative Trustee





## TRUST AGREEMENT OF

## USB CAPITAL VIII

This TRUST AGREEMENT of USB CAPITAL VIII (the "Trust"), dated as of April 27, 2005, among (i) U.S. Bancorp, a Delaware corporation (the "Depositor"), (ii) Delaware Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America, as trustee of the Trust, and (iii) David M. Moffett, Daryl N. Bible and Lee R. Mitau, each an individual employed by the Depositor, as administrative trustees of the Trust (each of such trustees in (ii) and (iii), a "Trustee" and collectively, the "Trustees"). The Depositor and the Trustees hereby agree as follows:

1. The Trust created hereby shall be known as "USB Capital VIII", in which name the Trustees, or the Depositor to the extent provided herein, may conduct the business of the Trust, make and execute contracts, and sue and be sued.
  2. The Depositor hereby assigns, transfers, conveys and sets over to the Trustees, the sum of \$10. The Trustees hereby acknowledge receipt of such amount in trust from the Depositor, which amount shall constitute the initial trust estate. The Trustees hereby declare that they will hold the trust estate in trust for the Depositor. It is the intention of the parties hereto that the Trust created hereby constitute a statutory trust under Chapter 38 of Title 12 of the Delaware Code, 12 Del. C. Section 3801 et seq. (the "Delaware Statutory Trust Act"), and that this document constitute the governing instrument of the Trust. The Trustees hereby are authorized and directed to execute and file a certificate of trust with the Secretary of the State of Delaware in accordance with the provisions of the Delaware Statutory Trust Act.
  3. The Depositor and the Trustees will enter into an Amended and Restated Trust Agreement, satisfactory to each such party and substantially in the form to be included as an exhibit to the 1933 Act Registration Statement referred to below, to provide for the contemplated operation of the Trust created hereby and the issuance of the Capital Securities and the Common Securities referred to therein. Prior to the execution and delivery of such Amended and Restated Trust Agreement, the Trustees shall not have any duty or obligation hereunder or with respect to the trust estate, except as otherwise required by applicable law or as may be necessary to obtain prior to such execution and delivery any licenses, consents or approvals required by applicable law or otherwise.
  4. The Trustees hereby authorize and direct the Depositor, as an agent of the Trust (i) to file with the Securities and Exchange Commission (the "Commission") and execute, in each case on behalf of the Trust, (a) a Registration Statement on Form S-3 (the "1933 Act Registration Statement"), including any pre-effective or post-effective amendments to the 1933 Act Registration Statement, relating to the registration under the Securities Act of 1933, as amended, of the Capital Securities of the Trust and certain other securities and (b) a Registration Statement on Form 8-A (the "1934 Act Registration Statement") (including all pre-effective and post-effective amendments thereto) relating to the registration of the Capital Securities of the Trust under Section 12(b) of the Securities Exchange Act of 1934, as amended; (ii) to file with the New York Stock Exchange (the "Exchange") and execute on behalf of the Trust a listing application and all other applications, statements, certificates, agreements and other instruments as shall be necessary or desirable to cause the Capital Securities to be listed on the Exchange; (iii) to file and execute on behalf of the Trust such applications, reports, surety bonds, irrevocable consents, appointments of attorney for service of process and other papers and documents as shall be necessary or desirable to register the Capital Securities under the securities or blue sky laws of such
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jurisdictions as the Depositor, on behalf of the Trust, may deem necessary or desirable; (iv) to execute and deliver letters or documents to, or instruments for filing with, a depository relating to the Capital Securities of the Trust, and (v) to execute on behalf of the Trust an underwriting agreement relating to the Capital Securities, among the Trust, the Depositor and the several underwriters named therein, substantially in the form included as an exhibit to the 1933 Act Registration Statement. In the event that any filing referred to above is required by the rules and regulations of the Commission, the Exchange or state securities or blue sky laws to be executed on behalf of the Trust by one or more of the Trustees, each of the Trustees, in its or his capacity as Trustee of the Trust, is hereby authorized and, to the extent so required, directed to join in any such filing and to execute on behalf of the Trust any and all of the foregoing, it being understood that Delaware Trust Company, National Association, in its capacity as Trustee of the Trust, shall not be required to join in any such filing or execute on behalf of the Trust any such document unless required by the rules and regulations of the Commission, the Exchange or state securities or blue sky laws. In connection with the filings referred to above, the Depositor and David M. Moffett, Daryl N. Bible and Lee R. Mitau, each an administrative trustee, solely in their capacities as Trustees of the Trust, hereby constitutes and appoints David M. Moffett, Daryl N. Bible and Lee R. Mitau, and each of them, as its or his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for the Depositor or such Trustee or in the Depositor's or such Trustee's name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to any such filings (including the 1933 Act Registration Statement and the 1934 Act Registration Statement) and to file the same, with all exhibits thereto and other documents in connection therewith, with the Commission, the Exchange and administrators of state securities or blue sky laws, granting unto said attorneys-in-fact and agents full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as the Depositor or such Trustee might or could do in person, thereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or their respective substitute or substitutes, shall do or cause to be done by virtue thereof.

5. This Trust Agreement may be executed in one or more counterparts.

6. The number of Trustees initially shall be four (4) and thereafter the number of the Trustees shall be such number as shall be fixed from time to time by a written instrument signed by the Depositor which may increase or decrease the number of Trustees; provided, however, that to the extent required by the Delaware Statutory Trust Act, one Trustee shall be either a natural person who is a resident of the State of Delaware, or, if not a natural person, an entity which has its principal place of business in the State of Delaware and otherwise meets the requirements of applicable Delaware law. Subject to the foregoing, the Depositor is entitled to appoint or remove without cause any Trustee at any time. The Trustees may resign upon thirty days' prior written notice to the Depositor.

7. This Trust Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware (without regard to conflict of laws principles).

8. (a) The Trustees and their officers, directors, agents and servants (collectively, the "Fiduciary Indemnified Persons") shall not be liable, responsible or accountable in damages or otherwise to the Trust, the Depositor, the Trustees or any holder of the Trust securities (the Trust, the Depositor and any holder of the Trust Securities being a "Covered Person") for any loss, damage or claim incurred by reason of any act or omission performed or omitted by the Fiduciary Indemnified Persons in good faith on behalf of the Trust and in a manner the Fiduciary Indemnified Persons reasonably believed to be within the scope of authority conferred on the Fiduciary Indemnified Persons by this Trust Agreement or by law, except that the Fiduciary Indemnified Persons shall be liable for any such loss, damage or claim incurred by reason of the

Fiduciary Indemnified Person's gross negligence or willful misconduct with respect to such acts or omissions.

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

(c) The Depositor agrees, to the fullest extent permitted by applicable law, (i) to indemnify and hold harmless each Fiduciary Indemnified Person from and against any loss, damage, liability, tax, penalty, expense or claim of any kind or nature whatsoever incurred by or asserted against the Fiduciary Indemnified Persons by reason of the creation, operation or termination of the Trust or the transactions contemplated by this Trust Agreement, except that no Fiduciary Indemnified Person shall be entitled to be indemnified in respect of any loss, damage or claim incurred by the Fiduciary Indemnified Persons by reason of gross negligence or willful misconduct with respect to such acts or omissions, and (ii) to advance expenses (including legal fees) incurred by a Fiduciary Indemnified Person in defending any claim, demand, action, suit or proceeding shall, from time to time, prior to the final disposition of such claim, demand, action, suit or proceeding, upon receipt by the Trust of an undertaking by or on behalf of such Fiduciary Indemnified Persons to repay such amount if it shall be determined that such Fiduciary Indemnified Person is not entitled to be indemnified as authorized in the preceding subsection.

(d) The provisions of this Section shall survive the termination of this Trust Agreement or the earlier resignation or removal of the Fiduciary Indemnified Persons.

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

DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION,  
as Trustee

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President

U.S. BANCORP, as Depositor

By: /s/ Laura F. Bednarski

Name: Laura F. Bednarski

Title: Vice President

/s/ David M. Moffet

David M. Moffett, as Administrative Trustee

/s/ Daryl N. Bible

Daryl N. Bible, as Administrative Trustee

/s/ Lee R. Mitau

Lee R. Mitau, as Administrative Trustee



## TRUST AGREEMENT OF

## USB CAPITAL IX

This TRUST AGREEMENT of USB CAPITAL IX (the “Trust”), dated as of April 27, 2005, among (i) U.S. Bancorp, a Delaware corporation (the “Depositor”), (ii) Delaware Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America, as trustee of the Trust, and (iii) David M. Moffett, Daryl N. Bible and Lee R. Mitau, each an individual employed by the Depositor, as administrative trustees of the Trust (each of such trustees in (ii) and (iii), a “Trustee” and collectively, the “Trustees”). The Depositor and the Trustees hereby agree as follows:

1. The Trust created hereby shall be known as “USB Capital IX”, in which name the Trustees, or the Depositor to the extent provided herein, may conduct the business of the Trust, make and execute contracts, and sue and be sued.
2. The Depositor hereby assigns, transfers, conveys and sets over to the Trustees, the sum of \$10. The Trustees hereby acknowledge receipt of such amount in trust from the Depositor, which amount shall constitute the initial trust estate. The Trustees hereby declare that they will hold the trust estate in trust for the Depositor. It is the intention of the parties hereto that the Trust created hereby constitute a statutory trust under Chapter 38 of Title 12 of the Delaware Code, 12 Del. C. Section 3801 et seq. (the “Delaware Statutory Trust Act”), and that this document constitute the governing instrument of the Trust. The Trustees hereby are authorized and directed to execute and file a certificate of trust with the Secretary of the State of Delaware in accordance with the provisions of the Delaware Statutory Trust Act.
3. The Depositor and the Trustees will enter into an Amended and Restated Trust Agreement, satisfactory to each such party and substantially in the form to be included as an exhibit to the 1933 Act Registration Statement referred to below, to provide for the contemplated operation of the Trust created hereby and the issuance of the Capital Securities and the Common Securities referred to therein. Prior to the execution and delivery of such Amended and Restated Trust Agreement, the Trustees shall not have any duty or obligation hereunder or with respect to the trust estate, except as otherwise required by applicable law or as may be necessary to obtain prior to such execution and delivery any licenses, consents or approvals required by applicable law or otherwise.
4. The Trustees hereby authorize and direct the Depositor, as an agent of the Trust (i) to file with the Securities and Exchange Commission (the “Commission”) and execute, in each case on behalf of the Trust, (a) a Registration Statement on Form S-3 (the “1933 Act Registration Statement”), including any pre-effective or post-effective amendments to the 1933 Act Registration Statement, relating to the registration under the Securities Act of 1933, as amended, of the Capital Securities of the Trust and certain other securities and (b) a Registration Statement on Form 8-A (the “1934 Act Registration Statement”) (including all pre-effective and post-effective amendments thereto) relating to the registration of the Capital Securities of the Trust under Section 12(b) of the Securities Exchange Act of 1934, as amended; (ii) to file with the New York Stock Exchange (the “Exchange”) and execute on behalf of the Trust a listing application and all other applications, statements, certificates, agreements and other instruments as shall be necessary or desirable to cause the Capital Securities to be listed on the Exchange; (iii) to file and execute on behalf of the Trust such applications, reports, surety bonds, irrevocable consents, appointments of attorney for service of process and other papers and documents as shall be necessary or desirable to register the Capital Securities under the securities or blue sky laws of such jurisdictions as the Depositor, on behalf of the Trust, may deem necessary or desirable; (iv) to execute and deliver letters or documents to, or instruments for filing with, a depository relating to the Capital Securities of the Trust, and (v) to execute on behalf of the Trust an underwriting agreement relating to the Capital Securities, among the Trust, the Depositor and the several underwriters named therein, substantially in the form included as an exhibit to the 1933 Act Registration Statement. In the event that any filing referred to above is required by the rules and regulations of the Commission, the Exchange or state securities or blue sky laws to be executed on behalf of the Trust by one or more of the Trustees, each of the Trustees, in its or his capacity as Trustee of the Trust, is hereby authorized and, to the extent so required, directed to join in any such filing and to execute on behalf of the Trust any and all of the foregoing, it being understood that Delaware Trust Company, National Association, in its capacity as Trustee of the Trust, shall not be required to join in any such filing or execute on behalf of the Trust any such document unless required by the rules and regulations of the Commission, the Exchange or state securities or blue sky laws. In connection with the filings referred to above, the Depositor and David M. Moffett, Daryl N. Bible and Lee R. Mitau, each an administrative trustee, solely in their capacities as Trustees of the Trust, hereby constitutes and appoints David M. Moffett, Daryl N. Bible and Lee R. Mitau, and each of them, as its or his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for the Depositor or such Trustee or in the Depositor’s or such Trustee’s name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to any such filings (including the 1933 Act Registration Statement and the 1934 Act Registration Statement) and to file the same, with all exhibits thereto and other documents in connection therewith, with the Commission, the Exchange and administrators of state securities or blue sky laws, granting unto said attorneys-in-fact and agents full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as the Depositor or such Trustee might or could do in person, thereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or their respective substitute or substitutes, shall do or cause to be done by virtue thereof.





5. This Trust Agreement may be executed in one or more counterparts.

6. The number of Trustees initially shall be four (4) and thereafter the number of the Trustees shall be such number as shall be fixed from time to time by a written instrument signed by the Depositor which may increase or decrease the number of Trustees; provided, however, that to the extent required by the Delaware Statutory Trust Act, one Trustee shall be either a natural person who is a resident of the State of Delaware, or, if not a natural person, an entity which has its principal place of business in the State of Delaware and otherwise meets the requirements of applicable Delaware law. Subject to the foregoing, the Depositor is entitled to appoint or remove without cause any Trustee at any time. The Trustees may resign upon thirty days' prior written notice to the Depositor.

7. This Trust Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware (without regard to conflict of laws principles).

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

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

(c) The Depositor agrees, to the fullest extent permitted by applicable law, (i) to indemnify and hold harmless each Fiduciary Indemnified Person from and against any loss, damage, liability, tax, penalty, expense or claim of any kind or nature whatsoever incurred by or asserted against the Fiduciary Indemnified Persons by reason of the creation, operation or termination of the Trust or the transactions contemplated by this Trust Agreement, except that no Fiduciary Indemnified Person shall be entitled to be indemnified in respect of any loss, damage or claim incurred by the Fiduciary Indemnified Persons by reason of gross negligence or willful misconduct with respect to such acts or omissions, and (ii) to advance expenses (including legal fees) incurred by a Fiduciary Indemnified Person in defending any claim, demand, action, suit or proceeding shall, from time to time, prior to the final disposition of such claim, demand, action, suit or proceeding, upon receipt by the Trust of an undertaking by or on behalf of such Fiduciary Indemnified Persons to repay such amount if it shall be determined that such Fiduciary Indemnified Person is not entitled to be indemnified as authorized in the preceding subsection.

(d) The provisions of this Section shall survive the termination of this Trust Agreement or the earlier resignation or removal of the Fiduciary Indemnified Persons.

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

DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION,  
as Trustee

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President

U.S. BANCORP, as Depositor

By: /s/ Laura F. Bednarski

Name: Laura F. Bednarski

Title: Vice President

/s/ David M. Moffet

David M. Moffett, as Administrative Trustee

/s/ Daryl N. Bible

Daryl N. Bible, as Administrative Trustee

/s/ Lee R. Mitau

Lee R. Mitau, as Administrative Trustee



## TRUST AGREEMENT OF

## USB CAPITAL X

This TRUST AGREEMENT of USB CAPITAL X (the “Trust”), dated as of April 27, 2005, among (i) U.S. Bancorp, a Delaware corporation (the “Depositor”), (ii) Delaware Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America, as trustee of the Trust, and (iii) David M. Moffett, Daryl N. Bible and Lee R. Mitau, each an individual employed by the Depositor, as administrative trustees of the Trust (each of such trustees in (ii) and (iii), a “Trustee” and collectively, the “Trustees”). The Depositor and the Trustees hereby agree as follows:

1. The Trust created hereby shall be known as “USB Capital X”, in which name the Trustees, or the Depositor to the extent provided herein, may conduct the business of the Trust, make and execute contracts, and sue and be sued.
2. The Depositor hereby assigns, transfers, conveys and sets over to the Trustees, the sum of \$10. The Trustees hereby acknowledge receipt of such amount in trust from the Depositor, which amount shall constitute the initial trust estate. The Trustees hereby declare that they will hold the trust estate in trust for the Depositor. It is the intention of the parties hereto that the Trust created hereby constitute a statutory trust under Chapter 38 of Title 12 of the Delaware Code, 12 Del. C. Section 3801 et seq. (the “Delaware Statutory Trust Act”), and that this document constitute the governing instrument of the Trust. The Trustees hereby are authorized and directed to execute and file a certificate of trust with the Secretary of the State of Delaware in accordance with the provisions of the Delaware Statutory Trust Act.
3. The Depositor and the Trustees will enter into an Amended and Restated Trust Agreement, satisfactory to each such party and substantially in the form to be included as an exhibit to the 1933 Act Registration Statement referred to below, to provide for the contemplated operation of the Trust created hereby and the issuance of the Capital Securities and the Common Securities referred to therein. Prior to the execution and delivery of such Amended and Restated Trust Agreement, the Trustees shall not have any duty or obligation hereunder or with respect to the trust estate, except as otherwise required by applicable law or as may be necessary to obtain prior to such execution and delivery any licenses, consents or approvals required by applicable law or otherwise.
4. The Trustees hereby authorize and direct the Depositor, as an agent of the Trust (i) to file with the Securities and Exchange Commission (the “Commission”) and execute, in each case on behalf of the Trust, (a) a Registration Statement on Form S-3 (the “1933 Act Registration Statement”), including any pre-effective or post-effective amendments to the 1933 Act Registration Statement, relating to the registration under the Securities Act of 1933, as amended, of the Capital Securities of the Trust and certain other securities and (b) a Registration Statement on Form 8-A (the “1934 Act Registration Statement”) (including all pre-effective and post-effective amendments thereto) relating to the registration of the Capital Securities of the Trust under Section 12(b) of the Securities Exchange Act of 1934, as amended; (ii) to file with the New York Stock Exchange (the “Exchange”) and execute on behalf of the Trust a listing application and all other applications, statements, certificates, agreements and other instruments as shall be necessary or desirable to cause the Capital Securities to be listed on the Exchange; (iii) to file and execute on behalf of the Trust such applications, reports, surety bonds, irrevocable consents, appointments of attorney for service of process and other papers and documents as shall be necessary or desirable to register the Capital Securities under the securities or blue sky laws of such jurisdictions as the Depositor, on behalf of the Trust, may deem necessary or desirable; (iv) to execute and deliver letters or documents to, or instruments for filing with, a depository relating to the Capital Securities of the Trust, and (v) to execute on behalf of the Trust an underwriting agreement relating to the Capital Securities, among the Trust, the Depositor and the several underwriters named therein, substantially in the form included as an exhibit to the 1933 Act Registration Statement. In the event that any filing referred to above is required by the rules and regulations of the Commission, the Exchange or state securities or blue sky laws to be executed on behalf of the Trust by one or more of the Trustees, each of the Trustees, in its or his capacity as Trustee of the Trust, is hereby authorized and, to the extent so required, directed to join in any such filing and to execute on behalf of the Trust any and all of the foregoing, it being understood that Delaware Trust Company, National Association, in its capacity as Trustee of the Trust, shall not be required to join in any such filing or execute on behalf of the Trust any such document unless required by the rules and regulations of the Commission, the Exchange or state securities or blue sky laws. In connection with the filings referred to above, the Depositor and David M. Moffett, Daryl N. Bible and Lee R. Mitau, each an administrative trustee, solely in their capacities as Trustees of the Trust, hereby constitutes and appoints David M. Moffett, Daryl N. Bible and Lee R. Mitau, and each of them, as its or his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for the Depositor or such Trustee or in the Depositor’s or such Trustee’s name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to any such filings (including the 1933 Act Registration Statement and the 1934 Act Registration Statement) and to file the same, with all exhibits thereto and other documents in connection therewith, with the Commission, the Exchange and administrators of state securities or blue sky laws, granting unto said attorneys-in-fact and agents full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as the Depositor or such Trustee might or could do in person, thereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or their respective substitute or substitutes, shall do or cause to be done by virtue thereof.



5. This Trust Agreement may be executed in one or more counterparts.

6. The number of Trustees initially shall be four (4) and thereafter the number of the Trustees shall be such number as shall be fixed from time to time by a written instrument signed by the Depositor which may increase or decrease the number of Trustees; provided, however, that to the extent required by the Delaware Statutory Trust Act, one Trustee shall be either a natural person who is a resident of the State of Delaware, or, if not a natural person, an entity which has its principal place of business in the State of Delaware and otherwise meets the requirements of applicable Delaware law. Subject to the foregoing, the Depositor is entitled to appoint or remove without cause any Trustee at any time. The Trustees may resign upon thirty days' prior written notice to the Depositor.

7. This Trust Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware (without regard to conflict of laws principles).

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

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

(c) The Depositor agrees, to the fullest extent permitted by applicable law, (i) to indemnify and hold harmless each Fiduciary Indemnified Person from and against any loss, damage, liability, tax, penalty, expense or claim of any kind or nature whatsoever incurred by or asserted against the Fiduciary Indemnified Persons by reason of the creation, operation or termination of the Trust or the transactions contemplated by this Trust Agreement, except that no Fiduciary Indemnified Person shall be entitled to be indemnified in respect of any loss, damage or claim incurred by the Fiduciary Indemnified Persons by reason of gross negligence or willful misconduct with respect to such acts or omissions, and (ii) to advance expenses (including legal fees) incurred by a Fiduciary Indemnified Person in defending any claim, demand, action, suit or proceeding shall, from time to time, prior to the final disposition of such claim, demand, action, suit or proceeding, upon receipt by the Trust of an undertaking by or on behalf of such Fiduciary Indemnified Persons to repay such amount if it shall be determined that such Fiduciary Indemnified Person is not entitled to be indemnified as authorized in the preceding subsection.

(d) The provisions of this Section shall survive the termination of this Trust Agreement or the earlier resignation or removal of the Fiduciary Indemnified Persons.

DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION,  
as Trustee

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President

U.S. BANCORP, as Depositor

By: /s/ Laura F. Bednarski

Name: Laura F. Bednarski

Title: Vice President

/s/ David M. Moffet

David M. Moffett, as Administrative Trustee

/s/ Daryl N. Bible

Daryl N. Bible, as Administrative Trustee

/s/ Lee R. Mitau

Lee R. Mitau, as Administrative Trustee





## TRUST AGREEMENT OF

## USB CAPITAL XI

This TRUST AGREEMENT of USB CAPITAL XI (the “Trust”), dated as of April 27, 2005, among (i) U.S. Bancorp, a Delaware corporation (the “Depositor”), (ii) Delaware Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America, as trustee of the Trust, and (iii) David M. Moffett, Daryl N. Bible and Lee R. Mitau, each an individual employed by the Depositor, as administrative trustees of the Trust (each of such trustees in (ii) and (iii), a “Trustee” and collectively, the “Trustees”). The Depositor and the Trustees hereby agree as follows:

1. The Trust created hereby shall be known as “USB Capital XI”, in which name the Trustees, or the Depositor to the extent provided herein, may conduct the business of the Trust, make and execute contracts, and sue and be sued.
2. The Depositor hereby assigns, transfers, conveys and sets over to the Trustees, the sum of \$10. The Trustees hereby acknowledge receipt of such amount in trust from the Depositor, which amount shall constitute the initial trust estate. The Trustees hereby declare that they will hold the trust estate in trust for the Depositor. It is the intention of the parties hereto that the Trust created hereby constitute a statutory trust under Chapter 38 of Title 12 of the Delaware Code, 12 Del. C. Section 3801 et seq. (the “Delaware Statutory Trust Act”), and that this document constitute the governing instrument of the Trust. The Trustees hereby are authorized and directed to execute and file a certificate of trust with the Secretary of the State of Delaware in accordance with the provisions of the Delaware Statutory Trust Act.
3. The Depositor and the Trustees will enter into an Amended and Restated Trust Agreement, satisfactory to each such party and substantially in the form to be included as an exhibit to the 1933 Act Registration Statement referred to below, to provide for the contemplated operation of the Trust created hereby and the issuance of the Capital Securities and the Common Securities referred to therein. Prior to the execution and delivery of such Amended and Restated Trust Agreement, the Trustees shall not have any duty or obligation hereunder or with respect to the trust estate, except as otherwise required by applicable law or as may be necessary to obtain prior to such execution and delivery any licenses, consents or approvals required by applicable law or otherwise.
4. The Trustees hereby authorize and direct the Depositor, as an agent of the Trust (i) to file with the Securities and Exchange Commission (the “Commission”) and execute, in each case on behalf of the Trust, (a) a Registration Statement on Form S-3 (the “1933 Act Registration Statement”), including any pre-effective or post-effective amendments to the 1933 Act Registration Statement, relating to the registration under the Securities Act of 1933, as amended, of the Capital Securities of the Trust and certain other securities and (b) a Registration Statement on Form 8-A (the “1934 Act Registration Statement”) (including all pre-effective and post-effective amendments thereto) relating to the registration of the Capital Securities of the Trust under Section 12(b) of the Securities Exchange Act of 1934, as amended; (ii) to file with the New York Stock Exchange (the “Exchange”) and execute on behalf of the Trust a listing application and all other applications, statements, certificates, agreements and other instruments as shall be necessary or desirable to cause the Capital Securities to be listed on the Exchange; (iii) to file and execute on behalf of the Trust such applications, reports, surety bonds, irrevocable consents, appointments of attorney for service of process and other papers and documents as shall be necessary or desirable to register the Capital Securities under the securities or blue sky laws of such jurisdictions as the Depositor, on behalf of the Trust, may deem necessary or desirable; (iv) to execute and deliver letters or documents to, or instruments for filing with, a depository relating to the Capital Securities of the Trust, and (v) to execute on behalf of the Trust an underwriting agreement relating to the Capital Securities, among the Trust, the Depositor and the several underwriters named therein, substantially in the form included as an exhibit to the 1933 Act Registration Statement. In the event that any filing referred to above is required by the rules and regulations of the Commission, the Exchange or state securities or blue sky laws to be executed on behalf of the Trust by one or more of the Trustees, each of the Trustees, in its or his capacity as Trustee of the Trust, is hereby authorized and, to the extent so required, directed to join in any such filing and to execute on behalf of the Trust any and all of the foregoing, it being understood that Delaware Trust Company, National Association, in its capacity as Trustee of the Trust, shall not be required to join in any such filing or execute on behalf of the Trust any such document unless required by the rules and regulations of the Commission, the Exchange or state securities or blue sky laws. In connection with the filings referred to above, the Depositor and David M. Moffett, Daryl N. Bible and Lee R. Mitau, each an administrative trustee, solely in their capacities as Trustees of the Trust, hereby constitutes and appoints David M. Moffett, Daryl N. Bible and Lee R. Mitau, and each of them, as its or his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for the Depositor or such Trustee or in the Depositor’s or such Trustee’s name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to any such filings (including the 1933 Act Registration Statement and the 1934 Act Registration Statement) and to file the same, with all exhibits thereto and other documents in connection therewith, with the Commission, the Exchange and administrators of state securities or blue sky laws, granting unto said attorneys-in-fact and agents full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as the Depositor or such Trustee might or could do in person, thereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or their respective substitute or substitutes, shall do or cause to be done by virtue thereof.



5. This Trust Agreement may be executed in one or more counterparts.

6. The number of Trustees initially shall be four (4) and thereafter the number of the Trustees shall be such number as shall be fixed from time to time by a written instrument signed by the Depositor which may increase or decrease the number of Trustees; provided, however, that to the extent required by the Delaware Statutory Trust Act, one Trustee shall be either a natural person who is a resident of the State of Delaware, or, if not a natural person, an entity which has its principal place of business in the State of Delaware and otherwise meets the requirements of applicable Delaware law. Subject to the foregoing, the Depositor is entitled to appoint or remove without cause any Trustee at any time. The Trustees may resign upon thirty days' prior written notice to the Depositor.

7. This Trust Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware (without regard to conflict of laws principles).

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

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

(c) The Depositor agrees, to the fullest extent permitted by applicable law, (i) to indemnify and hold harmless each Fiduciary Indemnified Person from and against any loss, damage, liability, tax, penalty, expense or claim of any kind or nature whatsoever incurred by or asserted against the Fiduciary Indemnified Persons by reason of the creation, operation or termination of the Trust or the transactions contemplated by this Trust Agreement, except that no Fiduciary Indemnified Person shall be entitled to be indemnified in respect of any loss, damage or claim incurred by the Fiduciary Indemnified Persons by reason of gross negligence or willful misconduct with respect to such acts or omissions, and (ii) to advance expenses (including legal fees) incurred by a Fiduciary Indemnified Person in defending any claim, demand, action, suit or proceeding shall, from time to time, prior to the final disposition of such claim, demand, action, suit or proceeding, upon receipt by the Trust of an undertaking by or on behalf of such Fiduciary Indemnified Persons to repay such amount if it shall be determined that such Fiduciary Indemnified Person is not entitled to be indemnified as authorized in the preceding subsection.

(d) The provisions of this Section shall survive the termination of this Trust Agreement or the earlier resignation or removal of the Fiduciary Indemnified Persons.

DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION,  
as Trustee

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President

U.S. BANCORP, as Depositor

By: /s/ Laura F. Bednarski

Name: Laura F. Bednarski

Title: Vice President

/s/ David M. Moffet

David M. Moffett, as Administrative Trustee

/s/ Daryl N. Bible

Daryl N. Bible, as Administrative Trustee

/s/ Lee R. Mitau

Lee R. Mitau, as Administrative Trustee



## TRUST AGREEMENT OF

## USB CAPITAL XII

This TRUST AGREEMENT of USB CAPITAL XII (the “Trust”), dated as of April 27, 2005, among (i) U.S. Bancorp, a Delaware corporation (the “Depositor”), (ii) Delaware Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America, as trustee of the Trust, and (iii) David M. Moffett, Daryl N. Bible and Lee R. Mitau, each an individual employed by the Depositor, as administrative trustees of the Trust (each of such trustees in (ii) and (iii), a “Trustee” and collectively, the “Trustees”). The Depositor and the Trustees hereby agree as follows:

1. The Trust created hereby shall be known as “USB Capital XII”, in which name the Trustees, or the Depositor to the extent provided herein, may conduct the business of the Trust, make and execute contracts, and sue and be sued.
2. The Depositor hereby assigns, transfers, conveys and sets over to the Trustees, the sum of \$10. The Trustees hereby acknowledge receipt of such amount in trust from the Depositor, which amount shall constitute the initial trust estate. The Trustees hereby declare that they will hold the trust estate in trust for the Depositor. It is the intention of the parties hereto that the Trust created hereby constitute a statutory trust under Chapter 38 of Title 12 of the Delaware Code, 12 Del. C. Section 3801 et seq. (the “Delaware Statutory Trust Act”), and that this document constitute the governing instrument of the Trust. The Trustees hereby are authorized and directed to execute and file a certificate of trust with the Secretary of the State of Delaware in accordance with the provisions of the Delaware Statutory Trust Act.
3. The Depositor and the Trustees will enter into an Amended and Restated Trust Agreement, satisfactory to each such party and substantially in the form to be included as an exhibit to the 1933 Act Registration Statement referred to below, to provide for the contemplated operation of the Trust created hereby and the issuance of the Capital Securities and the Common Securities referred to therein. Prior to the execution and delivery of such Amended and Restated Trust Agreement, the Trustees shall not have any duty or obligation hereunder or with respect to the trust estate, except as otherwise required by applicable law or as may be necessary to obtain prior to such execution and delivery any licenses, consents or approvals required by applicable law or otherwise.
4. The Trustees hereby authorize and direct the Depositor, as an agent of the Trust (i) to file with the Securities and Exchange Commission (the “Commission”) and execute, in each case on behalf of the Trust, (a) a Registration Statement on Form S-3 (the “1933 Act Registration Statement”), including any pre-effective or post-effective amendments to the 1933 Act Registration Statement, relating to the registration under the Securities Act of 1933, as amended, of the Capital Securities of the Trust and certain other securities and (b) a Registration Statement on Form 8-A (the “1934 Act Registration Statement”) (including all pre-effective and post-effective amendments thereto) relating to the registration of the Capital Securities of the Trust under Section 12(b) of the Securities Exchange Act of 1934, as amended; (ii) to file with the New York Stock Exchange (the “Exchange”) and execute on behalf of the Trust a listing application and all other applications, statements, certificates, agreements and other instruments as shall be necessary or desirable to cause the Capital Securities to be listed on the Exchange; (iii) to file and execute on behalf of the Trust such applications, reports, surety bonds, irrevocable consents, appointments of attorney for service of process and other papers and documents as shall be necessary or desirable to register the Capital Securities under the securities or blue sky laws of such jurisdictions as the Depositor, on behalf of the Trust, may deem necessary or desirable; (iv) to execute and deliver letters or documents to, or instruments for filing with, a depository relating to the Capital Securities of the Trust, and (v) to execute on behalf of the Trust an underwriting agreement relating to the Capital Securities, among the Trust, the Depositor and the several underwriters named therein, substantially in the form included as an exhibit to the 1933 Act Registration Statement. In the event that any filing referred to above is required by the rules and regulations of the Commission, the Exchange or state securities or blue sky laws to be executed on behalf of the Trust by one or more of the Trustees, each of the Trustees, in its or his capacity as Trustee of the Trust, is hereby authorized and, to the extent so required, directed to join in any such filing and to execute on behalf of the Trust any and all of the foregoing, it being understood that Delaware Trust Company, National Association, in its capacity as Trustee of the Trust, shall not be required to join in any such filing or execute on behalf of the Trust any such document unless required by the rules and regulations of the Commission, the Exchange or state securities or blue sky laws. In connection with the filings referred to above, the Depositor and David M. Moffett, Daryl N. Bible and Lee R. Mitau, each an administrative trustee, solely in their capacities as Trustees of the Trust, hereby constitutes and appoints David M. Moffett, Daryl N. Bible and Lee R. Mitau, and each of them, as its or his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for the Depositor or such Trustee or in the Depositor’s or such Trustee’s name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to any such filings (including the 1933 Act Registration Statement and the 1934 Act Registration Statement) and to file the same, with all exhibits thereto and other documents in connection therewith, with the Commission, the Exchange and administrators of state securities or blue sky laws, granting unto said attorneys-in-fact and agents full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as the Depositor or such Trustee might or could do in person, thereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or their respective substitute or substitutes, shall do or cause to be done by virtue thereof.



5. This Trust Agreement may be executed in one or more counterparts.

6. The number of Trustees initially shall be four (4) and thereafter the number of the Trustees shall be such number as shall be fixed from time to time by a written instrument signed by the Depositor which may increase or decrease the number of Trustees; provided, however, that to the extent required by the Delaware Statutory Trust Act, one Trustee shall be either a natural person who is a resident of the State of Delaware, or, if not a natural person, an entity which has its principal place of business in the State of Delaware and otherwise meets the requirements of applicable Delaware law. Subject to the foregoing, the Depositor is entitled to appoint or remove without cause any Trustee at any time. The Trustees may resign upon thirty days' prior written notice to the Depositor.

7. This Trust Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware (without regard to conflict of laws principles).

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

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

(c) The Depositor agrees, to the fullest extent permitted by applicable law, (i) to indemnify and hold harmless each Fiduciary Indemnified Person from and against any loss, damage, liability, tax, penalty, expense or claim of any kind or nature whatsoever incurred by or asserted against the Fiduciary Indemnified Persons by reason of the creation, operation or termination of the Trust or the transactions contemplated by this Trust Agreement, except that no Fiduciary Indemnified Person shall be entitled to be indemnified in respect of any loss, damage or claim incurred by the Fiduciary Indemnified Persons by reason of gross negligence or willful misconduct with respect to such acts or omissions, and (ii) to advance expenses (including legal fees) incurred by a Fiduciary Indemnified Person in defending any claim, demand, action, suit or proceeding shall, from time to time, prior to the final disposition of such claim, demand, action, suit or proceeding, upon receipt by the Trust of an undertaking by or on behalf of such Fiduciary Indemnified Persons to repay such amount if it shall be determined that such Fiduciary Indemnified Person is not entitled to be indemnified as authorized in the preceding subsection.

(d) The provisions of this Section shall survive the termination of this Trust Agreement or the earlier resignation or removal of the Fiduciary Indemnified Persons.

DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION,  
as Trustee

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President



U.S. BANCORP, as Depositor

By: /s/ Laura F. Bednarski

Name: Laura F. Bednarski

Title: Vice President

/s/ David M. Moffet

David M. Moffett, as Administrative Trustee

/s/ Daryl N. Bible

Daryl N. Bible, as Administrative Trustee

/s/ Lee R. Mitau

Lee R. Mitau, as Administrative Trustee



## TRUST AGREEMENT OF

## USB CAPITAL XIII

This TRUST AGREEMENT of USB CAPITAL XIII (the “Trust”), dated as of April 27, 2005, among (i) U.S. Bancorp, a Delaware corporation (the “Depositor”), (ii) Delaware Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America, as trustee of the Trust, and (iii) David M. Moffett, Daryl N. Bible and Lee R. Mitau, each an individual employed by the Depositor, as administrative trustees of the Trust (each of such trustees in (ii) and (iii), a “Trustee” and collectively, the “Trustees”). The Depositor and the Trustees hereby agree as follows:

1. The Trust created hereby shall be known as “USB Capital XIII”, in which name the Trustees, or the Depositor to the extent provided herein, may conduct the business of the Trust, make and execute contracts, and sue and be sued.
2. The Depositor hereby assigns, transfers, conveys and sets over to the Trustees, the sum of \$10. The Trustees hereby acknowledge receipt of such amount in trust from the Depositor, which amount shall constitute the initial trust estate. The Trustees hereby declare that they will hold the trust estate in trust for the Depositor. It is the intention of the parties hereto that the Trust created hereby constitute a statutory trust under Chapter 38 of Title 12 of the Delaware Code, 12 Del. C. Section 3801 et seq. (the “Delaware Statutory Trust Act”), and that this document constitute the governing instrument of the Trust. The Trustees hereby are authorized and directed to execute and file a certificate of trust with the Secretary of the State of Delaware in accordance with the provisions of the Delaware Statutory Trust Act.
3. The Depositor and the Trustees will enter into an Amended and Restated Trust Agreement, satisfactory to each such party and substantially in the form to be included as an exhibit to the 1933 Act Registration Statement referred to below, to provide for the contemplated operation of the Trust created hereby and the issuance of the Capital Securities and the Common Securities referred to therein. Prior to the execution and delivery of such Amended and Restated Trust Agreement, the Trustees shall not have any duty or obligation hereunder or with respect to the trust estate, except as otherwise required by applicable law or as may be necessary to obtain prior to such execution and delivery any licenses, consents or approvals required by applicable law or otherwise.
4. The Trustees hereby authorize and direct the Depositor, as an agent of the Trust (i) to file with the Securities and Exchange Commission (the “Commission”) and execute, in each case on behalf of the Trust, (a) a Registration Statement on Form S-3 (the “1933 Act Registration Statement”), including any pre-effective or post-effective amendments to the 1933 Act Registration Statement, relating to the registration under the Securities Act of 1933, as amended, of the Capital Securities of the Trust and certain other securities and (b) a Registration Statement on Form 8-A (the “1934 Act Registration Statement”) (including all pre-effective and post-effective amendments thereto) relating to the registration of the Capital Securities of the Trust under Section 12(b) of the Securities Exchange Act of 1934, as amended; (ii) to file with the New York Stock Exchange (the “Exchange”) and execute on behalf of the Trust a listing application and all other applications, statements, certificates, agreements and other instruments as shall be necessary or desirable to cause the Capital Securities to be listed on the Exchange; (iii) to file and execute on behalf of the Trust such applications, reports, surety bonds, irrevocable consents, appointments of attorney for service of process and other papers and documents as shall be necessary or desirable to register the Capital Securities under the securities or blue sky laws of such jurisdictions as the Depositor, on behalf of the Trust, may deem necessary or desirable; (iv) to execute and deliver letters or documents to, or instruments for filing with, a depository relating to the Capital Securities of the Trust, and (v) to execute on behalf of the Trust an underwriting agreement relating to the Capital Securities, among the Trust, the Depositor and the several underwriters named therein, substantially in the form included as an exhibit to the 1933 Act Registration Statement. In the event that any filing referred to above is required by the rules and regulations of the Commission, the Exchange or state securities or blue sky laws to be executed on behalf of the Trust by one or more of the Trustees, each of the Trustees, in its or his capacity as Trustee of the Trust, is hereby authorized and, to the extent so required, directed to join in any such filing and to execute on behalf of the Trust any and all of the foregoing, it being understood that Delaware Trust Company, National Association, in its capacity as Trustee of the Trust, shall not be required to join in any such filing or execute on behalf of the Trust any such document unless required by the rules and regulations of the Commission, the Exchange or state securities or blue sky laws. In connection with the filings referred to above, the Depositor and David M. Moffett, Daryl N. Bible and Lee R. Mitau, each an administrative trustee, solely in their capacities as Trustees of the Trust, hereby constitutes and appoints David M. Moffett, Daryl N. Bible and Lee R. Mitau, and each of them, as its or his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for the Depositor or such Trustee or in the Depositor’s or such Trustee’s name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to any such filings (including the 1933 Act Registration Statement and the 1934 Act Registration Statement) and to file the same, with all exhibits thereto and other documents in connection therewith, with the Commission, the Exchange and administrators of state securities or blue sky laws, granting unto said attorneys-in-fact and agents full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as the Depositor or such Trustee might or could do in person, thereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or their respective substitute or substitutes, shall do or cause to be done by virtue thereof.



5. This Trust Agreement may be executed in one or more counterparts.

6. The number of Trustees initially shall be four (4) and thereafter the number of the Trustees shall be such number as shall be fixed from time to time by a written instrument signed by the Depositor which may increase or decrease the number of Trustees; provided, however, that to the extent required by the Delaware Statutory Trust Act, one Trustee shall be either a natural person who is a resident of the State of Delaware, or, if not a natural person, an entity which has its principal place of business in the State of Delaware and otherwise meets the requirements of applicable Delaware law. Subject to the foregoing, the Depositor is entitled to appoint or remove without cause any Trustee at any time. The Trustees may resign upon thirty days' prior written notice to the Depositor.

7. This Trust Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware (without regard to conflict of laws principles).

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

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

(c) The Depositor agrees, to the fullest extent permitted by applicable law, (i) to indemnify and hold harmless each Fiduciary Indemnified Person from and against any loss, damage, liability, tax, penalty, expense or claim of any kind or nature whatsoever incurred by or asserted against the Fiduciary Indemnified Persons by reason of the creation, operation or termination of the Trust or the transactions contemplated by this Trust Agreement, except that no Fiduciary Indemnified Person shall be entitled to be indemnified in respect of any loss, damage or claim incurred by the Fiduciary Indemnified Persons by reason of gross negligence or willful misconduct with respect to such acts or omissions, and (ii) to advance expenses (including legal fees) incurred by a Fiduciary Indemnified Person in defending any claim, demand, action, suit or proceeding shall, from time to time, prior to the final disposition of such claim, demand, action, suit or proceeding, upon receipt by the Trust of an undertaking by or on behalf of such Fiduciary Indemnified Persons to repay such amount if it shall be determined that such Fiduciary Indemnified Person is not entitled to be indemnified as authorized in the preceding subsection.

(d) The provisions of this Section shall survive the termination of this Trust Agreement or the earlier resignation or removal of the Fiduciary Indemnified Persons.

DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION,  
as Trustee

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President

U.S. BANCORP, as Depositor

By: /s/ Laura F. Bednarski

Name: Laura F. Bednarski

Title: Vice President

/s/ David M. Moffet

David M. Moffett, as Administrative Trustee

/s/ Daryl N. Bible

Daryl N. Bible, as Administrative Trustee

/s/ Lee R. Mitau

Lee R. Mitau, as Administrative Trustee



## TRUST AGREEMENT OF

## USB CAPITAL XIV

This TRUST AGREEMENT of USB CAPITAL XIV (the “Trust”), dated as of April 27, 2005, among (i) U.S. Bancorp, a Delaware corporation (the “Depositor”), (ii) Delaware Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America, as trustee of the Trust, and (iii) David M. Moffett, Daryl N. Bible and Lee R. Mitau, each an individual employed by the Depositor, as administrative trustees of the Trust (each of such trustees in (ii) and (iii), a “Trustee” and collectively, the “Trustees”). The Depositor and the Trustees hereby agree as follows:

1. The Trust created hereby shall be known as “USB Capital XIV”, in which name the Trustees, or the Depositor to the extent provided herein, may conduct the business of the Trust, make and execute contracts, and sue and be sued.
2. The Depositor hereby assigns, transfers, conveys and sets over to the Trustees, the sum of \$10. The Trustees hereby acknowledge receipt of such amount in trust from the Depositor, which amount shall constitute the initial trust estate. The Trustees hereby declare that they will hold the trust estate in trust for the Depositor. It is the intention of the parties hereto that the Trust created hereby constitute a statutory trust under Chapter 38 of Title 12 of the Delaware Code, 12 Del. C. Section 3801 et seq. (the “Delaware Statutory Trust Act”), and that this document constitute the governing instrument of the Trust. The Trustees hereby are authorized and directed to execute and file a certificate of trust with the Secretary of the State of Delaware in accordance with the provisions of the Delaware Statutory Trust Act.
3. The Depositor and the Trustees will enter into an Amended and Restated Trust Agreement, satisfactory to each such party and substantially in the form to be included as an exhibit to the 1933 Act Registration Statement referred to below, to provide for the contemplated operation of the Trust created hereby and the issuance of the Capital Securities and the Common Securities referred to therein. Prior to the execution and delivery of such Amended and Restated Trust Agreement, the Trustees shall not have any duty or obligation hereunder or with respect to the trust estate, except as otherwise required by applicable law or as may be necessary to obtain prior to such execution and delivery any licenses, consents or approvals required by applicable law or otherwise.
4. The Trustees hereby authorize and direct the Depositor, as an agent of the Trust (i) to file with the Securities and Exchange Commission (the “Commission”) and execute, in each case on behalf of the Trust, (a) a Registration Statement on Form S-3 (the “1933 Act Registration Statement”), including any pre-effective or post-effective amendments to the 1933 Act Registration Statement, relating to the registration under the Securities Act of 1933, as amended, of the Capital Securities of the Trust and certain other securities and (b) a Registration Statement on Form 8-A (the “1934 Act Registration Statement”) (including all pre-effective and post-effective amendments thereto) relating to the registration of the Capital Securities of the Trust under Section 12(b) of the Securities Exchange Act of 1934, as amended; (ii) to file with the New York Stock Exchange (the “Exchange”) and execute on behalf of the Trust a listing application and all other applications, statements, certificates, agreements and other instruments as shall be necessary or desirable to cause the Capital Securities to be listed on the Exchange; (iii) to file and execute on behalf of the Trust such applications, reports, surety bonds, irrevocable consents, appointments of attorney for service of process and other papers and documents as shall be necessary or desirable to register the Capital Securities under the securities or blue sky laws of such jurisdictions as the Depositor, on behalf of the Trust, may deem necessary or desirable; (iv) to execute and deliver letters or documents to, or instruments for filing with, a depository relating to the Capital Securities of the Trust, and (v) to execute on behalf of the Trust an underwriting agreement relating to the Capital Securities, among the Trust, the Depositor and the several underwriters named therein, substantially in the form included as an exhibit to the 1933 Act Registration Statement. In the event that any filing referred to above is required by the rules and regulations of the Commission, the Exchange or state securities or blue sky laws to be executed on behalf of the Trust by one or more of the Trustees, each of the Trustees, in its or his capacity as Trustee of the Trust, is hereby authorized and, to the extent so required, directed to join in any such filing and to execute on behalf of the Trust any and all of the foregoing, it being understood that Delaware Trust Company, National Association, in its capacity as Trustee of the Trust, shall not be required to join in any such filing or execute on behalf of the Trust any such document unless required by the rules and regulations of the Commission, the Exchange or state securities or blue sky laws. In connection with the filings referred to above, the Depositor and David M. Moffett, Daryl N. Bible and Lee R. Mitau, each an administrative trustee, solely in their capacities as Trustees of the Trust, hereby constitutes and appoints David M. Moffett, Daryl N. Bible and Lee R. Mitau, and each of them, as its or his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for the Depositor or such Trustee or in the Depositor’s or such Trustee’s name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to any such filings (including the 1933 Act Registration Statement and the 1934 Act Registration Statement) and to file the same, with all exhibits thereto and other documents in connection therewith, with the Commission, the Exchange and administrators of state securities or blue sky laws, granting unto said attorneys-in-fact and agents full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as the Depositor or such Trustee might or could do in person, thereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or their respective substitute or substitutes, shall do or cause to be done by virtue thereof.





5. This Trust Agreement may be executed in one or more counterparts.

6. The number of Trustees initially shall be four (4) and thereafter the number of the Trustees shall be such number as shall be fixed from time to time by a written instrument signed by the Depositor which may increase or decrease the number of Trustees; provided, however, that to the extent required by the Delaware Statutory Trust Act, one Trustee shall be either a natural person who is a resident of the State of Delaware, or, if not a natural person, an entity which has its principal place of business in the State of Delaware and otherwise meets the requirements of applicable Delaware law. Subject to the foregoing, the Depositor is entitled to appoint or remove without cause any Trustee at any time. The Trustees may resign upon thirty days' prior written notice to the Depositor.

7. This Trust Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware (without regard to conflict of laws principles).

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

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

(c) The Depositor agrees, to the fullest extent permitted by applicable law, (i) to indemnify and hold harmless each Fiduciary Indemnified Person from and against any loss, damage, liability, tax, penalty, expense or claim of any kind or nature whatsoever incurred by or asserted against the Fiduciary Indemnified Persons by reason of the creation, operation or termination of the Trust or the transactions contemplated by this Trust Agreement, except that no Fiduciary Indemnified Person shall be entitled to be indemnified in respect of any loss, damage or claim incurred by the Fiduciary Indemnified Persons by reason of gross negligence or willful misconduct with respect to such acts or omissions, and (ii) to advance expenses (including legal fees) incurred by a Fiduciary Indemnified Person in defending any claim, demand, action, suit or proceeding shall, from time to time, prior to the final disposition of such claim, demand, action, suit or proceeding, upon receipt by the Trust of an undertaking by or on behalf of such Fiduciary Indemnified Persons to repay such amount if it shall be determined that such Fiduciary Indemnified Person is not entitled to be indemnified as authorized in the preceding subsection.

(d) The provisions of this Section shall survive the termination of this Trust Agreement or the earlier resignation or removal of the Fiduciary Indemnified Persons.

DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION,  
as Trustee

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President

U.S. BANCORP, as Depositor

By: /s/ Laura F. Bednarski

Name: Laura F. Bednarski

Title: Vice President

/s/ David M. Moffet

David M. Moffett, as Administrative Trustee

/s/ Daryl N. Bible

Daryl N. Bible, as Administrative Trustee

/s/ Lee R. Mitau

Lee R. Mitau, as Administrative Trustee



## TRUST AGREEMENT OF

## USB CAPITAL XV

This TRUST AGREEMENT of USB CAPITAL XV (the “Trust”), dated as of April 27, 2005, among (i) U.S. Bancorp, a Delaware corporation (the “Depositor”), (ii) Delaware Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America, as trustee of the Trust, and (iii) David M. Moffett, Daryl N. Bible and Lee R. Mitau, each an individual employed by the Depositor, as administrative trustees of the Trust (each of such trustees in (ii) and (iii), a “Trustee” and collectively, the “Trustees”). The Depositor and the Trustees hereby agree as follows:

1. The Trust created hereby shall be known as “USB Capital XV”, in which name the Trustees, or the Depositor to the extent provided herein, may conduct the business of the Trust, make and execute contracts, and sue and be sued.
2. The Depositor hereby assigns, transfers, conveys and sets over to the Trustees, the sum of \$10. The Trustees hereby acknowledge receipt of such amount in trust from the Depositor, which amount shall constitute the initial trust estate. The Trustees hereby declare that they will hold the trust estate in trust for the Depositor. It is the intention of the parties hereto that the Trust created hereby constitute a statutory trust under Chapter 38 of Title 12 of the Delaware Code, 12 Del. C. Section 3801 et seq. (the “Delaware Statutory Trust Act”), and that this document constitute the governing instrument of the Trust. The Trustees hereby are authorized and directed to execute and file a certificate of trust with the Secretary of the State of Delaware in accordance with the provisions of the Delaware Statutory Trust Act.
3. The Depositor and the Trustees will enter into an Amended and Restated Trust Agreement, satisfactory to each such party and substantially in the form to be included as an exhibit to the 1933 Act Registration Statement referred to below, to provide for the contemplated operation of the Trust created hereby and the issuance of the Capital Securities and the Common Securities referred to therein. Prior to the execution and delivery of such Amended and Restated Trust Agreement, the Trustees shall not have any duty or obligation hereunder or with respect to the trust estate, except as otherwise required by applicable law or as may be necessary to obtain prior to such execution and delivery any licenses, consents or approvals required by applicable law or otherwise.
4. The Trustees hereby authorize and direct the Depositor, as an agent of the Trust (i) to file with the Securities and Exchange Commission (the “Commission”) and execute, in each case on behalf of the Trust, (a) a Registration Statement on Form S-3 (the “1933 Act Registration Statement”), including any pre-effective or post-effective amendments to the 1933 Act Registration Statement, relating to the registration under the Securities Act of 1933, as amended, of the Capital Securities of the Trust and certain other securities and (b) a Registration Statement on Form 8-A (the “1934 Act Registration Statement”) (including all pre-effective and post-effective amendments thereto) relating to the registration of the Capital Securities of the Trust under Section 12(b) of the Securities Exchange Act of 1934, as amended; (ii) to file with the New York Stock Exchange (the “Exchange”) and execute on behalf of the Trust a listing application and all other applications, statements, certificates, agreements and other instruments as shall be necessary or desirable to cause the Capital Securities to be listed on the Exchange; (iii) to file and execute on behalf of the Trust such applications, reports, surety bonds, irrevocable consents, appointments of attorney for service of process and other papers and documents as shall be necessary or desirable to register the Capital Securities under the securities or blue sky laws of such jurisdictions as the Depositor, on behalf of the Trust, may deem necessary or desirable; (iv) to execute and deliver letters or documents to, or instruments for filing with, a depository relating to the Capital Securities of the Trust, and (v) to execute on behalf of the Trust an underwriting agreement relating to the Capital Securities, among the Trust, the Depositor and the several underwriters named therein, substantially in the form included as an exhibit to the 1933 Act Registration Statement. In the event that any filing referred to above is required by the rules and regulations of the Commission, the Exchange or state securities or blue sky laws to be executed on behalf of the Trust by one or more of the Trustees, each of the Trustees, in its or his capacity as Trustee of the Trust, is hereby authorized and, to the extent so required, directed to join in any such filing and to execute on behalf of the Trust any and all of the foregoing, it being understood that Delaware Trust Company, National Association, in its capacity as Trustee of the Trust, shall not be required to join in any such filing or execute on behalf of the Trust any such document unless required by the rules and regulations of the Commission, the Exchange or state securities or blue sky laws. In connection with the filings referred to above, the Depositor and David M. Moffett, Daryl N. Bible and Lee R. Mitau, each an administrative trustee, solely in their capacities as Trustees of the Trust, hereby constitutes and appoints David M. Moffett, Daryl N. Bible and Lee R. Mitau, and each of them, as its or his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for the Depositor or such Trustee or in the Depositor’s or such Trustee’s name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to any such filings (including the 1933 Act Registration Statement and the 1934 Act Registration Statement) and to file the same, with all exhibits thereto and other documents in connection therewith, with the Commission, the Exchange and administrators of state securities or blue sky laws, granting unto said attorneys-in-fact and agents full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as the Depositor or such Trustee might or could do in person, thereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or their respective substitute or substitutes, shall do or cause to be done by virtue thereof.



5. This Trust Agreement may be executed in one or more counterparts.

6. The number of Trustees initially shall be four (4) and thereafter the number of the Trustees shall be such number as shall be fixed from time to time by a written instrument signed by the Depositor which may increase or decrease the number of Trustees; provided, however, that to the extent required by the Delaware Statutory Trust Act, one Trustee shall be either a natural person who is a resident of the State of Delaware, or, if not a natural person, an entity which has its principal place of business in the State of Delaware and otherwise meets the requirements of applicable Delaware law. Subject to the foregoing, the Depositor is entitled to appoint or remove without cause any Trustee at any time. The Trustees may resign upon thirty days' prior written notice to the Depositor.

7. This Trust Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware (without regard to conflict of laws principles).

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

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

(c) The Depositor agrees, to the fullest extent permitted by applicable law, (i) to indemnify and hold harmless each Fiduciary Indemnified Person from and against any loss, damage, liability, tax, penalty, expense or claim of any kind or nature whatsoever incurred by or asserted against the Fiduciary Indemnified Persons by reason of the creation, operation or termination of the Trust or the transactions contemplated by this Trust Agreement, except that no Fiduciary Indemnified Person shall be entitled to be indemnified in respect of any loss, damage or claim incurred by the Fiduciary Indemnified Persons by reason of gross negligence or willful misconduct with respect to such acts or omissions, and (ii) to advance expenses (including legal fees) incurred by a Fiduciary Indemnified Person in defending any claim, demand, action, suit or proceeding shall, from time to time, prior to the final disposition of such claim, demand, action, suit or proceeding, upon receipt by the Trust of an undertaking by or on behalf of such Fiduciary Indemnified Persons to repay such amount if it shall be determined that such Fiduciary Indemnified Person is not entitled to be indemnified as authorized in the preceding subsection.

(d) The provisions of this Section shall survive the termination of this Trust Agreement or the earlier resignation or removal of the Fiduciary Indemnified Persons.

DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION,  
as Trustee

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President

U.S. BANCORP, as Depositor

By: /s/ Laura F. Bednarski

Name: Laura F. Bednarski

Title: Vice President

/s/ David M. Moffet

David M. Moffett, as Administrative Trustee

/s/ Daryl N. Bible

Daryl N. Bible, as Administrative Trustee

/s/ Lee R. Mitau

Lee R. Mitau, as Administrative Trustee





## TRUST AGREEMENT OF

## USB CAPITAL XVI

This TRUST AGREEMENT of USB CAPITAL XVI (the “Trust”), dated as of April 27, 2005, among (i) U.S. Bancorp, a Delaware corporation (the “Depositor”), (ii) Delaware Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America, as trustee of the Trust, and (iii) David M. Moffett, Daryl N. Bible and Lee R. Mitau, each an individual employed by the Depositor, as administrative trustees of the Trust (each of such trustees in (ii) and (iii), a “Trustee” and collectively, the “Trustees”). The Depositor and the Trustees hereby agree as follows:

1. The Trust created hereby shall be known as “USB Capital XVI”, in which name the Trustees, or the Depositor to the extent provided herein, may conduct the business of the Trust, make and execute contracts, and sue and be sued.
2. The Depositor hereby assigns, transfers, conveys and sets over to the Trustees, the sum of \$10. The Trustees hereby acknowledge receipt of such amount in trust from the Depositor, which amount shall constitute the initial trust estate. The Trustees hereby declare that they will hold the trust estate in trust for the Depositor. It is the intention of the parties hereto that the Trust created hereby constitute a statutory trust under Chapter 38 of Title 12 of the Delaware Code, 12 Del. C. Section 3801 et seq. (the “Delaware Statutory Trust Act”), and that this document constitute the governing instrument of the Trust. The Trustees hereby are authorized and directed to execute and file a certificate of trust with the Secretary of the State of Delaware in accordance with the provisions of the Delaware Statutory Trust Act.
3. The Depositor and the Trustees will enter into an Amended and Restated Trust Agreement, satisfactory to each such party and substantially in the form to be included as an exhibit to the 1933 Act Registration Statement referred to below, to provide for the contemplated operation of the Trust created hereby and the issuance of the Capital Securities and the Common Securities referred to therein. Prior to the execution and delivery of such Amended and Restated Trust Agreement, the Trustees shall not have any duty or obligation hereunder or with respect to the trust estate, except as otherwise required by applicable law or as may be necessary to obtain prior to such execution and delivery any licenses, consents or approvals required by applicable law or otherwise.
4. The Trustees hereby authorize and direct the Depositor, as an agent of the Trust (i) to file with the Securities and Exchange Commission (the “Commission”) and execute, in each case on behalf of the Trust, (a) a Registration Statement on Form S-3 (the “1933 Act Registration Statement”), including any pre-effective or post-effective amendments to the 1933 Act Registration Statement, relating to the registration under the Securities Act of 1933, as amended, of the Capital Securities of the Trust and certain other securities and (b) a Registration Statement on Form 8-A (the “1934 Act Registration Statement”) (including all pre-effective and post-effective amendments thereto) relating to the registration of the Capital Securities of the Trust under Section 12(b) of the Securities Exchange Act of 1934, as amended; (ii) to file with the New York Stock Exchange (the “Exchange”) and execute on behalf of the Trust a listing application and all other applications, statements, certificates, agreements and other instruments as shall be necessary or desirable to cause the Capital Securities to be listed on the Exchange; (iii) to file and execute on behalf of the Trust such applications, reports, surety bonds, irrevocable consents, appointments of attorney for service of process and other papers and documents as shall be necessary or desirable to register the Capital Securities under the securities or blue sky laws of such jurisdictions as the Depositor, on behalf of the Trust, may deem necessary or desirable; (iv) to execute and deliver letters or documents to, or instruments for filing with, a depository relating to the Capital Securities of the Trust, and (v) to execute on behalf of the Trust an underwriting agreement relating to the Capital Securities, among the Trust, the Depositor and the several underwriters named therein, substantially in the form included as an exhibit to the 1933 Act Registration Statement. In the event that any filing referred to above is required by the rules and regulations of the Commission, the Exchange or state securities or blue sky laws to be executed on behalf of the Trust by one or more of the Trustees, each of the Trustees, in its or his capacity as Trustee of the Trust, is hereby authorized and, to the extent so required, directed to join in any such filing and to execute on behalf of the Trust any and all of the foregoing, it being understood that Delaware Trust Company, National Association, in its capacity as Trustee of the Trust, shall not be required to join in any such filing or execute on behalf of the Trust any such document unless required by the rules and regulations of the Commission, the Exchange or state securities or blue sky laws. In connection with the filings referred to above, the Depositor and David M. Moffett, Daryl N. Bible and Lee R. Mitau, each an administrative trustee, solely in their capacities as Trustees of the Trust, hereby constitutes and appoints David M. Moffett, Daryl N. Bible and Lee R. Mitau, and each of them, as its or his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for the Depositor or such Trustee or in the Depositor’s or such Trustee’s name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to any such filings (including the 1933 Act Registration Statement and the 1934 Act Registration Statement) and to file the same, with all exhibits thereto and other documents in connection therewith, with the Commission, the Exchange and administrators of state securities or blue sky laws, granting unto said attorneys-in-fact and agents full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as the Depositor or such Trustee might or could do in person, thereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or their respective substitute or substitutes, shall do or cause to be done by virtue thereof.



5. This Trust Agreement may be executed in one or more counterparts.

6. The number of Trustees initially shall be four (4) and thereafter the number of the Trustees shall be such number as shall be fixed from time to time by a written instrument signed by the Depositor which may increase or decrease the number of Trustees; provided, however, that to the extent required by the Delaware Statutory Trust Act, one Trustee shall be either a natural person who is a resident of the State of Delaware, or, if not a natural person, an entity which has its principal place of business in the State of Delaware and otherwise meets the requirements of applicable Delaware law. Subject to the foregoing, the Depositor is entitled to appoint or remove without cause any Trustee at any time. The Trustees may resign upon thirty days' prior written notice to the Depositor.

7. This Trust Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware (without regard to conflict of laws principles).

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

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

(c) The Depositor agrees, to the fullest extent permitted by applicable law, (i) to indemnify and hold harmless each Fiduciary Indemnified Person from and against any loss, damage, liability, tax, penalty, expense or claim of any kind or nature whatsoever incurred by or asserted against the Fiduciary Indemnified Persons by reason of the creation, operation or termination of the Trust or the transactions contemplated by this Trust Agreement, except that no Fiduciary Indemnified Person shall be entitled to be indemnified in respect of any loss, damage or claim incurred by the Fiduciary Indemnified Persons by reason of gross negligence or willful misconduct with respect to such acts or omissions, and (ii) to advance expenses (including legal fees) incurred by a Fiduciary Indemnified Person in defending any claim, demand, action, suit or proceeding shall, from time to time, prior to the final disposition of such claim, demand, action, suit or proceeding, upon receipt by the Trust of an undertaking by or on behalf of such Fiduciary Indemnified Persons to repay such amount if it shall be determined that such Fiduciary Indemnified Person is not entitled to be indemnified as authorized in the preceding subsection.

(d) The provisions of this Section shall survive the termination of this Trust Agreement or the earlier resignation or removal of the Fiduciary Indemnified Persons.

DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION,  
as Trustee

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President

U.S. BANCORP, as Depositor

By: /s/ Laura F. Bednarski

Name: Laura F. Bednarski

Title: Vice President

/s/ David M. Moffet

David M. Moffett, as Administrative Trustee

/s/ Daryl N. Bible

Daryl N. Bible, as Administrative Trustee

/s/ Lee R. Mitau

Lee R. Mitau, as Administrative Trustee



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**AMENDED AND RESTATED TRUST AGREEMENT**

**By and Among**

**U.S. BANCORP,  
as Sponsor**

**DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION,  
as Property Trustee**

**DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION,  
as Delaware Trustee**

**And**

**THE ADMINISTRATIVE TRUSTEES NAMED HEREIN**

**Dated as of \_\_\_\_\_, \_\_\_\_\_**

**USB CAPITAL \_\_\_\_\_**

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## CROSS REFERENCE TABLE<sup>1</sup>

Section of Trust Indenture Act of 1939, as amended	Section of Agreement
310(a)	6.3
310(b)	6.3(c); 6.3(d)
310(c)	Inapplicable
311(a)	2.2(b)
311(b)	2.2(b)
311(c)	Inapplicable
312(a)	2.2(a)
312(b)	2.2(b)
312(c)	Inapplicable
313(a)	2.3
313(b)	2.3
313(c)	2.3
313(d)	2.3
314(a)	2.4
314(b)	Inapplicable
314(c)	2.5
314(d)	Inapplicable
314(e)	2.5
314(f)	Inapplicable
315(a)	3.9(b); 3.10(a)
315(b)	2.7(a)
315(c)	3.9(a)
315(d)	3.9(b)
316(a)	2.6; 7.5(b); 7.6(c)
316(b)	Inapplicable
316(c)	Inapplicable
317(a)	3.16
317(b)	Inapplicable
318(a)	2.1(c)

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



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## EXHIBITS

Exhibit A Form of Capital Security Certificate  
Exhibit B Form of Common Security Certificate

## AMENDED AND RESTATED TRUST AGREEMENT

This AMENDED AND RESTATED TRUST AGREEMENT (this "Trust Agreement"), dated as of \_\_\_\_\_, 20\_\_ is entered into by and among (i) U.S. BANCORP, a Delaware corporation (the "Sponsor"), (ii) DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States of America, as property trustee (in each such capacity, the "Property Trustee"), (iii) DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION, as Delaware trustee (the "Delaware Trustee"), (iv) DAVID M. MOFFETT, an individual, DARYL N. BIBLE, an individual, and LEE R. MITAU, an individual, each of whose address is c/o U.S. Bancorp, 800 Nicollet Mall, Minneapolis, Minnesota 55402 (each an "Administrative Trustee" and collectively the "Administrative Trustees") (the Property Trustee, the Delaware Trustee and the Administrative Trustees referred to collectively as the "Trustees") and (v) the several Holders, as hereinafter defined.

### RECITALS

WHEREAS, the Trustees and the Sponsor established USB Capital \_\_\_\_\_ (the "Trust"), a statutory trust under the Delaware Statutory Trust Act (as defined, together with other capitalized terms, herein) pursuant to a Trust Agreement dated as of \_\_\_\_\_, 20\_\_ (the "Original Trust Agreement"), and a Certificate of Trust (the "Certificate of Trust") filed with the Secretary of State of the State of Delaware on \_\_\_\_\_, 20\_\_;

WHEREAS, the sole purpose of the Trust shall be to issue and sell certain securities representing undivided beneficial interests in the assets of the Trust and invest the gross proceeds thereof in the Debentures issued by the Debenture Issuer and to engage in only those activities necessary or incidental thereto; and

WHEREAS, the parties hereto, by this Trust Agreement, amend and restate each and every term and provision of the Original Trust Agreement;

NOW, THEREFORE, it being the intention of the parties hereto to continue the Trust as a statutory trust under the Delaware Statutory Trust Act and that this Trust Agreement constitute the governing instrument of such statutory trust, the Trustees hereby declare that all assets contributed to the Trust be held in trust for the benefit of the Holders of the Securities representing undivided beneficial interests in the assets of the Trust issued hereunder, subject to the provisions of this Trust Agreement.

### ARTICLE 1

#### INTERPRETATION AND DEFINITIONS

##### SECTION 1.1. Interpretation and Definitions.

Unless the context otherwise requires:

(a) capitalized terms used in this Trust Agreement but not defined in the preamble above have the meanings assigned to them in this Section 1.1;

(b) a term defined anywhere in this Trust Agreement has the same meaning throughout;

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

(d) all references in this Trust Agreement to Articles, Sections, Recitals and Exhibits are to Articles and Sections of, or Recitals and Exhibits to, this Trust Agreement unless otherwise specified;

(e) unless otherwise defined in this Trust Agreement, a term defined in the Trust Indenture Act has the same meaning when used in this Trust Agreement;

(f) a reference to the singular includes the plural and vice versa and a reference to any masculine form of a term shall include the feminine form of a term, as applicable; and

(g) the following terms have the following meanings:

“*Administrative Trustee*” means any Trustee other than the Property Trustee and the Delaware Trustee.

“*Affiliate*” has the same meaning as given to that term in Rule 405 of the Securities Act or any successor rule thereunder.

“*Authorized Officer*” of a Person means any Person that is authorized to bind such Person.

“*Beneficial Owners*” means, for Capital Securities represented by a Global Security, the Person who acquires an interest in the Capital Securities which is reflected on the records of the Depository through the Depository Participants.

“*Business Day*” means any day other than (i) a Saturday or Sunday, (ii) a day on which banking institutions in the Borough of Manhattan, The City of New York are authorized or required by law or executive order to remain closed or (iii) a day on which the Corporate Trust Office of the Debenture Trustee, or, with respect to the Securities of a series initially issued to a Trust, the principal office of the Property Trustee under the related Trust Agreement, is closed for business.

“*Capital Security*” has the meaning specified in Section 7.1.

“*Capital Security Certificate*” means a definitive certificate in fully registered form representing a Capital Security, substantially in the form of Exhibit A.

“*Certificate*” means a Common Security Certificate or a Capital Security Certificate.

“*Certificate of Trust*” has the meaning specified in the Recitals hereto.

“*Closing Date*” means the date on which the Capital Securities are issued and sold.

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

“*Commission*” means the Securities and Exchange Commission or any successor thereto.

“*Common Securities Holder*” means U.S. Bancorp, or any successor thereto, in its capacity as purchaser and holder of all of the Common Securities issued by the Trust.

“*Common Security*” has the meaning specified in Section 7.1.

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

“*Corporate Trust Office*” means the principal office of the Property Trustee at which at any particular time its corporate trust business shall be administered, which office at the date of execution of this Trust Agreement is located at c/o 300 Delaware Avenue, 9th Floor, Wilmington, Delaware 19801.

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

“*Debenture Issuer*” means U.S. Bancorp, or any successor thereto under the Indenture, in its capacity as issuer of the Debentures under the Indenture.

“*Debenture Issuer Indemnified Person*” means (a) any Administrative Trustee; (b) any Affiliate of any Administrative Trustee; (c) any officers, directors, shareholders, members, partners, employees, representatives or agents of any Administrative Trustee or any Affiliate thereof; or (d) any officer, employee or agent of the Trust or its Affiliates.

“*Debenture Trustee*” means Delaware Trust Company, National Association, in its capacity as trustee under the Indenture until a successor is appointed thereunder, and thereafter means such successor trustee.

“*Debentures*” means the series of debentures to be issued by the Debenture Issuer under the Indenture and held by the Property Trustee.

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



*“Delaware Trustee”* means the Trustee meeting the eligibility requirements set forth in Section 6.2.

*“Depository”* means, with respect to Securities issuable in whole or in part in the form of one or more Global Securities, a clearing agency registered under the Exchange Act that is designated to act as Depository for such Securities.

*“Depository Participant”* means a member of, or participant in, the Depository.

*“Direct Action”* has the meaning specified in Section 3.8(e).

*“Distribution”* means a distribution payable to Holders of Securities in accordance with Section 7.2.

*“Exchange Act”* means the Securities Exchange Act of 1934, as amended from time to time, or any successor legislation.

*“Federal Reserve”* means the Board of Governors of the Federal Reserve System, or any successor thereto.

*“Fiduciary Indemnified Person”* has the meaning set forth in Section 9.4(b).

*“Fiscal Year”* has the meaning specified in Section 10.1.

*“Global Security”* means a fully registered, global Capital Security Certificate.

*“Guarantee”* means the Guarantee Agreement, dated the date hereof, of the Sponsor in respect of the Securities.

*“Holder”* means any holder of Securities, as registered on the books and records of the Trust.

*“Indemnified Person”* means a Debenture Issuer Indemnified Person or a Fiduciary Indemnified Person.

*“Indenture”* means the Junior Subordinated Indenture, dated as of \_\_\_, 2005, between the Debenture Issuer and Delaware Trust Company, National Association, as Trustee, pursuant to which the Debentures are to be issued.

*“Indenture Event of Default”* has the meaning given to the term “Event of Default” in the Indenture.

*“Investment Company”* means an investment company as defined in the Investment Company Act and the regulations promulgated thereunder.

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

“*Investment Company Event*” means the receipt by the Sponsor and the Trust of an opinion of an independent counsel experienced in matters relating to investment companies, to the effect that, as a result of the occurrence of a change in law or regulation or a change in interpretation or application of law or regulation by any legislative body, court, governmental agency or regulatory authority (a “Change in 1940 Act Law”), there is more than an insubstantial risk that the Trust is or will be considered an “investment company” that is required to be registered under the Investment Company Act, which Change in 1940 Act Law becomes effective on or after the Closing Date.

“*Legal Action*” has the meaning specified in Section 3.6(g).

“*List of Holders*” has the meaning specified in Section 2.2(a).

“*Majority in Liquidation Amount*” means, except as provided in the terms of the Capital Securities or by the Trust Indenture Act, Holder(s) of outstanding Securities, voting together as a single class, or, as the context may require, Holders of outstanding Capital Securities or Holders of outstanding Common Securities, voting separately as a class, who are the record owners of more than 50% of the aggregate liquidation amount (including the stated amount that would be paid on redemption, liquidation or otherwise, plus accumulated and unpaid Distributions to the date upon which the voting percentages are determined) of all outstanding Securities of the relevant class.

“*New York Stock Exchange*” means the New York Stock Exchange, Inc. or any successor thereto.

“*Officers’ Certificate*” means, with respect to any Person, a certificate signed on behalf of such Person by two Authorized Officers of such Person. Any Officers’ Certificate delivered with respect to compliance with a condition or covenant provided for in this Trust Agreement shall include:

(i) a statement that each officer signing the Officers’ Certificate has read the covenant or condition and the definitions relating thereto;

(ii) a brief statement of the nature and scope of the examination or investigation undertaken by each officer on behalf of such Person in rendering the Officers’ Certificate;

(iii) a statement that each such officer has made such examination or investigation as, in such officer’s opinion, is necessary to enable such officer on behalf of such Person to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(iv) a statement as to whether, in the opinion of each such officer acting on behalf of such Person, such condition or covenant has been complied with; provided, that the term “Officers’ Certificate”, when used with reference to Administrative Trustees who are natural persons shall mean a certificate signed by two or more of the Administrative Trustees which otherwise satisfies the foregoing requirements.

“*Paying Agent*” has the meaning specified in Section 3.8(h).

“*Payment Amount*” has the meaning specified in Section 7.2(c).

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

“*Property Account*” has the meaning specified in Section 3.8(c).

“*Property Trustee*” means the Trustee meeting the eligibility requirements set forth in Section 6.3.

“*Pro Rata*” means pro rata to each Holder of Securities according to the aggregate liquidation amount of the Securities held by the relevant Holder in relation to the aggregate liquidation amount of all Securities outstanding.

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

“*Redemption/Distribution Notice*” has the meaning specified in Section 7.4(a).

“*Redemption Price*” means the amount for which the Securities will be redeemed, which amount will equal (i) the redemption price paid by the Debenture Issuer to repay or redeem, in whole or in part, the Debentures held by the Trust which shall include accumulated and unpaid Distributions on such Securities through the date of their redemption or (ii) such lesser amount as will be received by the Trust in respect of the Debentures so repaid or redeemed.

“*Regulatory Capital Event*” means the reasonable determination by the Sponsor that, as a result of (a) any amendment to, or change (including any announced prospective change) in, the laws (or any regulations thereunder) of the United States or (b) any official or administrative pronouncement or action or judicial decision for interpreting or applying such laws or regulations, which amendment or change is effective or such pronouncement or decision is announced on or after the date of original issuance of the Capital Securities, there is more than an insubstantial risk of impairment of the Sponsor’s ability to treat the Capital Securities (or any substantial portion thereof) as Tier 1 capital (or its then equivalent) for purposes of the capital adequacy guidelines of the Federal Reserve in effect and applicable to the Sponsor.

“*Related Party*” means, with respect to the Sponsor, any direct or wholly owned subsidiary of the Sponsor or any Person that owns, directly or indirectly, 100% of the outstanding voting securities of the Sponsor.

“*Responsible Officer*” means, with respect to the Property Trustee, any officer with direct responsibility for the administration of this Trust Agreement and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of that officer’s knowledge of and familiarity with the particular subject.

“*Securities*” means the Common Securities and the Capital Securities.

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

“*Special Event*” means a Tax Event, a Regulatory Capital Event or an Investment Company Event.

“*Sponsor*” means U.S. Bancorp, a Delaware corporation, or any successor entity in a merger, consolidation, amalgamation or replacement by or conveyance, transfer or lease of its properties substantially as an entirety, in its capacity as sponsor of the Trust.

“*Successor Delaware Trustee*” has the meaning specified in Section 6.6(b).

“*Successor Entity*” has the meaning specified in Section 3.15(b)(i).

“*Successor Property Trustee*” has the meaning specified in Section 6.6(b).

“*Successor Security*” has the meaning specified in Section 3.15(b)(i)b.

“*Super Majority*” has the meaning specified in Section 2.6(a)(ii).

“*Tax Event*” means the receipt by the Sponsor or the Trust of an opinion of tax counsel (which may be the Sponsor’s counsel or counsel of an Affiliate but not an employee and which must be reasonably acceptable to the Property Trustee) experienced in such matters, to the effect that, as a result of (a) any amendment to, or change (including any announced prospective change) in, the laws (or any regulations thereunder) of the United States or any political subdivision or taxing authority thereof or therein, or (b) any court, governmental agency or regulatory authority interpreting or applying such laws or regulations, there is more than an insubstantial risk that (i) the Trust is, or will be within 90 days of the date of such opinion, subject to the United States federal income tax with respect to income received or accrued on the Debentures, (ii) interest payable by the Debenture Issuer on the Debentures is not, or within 90 days of the date of such opinion will not be, deductible, in whole or in part, by the Debenture Issuer for United States federal income tax purposes, or (iii) the Trust is, or will be within 90 days of the date of such opinion, subject to more than a de minimus amount of other taxes, duties or other governmental charges.

“*10% in Liquidation Amount*” means, except as provided in the terms of the Capital Securities or by the Trust Indenture Act, Holder(s) of outstanding Securities, voting together as a single class, or, as the context may require, Holders of outstanding Capital Securities or Holders of outstanding Common Securities, voting separately as a class, who are the record owners of 10% or more of the aggregate liquidation amount (including the stated amount that would be paid on redemption, liquidation or otherwise, plus accumulated and unpaid Distributions to the date upon which the voting percentages are determined) of all outstanding Securities of the relevant class.

“*Treasury Regulations*” means the income tax regulations, including temporary and proposed regulations, promulgated under the Code by the United States Treasury, as such

regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

“Trust” has the meaning specified in the Recitals.

“Trust Enforcement Event” in respect of the Securities means an Indenture Event of Default has occurred and is continuing in respect of the Debentures.

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

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

## ARTICLE 2

### TRUST INDENTURE ACT

#### SECTION 2.1. Trust Indenture Act; Application.

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

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

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

(d) The application of the Trust Indenture Act to this Trust Agreement shall not affect the Trust’s classification as a grantor trust for United States federal income tax purposes.

#### SECTION 2.2. Lists of Holders of Securities.

(a) Each of the Sponsor and the Administrative Trustees on behalf of the Trust shall provide the Property Trustee (i), except while the Capital Securities are represented by one or more Global Securities, at least five Business Days prior to the date for payment of Distributions, a list, in such form as the Property Trustee may reasonably require, of the names and addresses of the Holders of the Securities (“List of Holders”) as of the record date relating to the payment of such Distributions, and (ii) at any other time, within 30 days of receipt by the Trust of a written request from the Property Trustee for a List of Holders, as of a date no more than 15 days before such List of Holders is given to the Property Trustee; provided that neither

the Sponsor nor the Administrative Trustees on behalf of the Trust shall be obligated to provide such List of Holders at any time the List of Holders does not differ from the most recent List of Holders given to the Property Trustee by the Sponsor and the Administrative Trustees on behalf of the Trust. The Property Trustee shall preserve, in as current a form as is reasonably practicable, all information contained in Lists of Holders given to it or which it receives in the capacity as Paying Agent (if acting in such capacity), provided that the Property Trustee may destroy any List of Holders previously given to it on receipt of a new List of Holders.

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

### SECTION 2.3. Reports by the Property Trustee.

Within 60 days after May 15 of each year (commencing with the year of the first anniversary of the issuance of the Capital Securities), the Property Trustee shall provide to the Holders of the Capital Securities such reports as are required by Section 313 of the Trust Indenture Act, if any, in the form and in the manner provided by Section 313 of the Trust Indenture Act. The Property Trustee shall also comply with the requirements of Section 313(d) of the Trust Indenture Act.

### SECTION 2.4. Periodic Reports to the Property Trustee.

Each of the Sponsor and the Administrative Trustees on behalf of the Trust shall provide to the Property Trustee such documents, reports and information as required by Section 314 of the Trust Indenture Act (if any) and the compliance certificate required by Section 314 of the Trust Indenture Act in the form, in the manner and at the times required by Section 314 of the Trust Indenture Act, but in no event later than 120 days after the end of each calendar year.

### SECTION 2.5. Evidence of Compliance with Conditions Precedent.

Each of the Sponsor and the Administrative Trustees on behalf of the Trust shall provide to the Property Trustee such evidence of compliance with any conditions precedent, if any, provided for in this Trust Agreement that relate to any of the matters set forth in Section 314(c) of the Trust Indenture Act. Any certificate or opinion required to be given by an officer pursuant to Section 314(c)(1) may be given in the form of an Officers' Certificate.

### SECTION 2.6. Trust Enforcement Events; Waiver.

(a) The Holders of a Majority in Liquidation Amount of the Capital Securities may, by vote or written consent, on behalf of the Holders of all of the Capital Securities, waive any past Trust Enforcement Event in respect of the Capital Securities and its consequences, provided that, if the underlying Indenture Event of Default:

(i) is not waivable under the Indenture, the Trust Enforcement Event under the Trust Agreement shall also not be waivable; or

(ii) requires the consent or vote of the Holders of greater than a majority in principal amount of the Debentures (a "Super Majority") to be waived

under the Indenture, the related Trust Enforcement Event under the Trust Agreement may only be waived by the vote or written consent of the Holders of at least the proportion in liquidation amount of the Capital Securities that the relevant Super Majority represents of the aggregate principal amount of the Debentures outstanding.

The foregoing provisions of this Section 2.6(a) shall be in lieu of Section 316(a)(1)(B) of the Trust Indenture Act and such Section 316(a)(1)(B) of the Trust Indenture Act is hereby expressly excluded from this Trust Agreement and the Securities, as permitted by the Trust Indenture Act. Upon such waiver, any such default shall cease to exist, and any Trust Enforcement Event with respect to the Capital Securities arising therefrom shall be deemed to have been cured, for every purpose of this Trust Agreement and the Capital Securities, but no such waiver shall extend to any subsequent or other Trust Enforcement Event with respect to the Capital Securities or impair any right consequent thereon. Any waiver by the Holders of the Capital Securities of a Trust Enforcement Event with respect to the Capital Securities shall also be deemed to constitute a waiver by the Holders of the Common Securities of any such Trust Enforcement Event with respect to the Common Securities for all purposes of this Trust Agreement without any further act, vote, or consent of the Holders of the Common Securities.

(b) The Holders of a Majority in Liquidation Amount of the Common Securities may, by vote or written consent, on behalf of the Holders of all of the Common Securities, waive any past Trust Enforcement Event in respect of the Common Securities and its consequences, provided that, if the underlying Indenture Event of Default:

(i) is not waivable under the Indenture, except where the Holders of the Common Securities are deemed to have waived such Trust Enforcement Event under the Trust Agreement as provided below in this Section 2.6(b), the Trust Enforcement Event under the Trust Agreement shall also not be waivable; or

(ii) requires the consent or vote of a Super Majority to be waived under the Indenture, except where the Holders of the Common Securities are deemed to have waived such Trust Enforcement Event under the Trust Agreement as provided below in this Section 2.6(b), the Trust Enforcement Event under the Trust Agreement may only be waived by the vote or written consent of the Holders of at least the proportion in liquidation amount of the Common Securities that the relevant Super Majority represents of the aggregate principal amount of the Debentures outstanding;

provided further, each Holder of Common Securities will be deemed to have waived any Trust Enforcement Event and all Trust Enforcement Events with respect to the Common Securities and the consequences thereof until all Trust Enforcement Events with respect to the Capital Securities have been cured, waived or otherwise eliminated, and until such Trust Enforcement Events with respect to the Capital Securities have been so cured, waived or otherwise eliminated, the Property Trustee will be deemed to be acting solely on behalf of the Holders of the Capital Securities and only the Holders of the Capital Securities will have the right to direct the Property Trustee in accordance with the terms of the Securities. The foregoing provisions of this Section 2.6(b) shall be in lieu of Sections 316(a)(1)(A) and 316(a)(1)(B) of the Trust Indenture Act and

such Sections 316(a)(1)(A) and 316(a)(1)(B) of the Trust Indenture Act are hereby expressly excluded from this Trust Agreement and the Securities, as permitted by the Trust Indenture Act. Subject to the foregoing provisions of this Section 2.6(b), upon such cure, waiver or other elimination, any such default shall cease to exist and any Trust Enforcement Event with respect to the Common Securities arising therefrom shall be deemed to have been cured for every purpose of this Trust Agreement, but no such waiver shall extend to any subsequent or other Trust Enforcement Event with respect to the Common Securities or impair any right consequent thereon.

(c) A waiver of an Indenture Event of Default by the Property Trustee at the direction of the Holders of the Capital Securities constitutes a waiver of the corresponding Trust Enforcement Event with respect to the Capital Securities under this Trust Agreement. The foregoing provisions of this Section 2.6(c) shall be in lieu of Section 316(a)(1)(B) of the Trust Indenture Act and such Section 316(a)(1)(B) of the Trust Indenture Act is hereby expressly excluded from this Trust Agreement and the Securities, as permitted by the Trust Indenture Act.

#### SECTION 2.7. Trust Enforcement Event; Notice.

(a) The Property Trustee shall, within 90 days after the occurrence of a Trust Enforcement Event actually known to a Responsible Officer of the Property Trustee, transmit by mail, first class postage prepaid, to the Holders of the Securities, notices of all such defaults with respect to the Securities, unless such defaults have been cured before the giving of such notice (the term “defaults” for the purposes of this Section 2.7(a) being hereby defined to be an Indenture Event of Default, not including any periods of grace provided for therein and irrespective of the giving of any notice provided therein); provided that, except for a default in the payment of principal of (or premium, if any) or interest on any of the Debentures, the Property Trustee shall be protected fully in withholding such notice if and so long as a Responsible Officer of the Property Trustee in good faith determines that the withholding of such notice is in the interests of the Holders of the Securities.

(b) The Property Trustee shall not be deemed to have knowledge of any default except:

(i) a default under Sections 5.1(1) and 5.1(2) of the Indenture; or

(ii) any default as to which the Property Trustee shall have received written notice or of which a Responsible Officer of the Property Trustee charged with the administration of this Trust Agreement shall have actual knowledge.

### ARTICLE 3

#### ORGANIZATION

##### SECTION 3.1. Name and Organization.

The Trust hereby continued is named “USB Capital \_\_\_\_” as such name may be modified from time to time by the Administrative Trustees following written notice to the Holders of Securities, the Property Trustee and the Delaware Trustee. The Trust’s activities may



be conducted under the name of the Trust or any other name deemed advisable by the Administrative Trustees.

### SECTION 3.2. Office.

The address of the principal office of the Trust is c/o U.S. Bancorp, 800 Nicollet Mall, Minneapolis, Minnesota 55402. On 10 Business Days' written notice to the Holders of Securities, each of the Property Trustee, the Delaware Trustee and the Administrative Trustees may designate another principal office.

### SECTION 3.3. Purpose.

The exclusive purposes and functions of the Trust are (a) to issue and sell Securities and invest the gross proceeds thereof in the Debentures, and (b) except as otherwise limited herein, to engage in only those other activities necessary or incidental thereto. The Trust shall not borrow money, issue debt or reinvest proceeds derived from investments, pledge any of its assets or otherwise undertake (or permit to be undertaken) any activity that would cause the Trust to be classified as other than a grantor trust for United States federal income tax purposes.

By the acceptance of this Trust, the Trustees, the Sponsor, the Holders of the Capital Securities and Common Securities and the Capital Securities Beneficial Owners will agree to treat the Trust as a grantor trust for United States federal income tax purposes and not to take any position which is contrary to such classification.

### SECTION 3.4. Authority.

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

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

(b) Except as otherwise required by the Delaware Statutory Trust Act or applicable law, any Administrative Trustee is authorized to execute on behalf of the Trust any documents which the Administrative Trustees have the power and authority to cause the Trust to execute pursuant to Section 3.6(b).

(c) An Administrative Trustee may, by power of attorney consistent with applicable law, delegate to any other natural person over the age of 21 his or her power for the

purposes of signing any documents which the Administrative Trustees have power and authority to cause the Trust to execute pursuant to Section 3.6; provided that such person is a United States Person as defined in Section 7701(a)(30) of the Code.

#### SECTION 3.5. Title to Property of the Trust.

Except as provided in Section 3.8 with respect to the Debentures and the Property Account or as otherwise provided in this Trust Agreement, legal title to all assets of the Trust shall be vested in the Trust. The Holders shall not have legal title to any part of the assets of the Trust, but shall have an undivided beneficial ownership interest in the assets of the Trust.

#### SECTION 3.6. Powers and Duties of the Administrative Trustees.

The Administrative Trustees shall have the exclusive power, duty and authority, and are hereby authorized and directed, to cause the Trust to engage in the following activities:

(a) to establish the terms and form of the Capital Securities and the Common Securities in the manner specified in Section 7.1 and issue and sell the Capital Securities in accordance with this Trust Agreement; provided, however, that the Trust may issue no more than one series of Capital Securities and no more than one series of Common Securities, and, provided further, that there shall be no interests in the Trust other than the Securities, and the issuance of Securities shall be limited to a simultaneous issuance of both Capital Securities and Common Securities on the Closing Date;

(b) in connection with the issuance of the Capital Securities, at the direction of the Sponsor, to execute and file any documents prepared by the Sponsor, or take any acts as determined by the Sponsor to be necessary, in order to qualify or register all or part of the Capital Securities in any State in which the Sponsor has determined to qualify or register such Capital Securities for sale;

(c) to purchase the Debentures with the gross proceeds from the issuance and sale of the Capital Securities and the Common Securities; provided, however, that the Administrative Trustees shall cause legal title to the Debentures to be held of record in the name of the Property Trustee for the benefit of the Holders of the Capital Securities and the Holders of the Common Securities;

(d) to give the Sponsor and the Property Trustee prompt written notice of the occurrence of a Special Event; provided that the Administrative Trustees shall consult with the Sponsor and the Property Trustee before taking or refraining from taking any action in relation to any such Special Event;

(e) to establish a record date with respect to all actions to be taken hereunder that require a record date be established, including and with respect to, for the purposes of Section 316(c) of the Trust Indenture Act, Distributions, voting rights, redemptions and exchanges, and to issue relevant notices to the Holders of Capital Securities and Holders of Common Securities as to such actions and applicable record dates;

(f) to take all actions and perform such duties as may be required of the Administrative Trustees pursuant to the terms of this Trust Agreement and the Securities;

(g) to bring or defend, pay, collect, compromise, arbitrate, resort to legal action or otherwise adjust claims or demands of or against the Trust ("Legal Action"), unless, pursuant to Section 3.8(e), the Property Trustee has the exclusive power to bring such Legal Action;

(h) to employ or otherwise engage employees and agents (who may be designated as officers with titles) and managers, contractors, advisors and consultants to conduct only those services that the Administrative Trustees have authority to conduct directly, and to pay reasonable compensation for such services, provided that such person is a United States Person as defined in Section 7701(a)(30) of the Code;

(i) to cause the Trust to comply with the Trust's obligations under the Trust Indenture Act;

(j) to give the certificate required by Section 314(a)(4) of the Trust Indenture Act to the Property Trustee, which certificate may be executed by any Administrative Trustee;

(k) to incur expenses that are necessary or incidental to carry out any of the purposes of the Trust;

(l) to act as, or appoint another Person to act as, registrar and transfer agent for the Securities;

(m) to give prompt written notice to the Holders of the Securities of any notice received from the Debenture Issuer of its election to defer payments of interest on the Debentures by extending the interest payment period under the Debentures as authorized by the Indenture;

(n) to take all action that may be necessary or appropriate for the preservation and the continuation of the Trust's valid existence, rights, franchises and privileges as a statutory trust under the laws of the State of Delaware and of each other jurisdiction in which such existence is necessary to protect the limited liability of the Holders of the Capital Securities and the Holders of the Common Securities or to enable the Trust to effect the purposes for which the Trust was created;

(o) to take any action, not inconsistent with applicable law, that the Administrative Trustees determine in their discretion to be necessary or desirable in carrying out the purposes and functions of the Trust as set out in Section 3.3 or the activities of the Trust as set out in this Section 3.6, including, but not limited to:

(i) causing the Trust not to be deemed to be an Investment Company required to be registered under the Investment Company Act;

(ii) causing the Trust to be classified as a grantor trust for United States federal income tax purposes; and

(iii) cooperating with the Debenture Issuer to ensure that the Debentures will be treated as indebtedness of the Debenture Issuer for United States federal income tax purposes.

(p) to take all action necessary to cause all applicable tax returns and tax information reports that are required to be filed with respect to the Trust to be duly prepared and filed by the Administrative Trustees, on behalf of the Trust; and

(q) to execute and deliver all documents or instruments, perform all duties and powers, and do all things for and on behalf of the Trust in all matters necessary or incidental to the foregoing.

The Administrative Trustees shall exercise the powers set forth in this Section 3.6 in a manner that is consistent with the purposes and functions of the Trust set out in Section 3.3, and the Administrative Trustees shall have no power to, and shall not, take any action that is inconsistent with the purposes and functions of the Trust set forth in Section 3.3.

Subject to this Section 3.6, the Administrative Trustees shall have none of the powers or the authority of the Property Trustee set forth in Section 3.8.

Any expenses incurred by the Administrative Trustees pursuant to this Section 3.6 shall be reimbursed by the Debenture Issuer.

#### SECTION 3.7. Prohibition of Actions by the Trust and the Trustees.

(a) The Trust shall not, and none of the Trustees (including the Property Trustee) shall cause the Trust to, engage in any activity other than as required or authorized by this Trust Agreement. In particular, the Trust shall not and none of the Trustees (including the Property Trustee) shall cause the Trust to:

(i) invest any proceeds received by the Trust from holding the Debentures, but shall distribute all such proceeds to Holders of Securities pursuant to the terms of this Trust Agreement and of the Securities;

(ii) acquire any assets other than as expressly provided herein;

(iii) possess Trust property for other than a Trust purpose;

(iv) make any loans (other than those represented by the Debentures) or incur any indebtedness;

(v) possess any power or otherwise act in such a way as to vary the Trust assets;

(vi) possess any power or otherwise act in such a way as to vary the terms of the Securities in any way whatsoever (except to the extent expressly authorized in this Trust Agreement or by the terms of the Securities);

(vii) issue any securities or other evidences of beneficial ownership of, or beneficial interest in, the Trust other than the Securities;

(viii) other than as provided in this Trust Agreement or by the terms of the Securities, (A) direct the time, method and place of exercising any trust or power conferred upon the Debenture Trustee with respect to the Debentures, (B) waive any past default that is waivable under the Indenture, (C) exercise any right to rescind or annul any declaration that the principal of all the Debentures shall be due and payable, or (D) consent to any amendment, modification or termination of the Indenture or the Debentures where such consent shall be required unless the Trust shall have received an opinion of counsel to the effect that such modification will not cause more than an insubstantial risk that the Trust will be deemed an Investment Company required to be registered under the Investment Company Act, or the Trust will be classified as other than a grantor trust for United States federal income tax purposes;

(ix) take any action inconsistent with the status of the Trust as a grantor trust for United States federal income tax purposes;  
or

(x) revoke any action previously authorized or approved by vote of the Holders of the Capital Securities.

#### SECTION 3.8. Powers and Duties of the Property Trustee.

(a) The legal title to the Debentures shall be owned by and held of record in the name of the Property Trustee for the benefit of the Trust and the Holders of the Securities. The right, title and interest of the Property Trustee to the Debentures shall vest automatically in each Person who may hereafter be appointed as Property Trustee in accordance with Section 6.6. Such vesting and cessation of title shall be effective whether or not conveyancing documents with regard to the Debentures have been executed and delivered.

(b) The Property Trustee shall not transfer its right, title and interest in the Debentures to the Administrative Trustees or to the Delaware Trustee (if the Property Trustee does not also act as Delaware Trustee).

(c) The Property Trustee shall:

(i) establish and maintain a segregated non-interest bearing trust account (the "Property Account") in the name of and under the exclusive control of the Property Trustee on behalf of the Holders of the Securities and, upon the receipt of payments of funds made in respect of the Debentures held by the Property Trustee, deposit such funds into the Property Account and make payments to the Holders of the Capital Securities and Holders of the Common Securities from the Property Account in accordance with Section 7.2. Funds in the Property Account shall be held uninvested until disbursed in accordance with this Trust Agreement. The Property Account shall be an account that is maintained with a banking institution the rating on whose long-term unsecured indebtedness is at least equal to the rating assigned to the Capital Securities by a

“nationally recognized statistical rating organization”, within the meaning of Rule 436(g)(2) under the Securities Act;

(ii) engage in such ministerial activities as shall be necessary or appropriate to effect the redemption of the Capital Securities and the Common Securities to the extent the Debentures are redeemed or mature; and

(iii) upon written notice of distribution issued by the Administrative Trustees in accordance with the terms of the Securities, engage in such ministerial activities as so directed and as shall be necessary or appropriate to effect the distribution of the Debentures to Holders of Securities upon the occurrence of a Special Event.

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

(e) The Property Trustee shall take any Legal Action which arises out of or in connection with a Trust Enforcement Event of which a Responsible Officer of the Property Trustee has actual knowledge or the Property Trustee’s duties and obligations under this Trust Agreement or the Trust Indenture Act; *provided, however*, that if a Trust Enforcement Event has occurred and is continuing and such event is attributable to the failure of the Debenture Issuer to pay interest, principal or other required payments on the Debentures on the date such interest, principal or other required payments are otherwise payable (or in the case of redemption, on the redemption date), then a Holder of Capital Securities may directly institute a proceeding against the Debenture Issuer for enforcement of payment to such Holder of the principal of or interest on Debentures having a principal amount equal to the aggregate liquidation amount of the Capital Securities of such Holder (a “Direct Action”) on or after the respective due date specified in the Debentures. Notwithstanding anything to the contrary in this Trust Agreement or the Indenture, the Debenture Issuer shall have the right to set-off any payment it is otherwise required to make under the Indenture in respect of any Capital Security to the extent the Debenture Issuer has heretofore made, or is currently on the date of such payment making, a payment under the Guarantee relating to such Capital Security or under Section 5.8 of the Indenture.

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

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

(ii) a Successor Property Trustee has been appointed and has accepted that appointment in accordance with Section 6.6.

(g) The Property Trustee shall have the legal power to exercise all of the rights, powers and privileges of a holder of Debentures under the Indenture and, if a Trust Enforcement Event actually known to a Responsible Officer of the Property Trustee occurs and is continuing, the Property Trustee shall, for the benefit of Holders of the Securities, enforce its

rights as holder of the Debentures subject to the rights of the Holders pursuant to the terms of such Securities.

(h) The Property Trustee may authorize one or more Persons (each, a “Paying Agent”) to pay Distributions, redemption payments or liquidation payments on behalf of the Trust with respect to all Securities and any such Paying Agent shall comply with Section 317(b) of the Trust Indenture Act. Any Paying Agent may be removed by the Property Trustee at any time and a successor Paying Agent or additional Paying Agents may be appointed at any time by the Property Trustee.

(i) Subject to this Section 3.8, the Property Trustee shall have none of the duties, liabilities, powers or the authority of the Administrative Trustees set forth in Section 3.6.

The Property Trustee shall exercise the powers set forth in this Section 3.8 in a manner that is consistent with the purposes and functions of the Trust set out in Section 3.3, and the Property Trustee shall have no power to, and shall not, take any action that is inconsistent with the purposes and functions of the Trust set out in Section 3.3.

#### SECTION 3.9. Certain Duties and Responsibilities of the Property Trustee.

(a) The Property Trustee, before the occurrence of any Trust Enforcement Event and after the curing of all Trust Enforcement Events that may have occurred, shall undertake to perform only such duties as are specifically set forth in this Trust Agreement and no implied covenants shall be read into this Trust Agreement against the Property Trustee. In case a Trust Enforcement Event has occurred (that has not been cured or waived pursuant to Section 2.6) of which a Responsible Officer of the Property Trustee has actual knowledge, the Property Trustee shall exercise such of the rights and powers vested in it by this Trust Agreement, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs.

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

(i) prior to the occurrence of a Trust Enforcement Event and after the curing or waiving of all such Trust Enforcement Events that may have occurred:

- a. the duties and obligations of the Property Trustee shall be determined solely by the express provisions of this Trust Agreement and the Property Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Trust Agreement, and no implied covenants or obligations shall be read into this Trust Agreement against the Property Trustee; and
- b. in the absence of bad faith on the part of the Property Trustee, the Property Trustee may conclusively rely, as to the truth of the statements and the correctness of the

opinions expressed therein, upon any certificates or opinions furnished to the Property Trustee and conforming to the requirements of this Trust Agreement; but in the case of any such certificates or opinions that by any provision hereof are specifically required to be furnished to the Property Trustee, the Property Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Trust Agreement;

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

(iii) the Property Trustee shall not be liable with respect to any action taken or omitted to be taken by it without negligence, in good faith in accordance with the direction of the Holders of not less than a Majority in Liquidation Amount of the Securities relating to the time, method and place of conducting any proceeding for any remedy available to the Property Trustee, or exercising any trust or power conferred upon the Property Trustee under this Trust Agreement;

(iv) no provision of this Trust Agreement shall require the Property Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that the repayment of such funds or liability is not reasonably assured to it under the terms of this Trust Agreement or indemnity reasonably satisfactory to the Property Trustee against such risk or liability is not reasonably assured to it;

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

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

(vii) the Property Trustee shall not be liable for any interest on any money received by it except as it may otherwise agree with the Sponsor. Money held by the Property Trustee need not be segregated from other funds held by it except in relation to the Property Account maintained by the Property Trustee pursuant to Section 3.8(c)(i) and except to the extent otherwise required by law; and



(viii) the Property Trustee shall not be responsible for monitoring the compliance by the Administrative Trustees or the Sponsor with their respective duties under this Trust Agreement, nor shall the Property Trustee be liable for any default or misconduct of the Administrative Trustees or the Sponsor.

**SECTION 3.10. Certain Rights of Property Trustee.**

(a) Subject to the provisions of Section 3.9:

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

(ii) any direction or act of the Sponsor or the Administrative Trustees contemplated by this Trust Agreement shall be sufficiently evidenced by an Officers' Certificate;

(iii) whenever in the administration of this Trust Agreement, the Property Trustee shall deem it desirable that a matter be proved or established before taking, suffering or omitting any action hereunder, the Property Trustee (unless other evidence is herein specifically prescribed) may, in the absence of bad faith on its part, request and conclusively rely upon an Officers' Certificate which, upon receipt of such request, shall be promptly delivered by the Sponsor or the Administrative Trustees;

(iv) the Property Trustee shall have no duty to see to any recording, filing or registration of any instrument (including any financing or continuation statement or any filing under tax or securities laws) or any rerecording, refiling or registration thereof;

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

(vi) the Property Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Trust Agreement at the request or direction of any Holder, unless such Holder shall have provided to the Property Trustee security and indemnity, reasonably satisfactory to the Property Trustee, against the costs, expenses (including reasonable attorneys' fees and expenses and

the expenses of the Property Trustee's agents, nominees or custodians) and liabilities that might be incurred by it in complying with such request or direction, including such reasonable advances as may be requested by the Property Trustee; provided that, nothing contained in this Section 3.10(a) shall be taken to relieve the Property Trustee, upon the occurrence of a Trust Enforcement Event, of its obligation to exercise the rights and powers vested in it by this Trust Agreement;

(vii) the Property Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Property Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit;

(viii) the Property Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, custodians, nominees or attorneys and the Property Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder, provided that such agent, custodian, nominee or attorney is a United States Person as defined in Section 7701(a)(30) of the Code;

(ix) any authorized or required action taken by the Property Trustee or its agents hereunder shall bind the Trust and the Holders of the Securities, and the signature of the Property Trustee or its agents alone shall be sufficient and effective to perform any such action and no third party shall be required to inquire as to the authority of the Property Trustee to so act or as to its compliance with any of the terms and provisions of this Trust Agreement, both of which shall be conclusively evidenced by the Property Trustee's or its agent's taking such action;

(x) whenever in the administration of this Trust Agreement the Property Trustee shall deem it desirable to receive instructions with respect to enforcing any remedy or right or taking any other action hereunder, the Property Trustee (i) may request instructions from the Holders of the Securities which instructions may only be given by the Holders of the same proportion in liquidation amount of the Securities as would be entitled to direct the Property Trustee under the terms of the Securities in respect of such remedy, right or action, (ii) may refrain from enforcing such remedy or right or taking such other action until such instructions are received, and (iii) shall be protected in conclusively relying on or acting in or accordance with such instructions;

(xi) except as otherwise expressly provided by this Trust Agreement, the Property Trustee shall not be under any obligation to take any action that is discretionary under the provisions of this Trust Agreement;

(xii) the Property Trustee shall not be liable for any action taken, suffered or omitted to be taken by it without negligence or willful misconduct, in

good faith and reasonably believed by it to be authorized or within the discretion, rights or powers conferred upon it by this Trust Agreement;

(xiii) without prejudice to any other rights available to the Property Trustee under applicable law, when the Property Trustee incurs expenses or renders services in connection with a bankruptcy, such expenses (including the fees and expenses of its counsel) and the compensation for such services are intended to constitute expenses of administration under any bankruptcy law or law relating to creditors rights generally; and

(xiv) the Property Trustee shall not be charged with knowledge of a Trust Enforcement Event unless a Responsible Officer of the Property Trustee obtains actual knowledge of such event or the Property Trustee receives written notice of such event from Holders holding more than a Majority in Liquidation Amount of the Capital Securities;

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

#### SECTION 3.11. Delaware Trustee.

Notwithstanding any other provision of this Trust Agreement other than Section 6.2, the Delaware Trustee shall not be entitled to exercise any powers, nor shall the Delaware Trustee have any of the duties and responsibilities of the Administrative Trustees or the Property Trustee described in this Trust Agreement. Except as set forth in Section 6.2, the Delaware Trustee shall be a Trustee for the sole and limited purpose of fulfilling the requirements of Section 3807(a) of the Delaware Statutory Trust Act. In the event the Delaware Trustee shall at any time be required to take any action or perform any duty hereunder with respect to the Trust, the Delaware Trustee shall be entitled to all of the same rights as the Property Trustee listed in Section 3.9(b) and Section 3.10.

#### SECTION 3.12. Execution of Documents.

Except as otherwise required by the Delaware Statutory Trust Act or applicable law, any Administrative Trustee is authorized to execute on behalf of the Trust any documents that the Administrative Trustees have the power and authority to execute pursuant to Section 3.6.

#### SECTION 3.13. Not Responsible for Recitals or Issuance of Securities.

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

SECTION 3.14. Duration of Trust.

The Trust shall exist until dissolved and terminated pursuant to the provisions of Article 8 hereof.

SECTION 3.15. Mergers.

(a) The Trust may not consolidate, amalgamate, merge with or into, or be replaced by, or convey, transfer or lease its properties and assets substantially as an entirety to any Person, except as described in Section 3.15(b) and (c) or Section 8.2.

(b) The Trust may, at the request of the Sponsor and with the consent of the Administrative Trustees or, if there are more than two, a majority of the Administrative Trustees and without the consent of the Holders of the Securities, the Delaware Trustee or the Property Trustee, consolidate, amalgamate, merge with or into, or be replaced by or convey, transfer or lease its properties substantially as an entirety to a trust organized as such under the laws of any State; provided, that:

(i) if the Trust is not the successor, such successor entity (the "Successor Entity") either:

- a. expressly assumes all of the obligations of the Trust with respect to the Securities; or
- b. substitutes for the Capital Securities other securities having substantially the same terms as the Capital Securities (the "Successor Securities") so long as the Successor Securities rank the same as the Capital Securities rank in priority with respect to Distributions and payments upon liquidation, redemption and otherwise;

(ii) the Debenture Issuer expressly appoints a trustee of such Successor Entity that possesses the same powers and duties as the Property Trustee as the holder of the Debentures;

(iii) the Capital Securities or any Successor Securities are listed, or any Successor Securities will be listed upon notification of issuance, on any national securities exchange or with any other organization on which the Capital Securities are then listed or quoted;

(iv) such merger, consolidation, amalgamation, replacement, conveyance, transfer or lease does not cause the Capital Securities (including any Successor Securities) to be downgraded by any nationally recognized statistical rating organization;

(v) such merger, consolidation, amalgamation, replacement, conveyance, transfer or lease does not adversely affect the rights, preferences and

privileges of the Holders of the Capital Securities (including any Successor Securities) in any material respect;

(vi) such Successor Entity has a purpose substantially identical to that of the Trust;

(vii) prior to such merger, consolidation, amalgamation, replacement, conveyance, transfer or lease the Sponsor has received an opinion of independent counsel to the Trust experienced in such matters to the effect that:

- a. such merger, consolidation, amalgamation, replacement, conveyance, transfer or lease does not adversely affect the rights, preferences and privileges of the Holders of the Capital Securities (including any Successor Securities) in any material respect;
- b. following such merger, consolidation, amalgamation, replacement, conveyance, transfer or lease neither the Trust nor the Successor Entity will be required to register as an Investment Company; and
- c. following such merger, consolidation, amalgamation or replacement, the Trust (or the Successor Entity) will continue to be classified as a grantor trust for United States federal income tax purposes;

(viii) the Sponsor or any permitted successor or assignee owns all of the common securities and guarantees the obligations of such Successor Entity under the Successor Securities at least to the extent provided by the Securities Guarantee and such Successor Entity expressly assumes all of the obligations of the Trust with respect to the Trustees.

(c) Notwithstanding Section 3.15(b), the Trust shall not, except with the consent of Holders of 100% in aggregate liquidation amount of the Securities, consolidate, amalgamate, merge with or into, or be replaced by or convey, transfer or lease its properties and assets substantially as an entirety to, any other entity or permit any other entity to consolidate, amalgamate, merge with or into, or replace it, if such consolidation, amalgamation, merger, replacement, conveyance, transfer or lease would cause the Trust or Successor Entity to be classified as other than a grantor trust for United States federal income tax purposes and each Holder of the Securities not to be treated as owning an undivided interest in the Debentures.

#### SECTION 3.16. Property Trustee May File Proofs of Claim.

In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other similar judicial proceeding relative to the Trust or any other obligor upon the Securities or the property of the Trust or of such other obligor or their creditors, the Property Trustee (irrespective of whether any Distributions on the Securities shall then be due and payable as therein expressed or by

declaration or otherwise and irrespective of whether the Property Trustee shall have made any demand on the Trust for the payment of any past due Distributions) shall be entitled and empowered, to the fullest extent permitted by law, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of any Distributions owing and unpaid in respect of the Securities (or, if the Securities are original issue discount Securities, such portion of the liquidation amount as may be specified in the terms of such Securities) and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Property Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Property Trustee, its and counsel) and of the Holders allowed in such judicial proceeding, and

(b) to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Property Trustee and, in the event the Property Trustee shall consent to the making of such payments directly to the Holders, to pay to the Property Trustee any amount due it for the reasonable compensation, expenses, disbursements and advances of the Property Trustee, its agents and counsel, and any other amounts due the Property Trustee.

Nothing herein contained shall be deemed to authorize the Property Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement adjustment or compensation affecting the Securities or the rights of any Holder thereof or to authorize the Property Trustee to vote in respect of the claim of any Holder in any such proceeding.

## ARTICLE 4

### SPONSOR

#### SECTION 4.1. Responsibilities of the Sponsor.

In connection with the issue of the Capital Securities, the Sponsor shall have the exclusive right and responsibility to engage in the following activities:

(a) to prepare for filing by the Trust with the Commission under the Securities Act or the Exchange Act, and execute on behalf of the Trust, one or more registration statements on the applicable forms, including any amendments thereto, pertaining to the Capital Securities, the Guarantee and the Debentures;

(b) to determine the States in which to take appropriate action to qualify or register for sale all or part of the Capital Securities and to do any and all such acts, other than actions which must be taken by the Trust, and advise the Trust of actions it must take, and prepare for execution and filing any documents to be executed and filed by the

Trust, as the Sponsor deems necessary or advisable in order to comply with the applicable laws of any such States; and

(c) to negotiate the terms of, and execute, an underwriting agreement and other related agreements providing for the sale of the Capital Securities.

#### SECTION 4.2. Indemnification and Fees and Expenses of the Trustees.

The Sponsor, in its capacity as Debenture Issuer, agrees to indemnify the Property Trustee and the Delaware Trustee for, and to hold each of them harmless against, any loss, liability or expense incurred without negligence or bad faith on the part of the Property Trustee or the Delaware Trustee, as the case may be, arising out of or in connection with the acceptance or administration of the trust or trusts hereunder, including the costs and expenses of defending either of them against any claim or liability in connection with the exercise or performance of any of their respective powers or duties hereunder; the provisions of this Section 4.2 shall survive the resignation or removal of the Delaware Trustee or the Property Trustee or the termination of this Trust Agreement.

#### SECTION 4.3. Compensation of the Trustees.

The Sponsor agrees to pay the Property Trustee and the Delaware Trustee from time to time such compensation for all services rendered by the Property Trustee and the Delaware Trustee hereunder as may be mutually agreed upon in writing by the Sponsor and the Property Trustee or the Delaware Trustee, as the case may be, and, except as otherwise expressly provided herein, to reimburse the Property Trustee and the Delaware Trustee upon its or their request for all reasonable expenses, disbursements and advances incurred or made by the Property Trustee or the Delaware Trustee, as the case may be, in accordance with the provisions of this Trust Agreement, except any such expense, disbursement or advance as may be attributable to its or their negligence or bad faith.

### ARTICLE 5

#### TRUST COMMON SECURITIES HOLDER

##### SECTION 5.1. Debenture Issuer's Receipt of Common Securities.

On the Closing Date, the Debenture Issuer will receive all of the Common Securities and all of the Capital Securities issued by the Trust on the same date in exchange for Debentures issued to the Trust by the Debenture Issuer. The Common Securities will be issued in an amount equal to at least 3% of the capital of the Trust.

The aggregate stated liquidation amount of Common Securities outstanding at any time shall not be less than 3% of the capital of the Trust.

##### SECTION 5.2. Covenants of the Common Securities Holder.

For so long as the Capital Securities remain outstanding, the Common Securities Holder will covenant (i) to maintain directly 100% ownership of the Common Securities, (ii) to cause

the Trust to remain a statutory trust and not to voluntarily dissolve, wind up, liquidate or be terminated, except as permitted by this Trust Agreement, (iii) to use its commercially reasonable efforts to ensure that the Trust will not be an investment company for purposes of the Investment Company Act, and (iv) to take no action which would be reasonably likely to cause the Trust to be classified as other than a grantor trust for United States federal income tax purposes.

## ARTICLE 6

### TRUSTEES

#### SECTION 6.1. Number of Trustees.

The number of Trustees initially shall be five, and:

(a) at any time before the issuance of any Securities, the Sponsor may, by written instrument, increase or decrease the number of Trustees;

(b) after the issuance of any Securities, the number of Trustees may be increased or decreased by vote of the Holders of a Majority in Liquidation Amount of the Common Securities voting as a class at a meeting of the Holders of the Common Securities or by written consent in lieu of such meeting; provided that the number of Trustees shall be at least three; and provided further that (1) the Delaware Trustee, in the case of a natural person, shall be a person who is a resident of the State of Delaware or that, if not a natural person, is an entity which has its principal place of business in the State of Delaware and otherwise meets the requirements of applicable law; (2) at least one Administrative Trustee is an employee or officer of, or is affiliated with, the Sponsor; and (3) one Trustee shall be the Property Trustee for so long as this Trust Agreement is required to qualify as an indenture under the Trust Indenture Act, and such Trustee may also serve as Delaware Trustee if it meets the applicable requirements;

(c) at all times, the Property Trustee must be (i) a bank as defined in Section 581 of the Code or (ii) a U.S. government-owned agency or U.S. government sponsored enterprise; and

(d) at all times, each Trustee must be a United States Person as defined in Section 7701(a)(30) of the Code.

#### SECTION 6.2. Delaware Trustee; Eligibility.

If required by the Delaware Statutory Trust Act, one Trustee (which may be the Property Trustee) (the "Delaware Trustee") shall be:

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

(b) if not a natural person, an entity which has its principal place of business in the State of Delaware, and otherwise meets the requirements of applicable law,



provided that, if the Property Trustee has its principal place of business in the State of Delaware and otherwise meets the requirements of applicable law, then the Property Trustee shall also be the Delaware Trustee and Section 3.11 shall have no application.

#### SECTION 6.3. Property Trustee; Eligibility.

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

(i) not be an Affiliate of the Sponsor; and

(ii) be a corporation organized and doing business under the laws of the United States of America or any State or Territory thereof or of the District of Columbia, or a corporation or other Person permitted by the Commission to act as an institutional trustee under the Trust Indenture Act, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least 50 million U.S. dollars (\$50,000,000), and subject to supervision or examination by federal, State, Territorial or District of Columbia authority. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of the supervising or examining authority referred to above, then for the purposes of this Section 6.3(a)(ii), the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

(b) If at any time the Property Trustee shall cease to be eligible to so act under Section 6.3(a), the Property Trustee shall immediately resign in the manner and with the effect set forth in Section 6.6(c).

(c) If the Property Trustee has or shall acquire any "conflicting interest" within the meaning of Section 310(b) of the Trust Indenture Act, the Property Trustee and the Holder of the Common Securities (as if it were the obligor referred to in Section 310(b) of the Trust Indenture Act) shall in all respects comply with the provisions of Section 310(b) of the Trust Indenture Act.

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

#### SECTION 6.4. Qualifications of Administrative Trustees and Delaware Trustee Generally.

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

#### SECTION 6.5. Initial Administrative Trustees.

The initial Administrative Trustees shall be:

David M. Moffett, Daryl N. Bible and Lee R. Mitau, the business address of all of whom is c/o U.S. Bancorp, 800 Nicollet Mall, Minneapolis, Minnesota 55402.

SECTION 6.6. Appointment, Removal and Resignation of Trustees.

(a) Subject to Section 6.6(b), Trustees may be appointed or removed without cause at any time:

(i) until the issuance of any Securities, by written instrument executed by the Sponsor;

(ii) after the issuance of any Securities (but prior to the occurrence of an Indenture Event of Default), by vote of the Holders of a Majority in Liquidation Amount of the Common Securities voting as a class at a meeting of the Holders of the Common Securities; and

(iii) after the issuance of the Capital Securities and the occurrence of an Indenture Event of Default, and only with respect to each of the Property Trustee and Delaware Trustee, by vote of the Holders of a Majority in Liquidation Amount of the Capital Securities.

(b) The Trustee that acts as Property Trustee shall not be removed in accordance with Section 6.6(a) until a successor Trustee possessing the qualifications to act as Property Trustee under Section 6.3(a) (a "Successor Property Trustee") has been appointed and has accepted such appointment by written instrument executed by such Successor Property Trustee and delivered to the Administrative Trustees and the Sponsor. The Trustee that acts as Delaware Trustee shall not be removed in accordance with Section 6.6(a) until a successor Trustee possessing the qualifications to act as Delaware Trustee under Sections 6.2 and 6.4 (a "Successor Delaware Trustee") has been appointed and has accepted such appointment by written instrument executed by such Successor Delaware Trustee and delivered to the Administrative Trustees and the Sponsor.

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

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

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

- b. until the assets of the Trust have been completely liquidated and the proceeds thereof distributed to the holders of the Securities; and

(ii) no such resignation of the Trustee that acts as the Delaware Trustee shall be effective until a Successor Delaware Trustee has been appointed and has accepted such appointment by instrument executed by such Successor Delaware Trustee and delivered to the Trust, the Sponsor and the resigning Delaware Trustee.

(d) The Holders of the Common Securities shall use their best efforts to promptly appoint a Successor Delaware Trustee or Successor Property Trustee, as the case may be, if the Property Trustee or the Delaware Trustee delivers an instrument of resignation in accordance with this Section 6.6.

(e) If no Successor Property Trustee or Successor Delaware Trustee, as the case may be, shall have been appointed and accepted appointment as provided in this Section 6.6 within 60 days after delivery to the Sponsor and the Trust of an instrument of resignation or removal, the resigning or removed Property Trustee or Delaware Trustee, as applicable, may petition any court of competent jurisdiction in the U.S. for appointment of a Successor Property Trustee or Successor Delaware Trustee, as applicable. Such court may thereupon, after prescribing such notice, if any, as it may deem proper, appoint a Successor Property Trustee or Successor Delaware Trustee, as the case may be.

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

#### SECTION 6.7. Vacancies among Trustees.

If a Trustee ceases to hold office for any reason and the number of Trustees is not reduced pursuant to Section 6.1, or if the number of Trustees is increased pursuant to Section 6.1, a vacancy shall occur. A resolution certifying the existence of such vacancy by the Administrative Trustees or, if there are more than two, a majority of the Administrative Trustees shall be conclusive evidence of the existence of such vacancy. The vacancy shall be filled with a Trustee appointed in accordance with Section 6.6.

#### SECTION 6.8. Effect of Vacancies.

The death, resignation, retirement, removal, bankruptcy, dissolution, liquidation, incompetence or incapacity to perform the duties of a Trustee shall not operate to annul, dissolve or terminate the Trust. Whenever a vacancy in the number of Administrative Trustees shall occur, until such vacancy is filled by the appointment of an Administrative Trustee in accordance with Section 6.6, the Administrative Trustees in office, regardless of their number, shall have all the powers granted to the Administrative Trustees and shall discharge all the duties imposed upon the Administrative Trustees by this Trust Agreement.

#### SECTION 6.9. Meetings.

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

#### SECTION 6.10. Delegation of Power.

(a) Any Administrative Trustee may, by power of attorney consistent with applicable law, delegate to any natural person over the age of 21 his, her or its power for the purpose of executing any documents contemplated in Section 3.6 or making any governmental filing; provided that such person is a United States Person as defined in Section 7701(a)(30) of the Code.

(b) The Administrative Trustees shall have power to delegate from time to time to such of their number or to officers of the Trust the doing of such things and the execution of such instruments either in the name of the Trust or the names of the Administrative Trustees or otherwise as the Administrative Trustees may deem expedient, to the extent such delegation is not prohibited by applicable law or contrary to the provisions of the Trust, as set forth herein; provided, that such person is a United States Person as defined in Section 7701(a)(30) of the Code.

#### SECTION 6.11. Merger, Conversion, Consolidation or Succession to Business.

Any corporation into which the Property Trustee, the Delaware Trustee or any Administrative Trustee that is not a natural person may be merged or converted or with such Trustee may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which such Trustee shall be a party, or any corporation succeeding to all or substantially all the corporate trust business of such Trustee shall be the successor of such Trustee hereunder, provided such corporation shall be otherwise qualified and eligible under this

Article, without the execution or filing of any paper or any further act on the part of any of the parties hereto.

## ARTICLE 7

### TERMS OF SECURITIES

#### SECTION 7.1. General Provisions Regarding Securities.

(a) The Administrative Trustees shall on behalf of the Trust issue one class of capital securities representing undivided beneficial interests in the assets of the Trust and one class of common securities representing undivided beneficial interests in the assets of the Trust.

(i) Capital Securities. The Capital Securities of the Trust have an aggregate liquidation amount with respect to the assets of the Trust of up to \_\_\_ dollars (\$\_\_\_) with respect to the closing of the sale of Capital Securities on one or more occasions. The Capital Securities are hereby designated for identification purposes only as “\_\_\_% Trust Preferred Securities” (the “Capital Securities”). The Capital Security Certificates evidencing the Capital Securities shall be substantially in the form of Exhibit A to this Trust Agreement, with such changes and additions thereto or deletions therefrom as may be required by ordinary usage, custom or practice or to conform to the rules of any stock exchange on which the Capital Securities are listed or quoted.

(ii) Common Securities. The Common Securities of the Trust have an aggregate liquidation amount with respect to the assets of the Trust of up to \_\_\_ dollars (\$\_\_\_) with respect to the closing of the sale of Common Securities on one or more occasions. The Common Securities are hereby designated for identification purposes only as “\_\_\_% Common Securities” (the “Common Securities” and, together with the Capital Securities, the “Securities”). The Common Security Certificates evidencing the Common Securities shall be substantially in the form of Exhibit B to this Trust Agreement, with such changes and additions thereto or deletions therefrom as may be required by ordinary usage, custom or practice.

(b) Payment of Distributions on, and payment of the Redemption Price upon a redemption of, the Capital Securities and the Common Securities, as applicable, shall be made Pro Rata based on the liquidation amount of such Capital Securities and Common Securities; provided, however, that if on any date on which amounts payable on distribution or redemption, an Indenture Event of Default shall have occurred and be continuing, no payment of any Distribution on, or Redemption Price of, any of the Common Securities, and no other payment on account of the redemption, liquidation or other acquisition of such Common Securities, shall be made unless payment in full in cash of all accumulated and unpaid Distributions on all of the outstanding Capital Securities for all Distribution periods terminating on or prior thereto, or, in the case of amounts payable on redemption, the full amount of the Redemption Price for all of the outstanding Capital Securities then called for redemption, shall have been made or provided

for, and all funds available to the Property Trustee shall first be applied to the payment in full in cash of all Distributions on, or the Redemption Price of, the Capital Securities then due and payable. The Trust shall issue no securities or other interests in the assets of the Trust other than the Capital Securities and the Common Securities.

(c) The Certificates shall be signed on behalf of the Trust by an Administrative Trustee. Such signature shall be the manual or facsimile signature of any present or any future Administrative Trustee. In case an Administrative Trustee of the Trust who shall have signed any of the Certificates shall cease to be such Administrative Trustee before the Certificates so signed shall be delivered by the Trust, such Certificates nevertheless may be delivered as though the person who signed such Certificates had not ceased to be such Administrative Trustee; and any Certificate may be signed on behalf of the Trust by such persons who, at the actual date of execution of such Certificate, shall be the Administrative Trustees of the Trust, although at the date of the execution and delivery of the Trust Agreement any such person was not such an Administrative Trustee. Certificates shall be printed, lithographed or engraved or may be produced in any other manner as is reasonably acceptable to the Administrative Trustees, as evidenced by their execution thereof, and may have such letters, numbers or other marks of identification or designation and such legends or endorsements as the Administrative Trustees may deem appropriate, or as may be required to comply with any law or with any rule or regulation of any stock exchange on which Securities may be listed, or to conform to usage.

A Certificate representing Capital Securities shall not be valid until authenticated by the manual signature of an authorized officer of the Property Trustee. Such signature shall be conclusive evidence that such Certificate has been authenticated under this Trust Agreement.

Upon a written order of the Trust signed by one Administrative Trustee, the Property Trustee shall authenticate the Certificates representing Capital Securities for original issue. The aggregate amount of Capital Securities outstanding at any time shall not exceed the liquidation amount set forth in Section 7.1(a)(i).

The Property Trustee may appoint an authenticating agent acceptable to the Trust to authenticate Certificates. An authenticating agent may authenticate Certificates whenever the Property Trustee may do so. Each reference in this Trust Agreement to authentication by the Property Trustee includes authentication by such agent. An authenticating agent has the same rights as the Property Trustee to deal with the Sponsor or an Affiliate of the Sponsor.

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

(e) Upon issuance of the Securities as provided in this Trust Agreement, the Securities so issued shall be deemed to be validly issued, fully paid and non-assessable undivided beneficial interests in the assets of the Trust.

(f) Every Person, by virtue of having become a Holder or a Capital Security Beneficial Owner in accordance with the terms of this Trust Agreement, shall be deemed to have

expressly assented and agreed to the terms of, and shall be bound by, this Trust Agreement and the terms of the Securities.

(g) The holders of the Securities shall have no preemptive or similar rights.

#### SECTION 7.2. Distributions.

(a) As owners of undivided beneficial ownership interests in the Debentures, holders of Securities shall be entitled to receive cumulative cash Distributions at the rate per annum of \_\_\_\_% of the stated liquidation amount of \$ \_\_\_\_ per Security. Pursuant to the Indenture, the amount of interest on the Debentures payable for any period shorter than a full quarterly interest period, and, as a result, Distributions on the Securities payable for any period shorter than a full quarterly distribution period shall be computed on the basis of a 30-day month and for periods of less than a month, the actual number of days elapsed per 30-day month. Subject to Section 7.1(b), Distributions shall be made on the Capital Securities and the Common Securities on a Pro Rata basis. Pursuant to the Indenture, interest on the Debentures shall, from the date of original issue, accrue and be cumulative, and, as a result Distributions on the Securities shall, from the date of original issue, accumulate and be cumulative. Distributions shall be payable quarterly in arrears on each \_\_\_\_, \_\_\_\_, \_\_\_\_ and \_\_\_\_ of each year, commencing \_\_\_\_, 20\_\_\_\_, when, as and if available for payment, by the Property Trustee, except as otherwise described below. Distributions are payable only to the extent that payments are made in respect of the Debentures held by the Property Trustee and to the extent that the Trust has funds available for the payment of such Distributions in the Property Account.

(b) Pursuant to the Indenture, interest not paid on the scheduled payment date will accrue and compound quarterly at the rate of \_\_\_\_% per annum, and, as a result, interests on the Debentures not paid on the scheduled payment date will accrue and compound quarterly at the rate of \_\_\_\_% per annum (and, as a result) the Distributions on the Securities will accumulate and compound at the rate of \_\_\_\_% per annum ("Compounded Distributions"). "Distributions" shall mean ordinary cumulative distributions together with any Compounded Distributions.

(c) If and to the extent that the Debenture Issuer makes a payment of interest, premium and/or principal on the Debentures held by the Property Trustee (the amount of any such payment being a "Payment Amount"), the Property Trustee shall and is directed, to the extent funds are available for that purpose, make a Pro Rata distribution of the Payment Amount to Holders, subject to Section 7.1(b).

(d) Distributions on the Securities shall be payable to the Holders thereof as they appear on the register of the Trust as of the close of business on the relevant record dates. While the Capital Securities are represented by one or more Global Securities, the relevant record dates shall be the close of business the Business Day preceding such Distribution payment date; otherwise the relevant record date shall be the fifteenth day (whether or not a Business Day) preceding such Distribution payment date. At all times, the Distribution payment dates shall correspond to the interest payment dates on the Debentures. Distributions payable on any Securities that are not punctually paid on any Distribution payment date, as a result of the

Debenture Issuer having failed to make a payment under the Debentures, shall cease to be payable to the Person in whose name such Securities are registered on the relevant record date, and such defaulted Distribution will instead be payable to the Person in whose name such Securities are registered on the special record date or other specified date determined in accordance with this Trust Agreement. If any date on which Distributions are payable on the Securities is not a Business Day, then payment of the Distribution payable on such date will be made on the next succeeding day that is a Business Day (and without any interest or other payment in respect of any such delay), with the same force and effect as if made on such payment date.

(e) In the event that there is any money or other property held by or for the Trust that is not accounted for hereunder, such property shall be distributed Pro Rata among the Holders of the Securities except as provided in Section 7.1(b).

### SECTION 7.3. Redemption of Securities.

(a) Upon the repayment or redemption, in whole or in part, of the Debentures held by the Trust, whether at the stated maturity of the Debentures or upon earlier redemption as provided in the Indenture, the proceeds from such repayment or redemption shall be simultaneously applied Pro Rata (subject to Section 7.1(b)) to redeem Securities having an aggregate liquidation amount equal to the aggregate principal amount of the Debentures so repaid or redeemed at the Redemption Price. Holders shall be given not less than 30 nor more than 60 days notice of such redemption in accordance with Section 7.4.

(b) On the date fixed for any distribution of Debentures, upon dissolution of the Trust, (i) the Securities will no longer be deemed to be outstanding and (ii) certificates representing Securities will be deemed to represent the Debentures having an aggregate principal amount equal to the stated liquidation amount of, and bearing accrued and unpaid interest equal to accumulated and unpaid distributions on, such Securities until such certificates are presented to the Sponsor or its agent for transfer or reissuance.

### SECTION 7.4. Redemption Procedures.

(a) Notice of any redemption of, or notice of distribution of Debentures in exchange for, the Securities (a "Redemption/Distribution Notice"), which notice shall be irrevocable, will be given by the Trust by mail to each Holder of Securities to be redeemed or exchanged not fewer than 30 nor more than 60 days before the date fixed for redemption or exchange thereof which, in the case of a redemption, will be the date fixed for redemption of the Debentures. For purposes of the calculation of the date of redemption or exchange and the dates on which notices are given pursuant to this Section 7.4(a), a Redemption/Distribution Notice shall be deemed to be given on the day such notice is first mailed by first-class mail, postage prepaid, to Holders of Securities. Each Redemption/Distribution Notice shall be addressed to the Holders of Securities at the address of each such Holder appearing in the register of the Trust. No defect in the Redemption/Distribution Notice or in the mailing of either thereof with respect to any Holder shall affect the validity of the redemption or exchange proceedings with respect to any other Holder.



(b) If fewer than all the outstanding Securities are to be so redeemed, the Common Securities and the Capital Securities will be redeemed Pro Rata (subject to Section 7.1(b)) and the Capital Securities to be redeemed will be redeemed as described in Section 7.4(c) below. The particular Capital Securities to be redeemed will be selected on a Pro Rata basis by the Property Trustee from the outstanding Capital Securities not previously called for redemption, by such method (including, without limitation, by lot) as the Property Trustee shall deem fair and appropriate. The Trust may not redeem the Securities in part unless all accumulated and unpaid Distributions to the date of redemption have been paid in full on all Securities then outstanding. For all purposes of this Trust Agreement, unless the context otherwise requires, all provisions relating to the redemption of Capital Securities shall relate, in the case of any Capital Security redeemed or to be redeemed only in part, to the portion of the aggregate liquidation amount of Capital Securities which has been or is to be redeemed.

(c) Subject to the Trust's fulfillment of the notice requirements set forth in Section 7.4(a) above, if Securities are to be redeemed, then (i) with respect to Capital Securities represented by one or more Global Securities, by 12:00 noon, New York City time, on the redemption date, provided that the Debenture Issuer has paid the Property Trustee a sufficient amount of cash in connection with the related redemption or maturity of the Debentures, the Property Trustee will deposit irrevocably with the Depositary or its nominee (or successor Clearing Agency or its nominee) funds sufficient to pay the applicable Redemption Price with respect to the Capital Securities and will give the Depositary irrevocable instructions and authority to pay the Redemption Price to the Holders of the Capital Securities and (ii) with respect to Securities not represented by one or more Global Securities, provided that the Debenture Issuer has paid the Property Trustee a sufficient amount of cash in connection with the related redemption or maturity of the Debentures, the Property Trustee will give the Paying Agent irrevocable instructions and authority to pay the relevant Redemption Price to the Holders of such Securities upon surrender of their certificates evidencing the Capital Securities. Payment of the Redemption Price on the Capital Securities will be made to the recordholders thereof as they appear on the register of the Trust on the relevant record date, which shall be one Business Day prior to the relevant redemption date; *provided, however*, that with respect to the Capital Securities not represented by one or more Global Securities, the relevant record date shall be the date fifteen days prior to the relevant redemption date. If any date fixed for redemption of Securities is not a Business Day, then payment of the Redemption Price payable on such date will be made on the next succeeding day that is a Business Day (and without any interest or other payment in respect of any such delay) with the same force and effect as if made on such date fixed for redemption. If, however, the Business Day falls in the next calendar year, then payment of the Redemption Price will be made on the immediately preceding Business Day with the same force and effect as if made on such date fixed for redemption. If payment of the Redemption Price in respect of any Securities is not paid because the payment of the Redemption Price on the Debentures is not made, interest will continue to accrue on the Debentures, and, as a result, Distributions on such Securities will continue to accumulate at the then applicable rate from the original redemption date to the actual date of payment, in which case the actual payment date will be considered the date fixed for redemption for purposes of calculating the Redemption Price. For these purposes, the applicable Redemption Price shall not include Distributions which are being paid to Holders who were Holders on a relevant record date. If a Redemption/Distribution Notice shall have been given and funds deposited or paid as required, then immediately prior to the close of business on the date of such deposit or payment,

Distributions will cease to accumulate on the Securities called for redemption and all rights of Holders of such Securities so called for redemption will cease, except the right of the Holders to receive the Redemption Price, but without interest on such Redemption Price, and from and after the date fixed for redemption, such Securities will cease to be outstanding.

Neither the Administrative Trustees nor the Trust shall be required to register or cause to be registered the transfer of any Securities that have been called for redemption, except in the case of any Securities being redeemed in part, any portion thereof not to be redeemed.

(d) Subject to the foregoing and applicable law (including, without limitation, United States federal securities laws), the Debenture Issuer or its subsidiaries may at any time and from time to time purchase outstanding Capital Securities by tender, in the open market or by private agreement.

#### SECTION 7.5. Voting Rights of Capital Securities.

(a) Except as provided under Section 6.6, Section 11.1 and this Article 7 and as otherwise required by the Delaware Statutory Trust Act, the Trust Indenture Act and other applicable law, the Holders of the Capital Securities shall have no voting rights.

(b) Subject to the requirement of the Property Trustee obtaining a tax opinion in certain circumstances set forth in Section 7.5(d) below, the Holders of a Majority in Liquidation Amount of the Capital Securities voting separately as a class have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Property Trustee, or to direct the exercise of any trust or power conferred upon the Property Trustee under the Trust Agreement, including the right to direct the Property Trustee, as Holder of the Debentures, to (i) exercise the remedies available to it under the Indenture as a Holder of the Debentures; (ii) consent to any amendment or modification of the Indenture or the Debentures where such consent shall be required or (iii) waive any past default and its consequences that is waivable under Section 5.13 of the Indenture; provided, however, that if an Indenture Event of Default has occurred and is continuing, then the Holders of 25% of the aggregate liquidation amount of the Capital Securities may direct the Property Trustee to declare the principal of and interest on the Debentures due and payable; provided, further, that where a consent or action under the Indenture would require the consent or act of the Holders of more than a majority of the aggregate principal amount of Debentures affected thereby, only the Holders of the percentage of the aggregate stated liquidation amount of the Capital Securities which is at least equal to the percentage required under the Indenture may direct the Property Trustee to give such consent to take such action.

(c) If the Property Trustee fails to enforce its rights under the Debentures after a Holder of Capital Securities has made a written request, such Holder of Capital Securities may, to the extent permitted by applicable law, institute a legal proceeding directly against the Debenture Issuer to enforce the Property Trustee's rights under the Indenture without first instituting any legal proceeding against the Property Trustee or any other Person. In addition, if a Trust Enforcement Event has occurred and is continuing and such event is attributable to the failure of the Debenture Issuer to make any interest, principal or other required payments when due under the Indenture, then a Holder of Capital Securities may directly institute a

Action against the Debenture Issuer on or after the respective due date specified in the Debentures.

(d) The Property Trustee shall notify all Holders of the Capital Securities of any notice of any Indenture Event of Default received from the Debenture Issuer with respect to the Debentures. Such notice shall state that such Indenture Event of Default also constitutes a Trust Enforcement Event. Except with respect to directing the time, method, and place of conducting a proceeding for a remedy, the Property Trustee shall be under no obligation to take any of the actions described in clause 7.5(b)(i) and (ii) above unless the Property Trustee has obtained an opinion of independent tax counsel to the effect that the Trust will not be classified as an association or publicly traded partnership taxable as a corporation for United States federal income tax purposes as a result of such action.

(e) In the event the consent of the Property Trustee, as the Holder of the Debentures, is required under the Indenture with respect to any amendment or modification of the Indenture, the Property Trustee shall request the direction of the Holders of the Capital Securities with respect to such amendment or modification and shall vote with respect to such amendment or modification as directed by not less than a majority in liquidation amount of the Capital Securities voting together as a single class; provided, however, that where a consent under the Indenture would require the consent of the Holders of more than a majority of the aggregate principal amount of the Debentures, the Property Trustee may only give such consent at the direction of the Holders of at least the same proportion in aggregate stated liquidation amount of the Securities. The Property Trustee shall not take any such action in accordance with the directions of the Holders of the Securities unless the Property Trustee has obtained an opinion of independent tax counsel to the effect that the Trust will not be classified as an association or publicly traded partnership taxable as a corporation for United States federal income tax purposes as a result of such action.

(f) A waiver of an Indenture Event of Default with respect to the Debentures will constitute a waiver of the corresponding Trust Enforcement Event.

(g) Any required approval or direction of Holders of Capital Securities may be given at a separate meeting of Holders of Capital Securities convened for such purpose, at a meeting of all of the Holders of Securities or pursuant to written consent. The Administrative Trustees will cause a notice of any meeting at which Holders of Capital Securities are entitled to vote to be mailed to each Holder of record of Capital Securities. Each such notice will include a statement setting forth (i) the date of such meeting, (ii) a description of any resolution proposed for adoption at such meeting on which such Holders are entitled to vote and (iii) instructions for the delivery of proxies.

(h) No vote or consent of the Holders of Capital Securities shall be required for the Trust to redeem and cancel Capital Securities or distribute Debentures in accordance with this Trust Agreement and the terms of the Securities.

(i) Notwithstanding that Holders of Capital Securities are entitled to vote or consent under any of the circumstances described above, any of the Securities that are owned at such time by the Debenture Issuer, any Administrative Trustee or any entity directly or indirectly

controlled by, or under direct or indirect common control with, the Debenture Issuer or any Administrative Trustee, shall not be entitled to vote or consent and shall, for purposes of such vote or consent, be treated as if such Securities were not outstanding; *provided, however*, that Persons otherwise eligible to vote to whom the Debenture Issuer or any of its subsidiaries have pledged Capital Securities may vote or consent with respect to such pledged Capital Securities under any of the circumstances described herein.

(j) Subject to Sections 6.6(a) and 7.5(k), Holders of the Capital Securities shall have no rights to appoint or remove the Trustees, who may be appointed, removed or replaced solely by the Common Securities Holder.

(k) If an Indenture Event of Default has occurred and is continuing, the Property Trustee and the Delaware Trustee may be removed at such time only by a Majority in Liquidation Amount of the Capital Securities.

(l) The Trustees shall not revoke any action previously authorized or approved by a vote of the Holders of the Securities, except by a subsequent vote of the Holders of the Securities.

#### SECTION 7.6. Voting Rights of Common Securities.

(a) Except as provided under Section 6.1(b), this Section 7.6 or Section 11.1 or as otherwise required by the Delaware Statutory Trust Act, the Trust Indenture Act or other applicable law or provided by the Trust Agreement, the Holders of the Common Securities will have no voting rights.

(b) Subject to Sections 6.6(a) and 7.5(k), the Holders of the Common Securities shall be entitled, in accordance with Article VI of this Trust Agreement, to vote to appoint, remove or replace any Trustee or to increase or decrease the number of Trustees.

(c) Subject to Section 2.6 and only after all Trust Enforcement Events with respect to the Capital Securities have been cured, waived, or otherwise eliminated and subject to the requirement of the Property Trustee obtaining a tax opinion in certain circumstances set forth in this paragraph (c), the Holders of a Majority in Liquidation Amount of the Common Securities have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Property Trustee, or direct the exercise of any trust or power conferred upon the Property Trustee under this Trust Agreement, including the right to direct the Property Trustee, as Holder of the Debentures, to (i) exercise the remedies available to it under the Indenture as a Holder of the Debentures, (ii) consent to any amendment or modification of the Indenture or the Debentures where such consent shall be required or (iii) waive any past default and its consequences that is waivable under Section 5.13 of the Indenture; provided, however, that where a consent or action under the Indenture would require the consent or act of the Holders of more than a majority of the aggregate principal amount of Debentures affected thereby, only the Holders of the percentage of the aggregate stated liquidation amount of the Common Securities which is at least equal to the percentage required under the Indenture may direct the Property Trustee to have such consent or take such action. Except with respect to directing the time, method, and place of conducting a proceeding for a remedy, the Property Trustee shall be under

no obligation to take any of the actions described in clause 7.6(c)(i) and (ii) above unless the Property Trustee has obtained an opinion of independent tax counsel to the effect that, as a result of such action, for United States federal income tax purposes the Trust will not be classified as other than a grantor trust.

(d) If the Property Trustee fails to enforce its rights under the Debentures after a Holder of Common Securities has made a written request, such Holder of Common Securities may, to the extent permitted by applicable law, directly institute a legal proceeding directly against the Debenture Issuer to enforce the Property Trustee's rights under the Debentures without first instituting any legal proceeding against the Property Trustee or any other Person.

(e) A waiver of an Indenture Event of Default with respect to the Debentures will constitute a waiver of the corresponding Trust Enforcement Event.

(f) Any required approval or direction of Holders of Common Securities may be given at a separate meeting of Holders of Common Securities convened for such purpose, at a meeting of all of the Holders of Securities or pursuant to written consent. The Administrative Trustees will cause a notice of any meeting at which Holders of Common Securities are entitled to vote to be mailed to each Holder of record of Common Securities. Each such notice will include a statement setting forth (i) the date of such meeting, (ii) a description of any resolution proposed for adoption at such meeting on which such Holders are entitled to vote and (iii) instructions for the delivery of proxies.

(g) No vote or consent of the Holders of the Common Securities will be required for the Trust to redeem and cancel Common Securities or to distribute Debentures in accordance with the Trust Agreement and the terms of the Securities.

#### SECTION 7.7. Paying Agent.

In the event that any Capital Securities are not in book-entry only form, the Trust shall maintain in the Borough of Manhattan, City of New York, State of New York, an office or agency where the Capital Securities may be presented for payment ("Paying Agent"). The Trust may appoint the paying agent and may appoint one or more additional paying agents in such other locations as it shall determine. The term "Paying Agent" includes any additional paying agent. The Trust may change any Paying Agent without prior notice to the Holders. The Trust shall notify the Property Trustee of the name and address of any Paying Agent not a party to this Trust Agreement. If the Trust fails to appoint or maintain another entity as Paying Agent, the Property Trustee shall act as such. The Trust or any of its Affiliates may act as Paying Agent. The Property Trustee shall initially act as Paying Agent for the Securities. In the event the Property Trustee shall no longer be the Paying Agent, the Administrative Trustees shall appoint a successor (which shall be a bank or trust company acceptable to the Debenture Issuer) to act as Paying Agent. The Paying Agent shall be permitted to resign as Paying Agent upon 30 days' written notice to the Property Trustee and the Debenture Issuer.

#### SECTION 7.8. Listing.

The Sponsor shall use its best efforts to cause the Capital Securities to be listed for quotation on the New York Stock Exchange.

## SECTION 7.9. Transfer of Securities.

(a) Securities may only be transferred, in whole or in part, in accordance with the terms and conditions set forth in this Trust Agreement and in the terms of the Securities. To the fullest extent permitted by law, any transfer or purported transfer of any Security not made in accordance with this Trust Agreement shall be null and void.

(b) (i) Subject to this Article 7, Capital Securities shall be freely transferable.

(ii) The Holder of the Common Securities may not transfer the Common Securities except (A) in compliance with a consolidation, merger, sale, conveyance or lease of the Sponsor in compliance with Article VIII of the Indenture or (B) to the Sponsor or an Affiliate thereof in compliance with applicable law, including the Securities Act and applicable state securities and blue sky laws. To the fullest extent permitted by law, any attempted transfer of the Common Securities other than as set forth in the immediately preceding sentence shall be null and void.

(c) The Trust shall cause to be kept at the Corporate Trust Office of the Property Trustee a register (the register maintained in such office being herein sometimes referred to as the "Security Register") in which, subject to such reasonable regulations as it may prescribe, the Trust shall provide for the registration of Capital Securities and of transfers of Capital Securities. The Property Trustee is hereby appointed "Security Registrar" for the purpose of registering Capital Securities and transfers of Capital Securities as herein provided.

(d) Upon surrender for registration of transfer of any Security at an office or agency of the Trust designated for such purpose, the Trust shall execute, and the Property Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Securities of any authorized denominations and of a like aggregate principal amount.

(e) At the option of the Holder, Securities may be exchanged for other Securities of any authorized denominations and of a like aggregate principal amount, upon surrender of the Securities to be exchanged at such office or agency. Whenever any Securities are so surrendered for exchange, the Trust shall execute, and in the case of Capital Securities the Property Trustee shall authenticate and deliver, the Securities which the Holder making the exchange is entitled to receive.

(f) Every Security presented or surrendered for registration of transfer or for exchange shall (if so required by the Trust or the Property Trustee) be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to the Trust and the Security Registrar duly executed, by the Holder thereof or his attorney duly authorized in writing.

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

(h) If the Securities are to be redeemed in part, the Trust shall not be required (A) to issue, register the transfer of or exchange any Securities during a period beginning at the opening of business 15 days before the day of the mailing of a notice of redemption of any such Securities selected for redemption under Section 7.4 and ending at the close of business on the day of such mailing, or (B) to register the transfer or exchange of any Security so selected for redemption in whole or in part, except the unredeemed portion of any Security being redeemed in part.

SECTION 7.10. Mutilated, Destroyed, Lost or Stolen Certificates.

If:

(a) any mutilated Certificates should be surrendered to the Administrative Trustees, or if the Administrative Trustees shall receive evidence to their satisfaction of the destruction, loss or theft of any Certificate; and

(b) there shall be delivered to the Administrative Trustees such security or indemnity as may be required by them to keep each of the Trustees, the Sponsor and the Trust harmless,

then, in the absence of notice that such Certificate shall have been acquired by a bona fide purchaser, any Administrative Trustee on behalf of the Trust shall execute and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Certificate, a new Certificate of like denomination. In connection with the issuance of any new Certificate under this Section 7.10, the Administrative Trustees may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection therewith. Any duplicate Certificate issued pursuant to this Section shall constitute conclusive evidence of an ownership interest in the relevant Securities, as if originally issued, whether or not the lost, stolen or destroyed Certificate shall be found at any time.

SECTION 7.11. Deemed Security Holders.

The Trustees may treat the Person in whose name any Certificate shall be registered on the register of the Trust as the sole holder of such Certificate and of the Securities represented by such Certificate for purposes of receiving Distributions and for all other purposes whatsoever and, accordingly, shall not be bound to recognize any equitable or other claim to or interest in such Certificate or in the Securities represented by such Certificate on the part of any Person, whether or not the Trust shall have actual or other notice thereof.

SECTION 7.12. Global Securities.

On initial issuance, the Capital Securities shall be issued in definitive form to the Sponsor. Upon transfer by the Sponsor of the Capital Securities, the Capital Securities may be issued in the form of one or more Global Securities. If the Capital Securities are to be issued in the form of one or more Global Securities, then an Administrative Trustee on behalf of the Trust shall execute and the Property Trustee shall authenticate and deliver one or more Global Securities that (i) shall represent and shall be denominated in an amount equal to the aggregate liquidation amount of all of the Capital Securities to be issued in the form of Global Securities

and not yet cancelled, (ii) shall be registered in the name of the Depositary for such Global Security or the nominee of such Depositary, and (iii) shall be delivered by the Property Trustee to such Depositary or pursuant to such Depositary's instructions. Global Securities shall bear a legend substantially to the following effect:

"This Capital Security is a Global Security within the meaning of the Trust Agreement hereinafter referred to and is registered in the name of The Depositary Trust Company, a New York corporation (the "Depositary"), or a nominee of the Depositary. This Capital Security is exchangeable for Capital Securities registered in the name of a person other than the Depositary or its nominee only in the limited circumstances described in the Trust Agreement and no transfer of this Capital Security (other than a transfer of this Capital Security as a whole by the Depositary to a nominee of the Depositary or by a nominee of the Depositary to the Depositary or another nominee of the Depositary) may be registered except in limited circumstances.

Unless this Capital Security Certificate is presented by an authorized representative of the Depositary to USB Capital \_\_\_\_ or its agent for registration of transfer, exchange or payment, and any Capital Security Certificate issued is registered in the name of Cede & Co. or such other name as requested by an authorized representative of the Depositary (and any payment hereon is made to Cede & Co. or to such other entity as is requested by an authorized representative of the Depositary), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein."

Capital Securities not represented by a Global Security issued in exchange for all or a part of a Global Security pursuant to this Section 7.12 shall be registered in such names and in such authorized denominations as the Depositary, pursuant to instructions from its direct or indirect participants or otherwise, shall instruct the Property Trustee. Upon execution and authentication, the Property Trustee shall deliver such Capital Securities not represented by a Global Security to the Persons in whose names such definitive Capital Securities are so registered.

At such time as all interests in Global Securities have been redeemed, repurchased or cancelled, such Global Securities shall be, upon receipt thereof, cancelled by the Property Trustee in accordance with standing procedures of the Depositary. At any time prior to such cancellation, if any interest in Global Securities is exchanged for Capital Securities not represented by a Global Security, redeemed, cancelled or transferred to a transferee who receives Capital Securities not represented by a Global Security therefor or any Capital Security not represented by a Global Security is exchanged or transferred for part of Global Securities, the principal amount of such Global Securities shall, in accordance with the standing procedures of the Depositary, be reduced or increased, as the case may be, and an endorsement shall be made on such Global Securities by the Property Trustee to reflect such reduction or increase.



The Trust and the Property Trustee may for all purposes, including the making of payments due on the Capital Securities, deal with the Depositary as the authorized representative of the Holders for the purposes of exercising the rights of Holders hereunder. The rights of the owner of any beneficial interest in a Global Security shall be limited to those established by law and agreements between such owners and depository participants provided, that no such agreement shall give any rights to any Person against the Trust or the Property Trustee without the written consent of the parties so affected. Multiple requests and directions from and votes of the Depositary as holder of Capital Securities in global form with respect to any particular matter shall not be deemed inconsistent to the extent they do not represent an amount of Capital Securities in excess of those held in the name of the Depositary or its nominee.

If at any time the Depositary for any Capital Securities represented by one or more Global Securities notifies the Trust that it is unwilling or unable to continue as Depositary for such Capital Securities or if at any time the Depositary for such Capital Securities shall no longer be eligible under this Section 7.12, the Trust shall appoint a successor Depositary with respect to such Capital Securities. If a successor Depositary for such Capital Securities is not appointed by the Trust within 90 days after the Trust receives such notice or becomes aware of such ineligibility, the Trust's election that such Capital Securities be represented by one or more Global Securities shall no longer be effective and the Trust shall execute, and the Property Trustee will authenticate and deliver, Capital Securities in definitive registered form, in any authorized denominations, in an aggregate liquidation amount equal to the principal amount of the Global Security or Capital Securities representing such Capital Securities in exchange for such Global Security or Capital Securities.

The Trust may at any time and in its sole discretion determine that the Capital Securities issued in the form of one or more Global Securities shall no longer be represented by a Global Security or Capital Securities. In such event the Trust shall execute, and the Property Trustee, shall authenticate and deliver, Capital Securities in definitive registered form, in any authorized denominations, in an aggregate liquidation amount equal to the principal amount of the Global Security or Capital Securities representing such Capital Securities, in exchange for such Global Security or Capital Securities.

Notwithstanding any other provisions of this Trust Agreement (other than the provisions set forth in Section 7.9), Global Securities may not be transferred as a whole except by the Depositary to a nominee of the Depositary or by a nominee of the Depositary to the Depositary or another nominee of the Depositary or by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary.

Interests of beneficial owners in a Global Security may be transferred or exchanged for Capital Securities not represented by a Global Security and Capital Securities not represented by a Global Security may be transferred or exchange for Global Securities in accordance with rules of the Depositary and the provisions of Section 7.9.

## ARTICLE 8

### DISSOLUTION AND TERMINATION OF TRUST

#### SECTION 8.1. Dissolution and Termination of Trust.

(a) The Trust shall dissolve upon the earliest of:

(i) the bankruptcy of the Holder of the Common Securities or the Sponsor;

(ii) the filing of a certificate of dissolution or its equivalent with respect to the Sponsor or the revocation of the Sponsor's charter and the expiration of 90 days after the revocation without a reinstatement thereof;

(iii) the entry of a decree of judicial dissolution of the Sponsor or the Trust;

(iv) the time when all of the Securities shall have been called for redemption and the amounts then due shall have been paid to the Holders in accordance with the terms of the Securities;

(v) at the Sponsor's election by notice and direction to the Property Trustee to distribute the Debentures to the Holders of the Securities in exchange for all of the Securities, subject to the receipt of any necessary approvals by the Federal Reserve that may then be required under the applicable capital guidelines or policies of the Federal Reserve; *provided* that the Sponsor will be required to obtain an opinion of an independent counsel that the distribution of the Debentures will not be taxable to the Holders of the Capital Securities for United States federal income tax purposes; or

(vi) the time when all of the Administrative Trustees and the Sponsor shall have consented to dissolution of the Trust provided such action is taken before the issuance of any Securities.

(b) As soon as is practicable after the occurrence of an event referred to in Section 8.1(a) and upon completion of the winding up and liquidation of the Trust, the Trustees shall terminate the Trust by filing a certificate of cancellation with the Secretary of State of the State of Delaware.

(c) The provisions of Section 4.2 and Article 9 shall survive the termination of the Trust.

#### SECTION 8.2. Liquidation Distribution Upon Dissolution of the Trust.

(a) In the event of any voluntary or involuntary liquidation, dissolution, or winding-up of the Trust (each a "Liquidation"), the Holders of the Securities on the date of the Liquidation will be entitled to receive, out of the assets of the Trust available for distribution to

Holders of Securities after satisfaction of the Trust's liabilities to creditors, if any, distributions in cash or other immediately available funds in an amount equal to the aggregate of the stated liquidation amount of \$\_\_\_ per Security plus accumulated and unpaid Distributions thereon to the date of payment (such amount being the "Liquidation Distribution"), unless, in connection with such Liquidation, Debentures in an aggregate stated principal amount equal to the aggregate stated liquidation amount of, with an interest rate identical to the distribution rate of, and accumulated and unpaid interest equal to accrued and unpaid Distributions on, such Securities shall be distributed on a Pro Rata basis to the Holders of the Securities in exchange for such Securities.

(b) If, upon any such Liquidation, the Liquidation Distribution can be paid only in part because the Trust has insufficient assets available to pay in full the aggregate Liquidation Distribution, then the amounts payable directly by the Trust on the Securities shall be paid on a Pro Rata basis. The Holders of the Common Securities will be entitled to receive distributions upon any such Liquidation Pro Rata with the Holders of the Capital Securities except that if an Indenture Event of Default has occurred and is continuing, the Capital Securities shall have a preference over the Common Securities with regard to such distributions as provided for in Section 7.1(b).

## ARTICLE 9

### LIMITATION OF LIABILITY OF HOLDERS OF SECURITIES, DELAWARE

#### TRUSTEES OR OTHERS

##### SECTION 9.1. Liability.

(a) Except as expressly set forth in this Trust Agreement, the Guarantee and the terms of the Securities, the Sponsor:

(i) shall not be personally liable for the return of any portion of the capital contributions (or any return thereon) of the Holders of the Securities which shall be made solely from assets of the Trust; and

(ii) shall not be required to pay to the Trust or to any Holder of Securities any deficit upon dissolution of the Trust or otherwise.

(b) Pursuant to Section 3803(a) of the Delaware Statutory Trust Act, the Holder of the Common Securities shall be entitled to the same limitation of personal liability extended to stockholders of private corporations for profit organized under the General Corporation Law of the State of Delaware; provided, however, the Holders of the Common Securities shall be liable for all of the debts and obligations of the Trust (other than with respect to the Securities) to the extent not satisfied out of the Trust's assets.

(c) Pursuant to Section 3803(a) of the Delaware Statutory Trust Act, the Holders of the Capital Securities shall be entitled to the same limitation of personal liability

extended to stockholders of private corporations for profit organized under the General Corporation Law of the State of Delaware.

#### SECTION 9.2. Exculpation.

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

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

#### SECTION 9.3. Fiduciary Duty.

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

(b) Unless otherwise expressly provided herein:

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

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

the Indemnified Person shall resolve such conflict of interest, take such action or provide such terms, considering in each case the relative interest of each party (including its own interest) to such conflict, agreement, transaction or situation and the benefits and burdens relating to such interests, any customary or accepted industry practices and any applicable generally accepted

accounting practices or principles. In the absence of bad faith by the Indemnified Person, the resolution, action or term so made, taken or provided by the Indemnified Person shall not constitute a breach of this Trust Agreement or any other agreement contemplated herein or of any duty or obligation of the Indemnified Person at law or in equity or otherwise.

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

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

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

#### SECTION 9.4. Indemnification.

(a) The Debenture Issuer shall indemnify, to the full extent permitted by law, any Debenture Issuer Indemnified Person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Trust) by reason of the fact that he is or was a Debenture Issuer Indemnified Person against expenses (including attorney fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Trust, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the Debenture Issuer Indemnified Person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Trust, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

(b) The Debenture Issuer shall indemnify, to the full extent permitted by law, any Debenture Issuer Indemnified Person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Trust to procure a judgment in its favor by reason of the fact that he is or was a Debenture Issuer Indemnified Person against expenses (including attorneys’ fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Trust and except that no such indemnification shall be made in respect of any claim, issue or matter as to which such Debenture Issuer Indemnified Person shall have been adjudged to be liable to the Trust unless and only to the extent that the Court of Chancery of Delaware or the

court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such Court of Chancery or such other court shall deem proper.

(c) Any indemnification under paragraphs (a) and (b) of this Section 9.4 (unless ordered by a court) shall be made by the Debenture Issuer only as authorized in the specific case upon a determination that indemnification of the Debenture Issuer Indemnified Person is proper in the circumstances because he has met the applicable standard of conduct set forth in paragraphs (a) and (b). Such determination shall be made (1) by the Administrative Trustees by a majority vote of a quorum consisting of such Administrative Trustees who were not parties to such action, suit or proceeding, (2) if such a quorum is not obtainable, or, even if obtainable, if a quorum of disinterested Administrative Trustees so directs, by independent legal counsel in a written opinion, or (3) by the Common Security Holder of the Trust.

(d) Expenses (including attorneys' fees) incurred by a Debenture Issuer Indemnified Person in defending a civil, criminal, administrative or investigative action, suit or proceeding referred to in paragraphs (a) and (b) of this Section 9.4 shall be paid by the Debenture Issuer in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such Debenture Issuer Indemnified Person to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Debenture Issuer as authorized in this Section 9.4. Notwithstanding the foregoing, no advance shall be made by the Debenture Issuer if a determination is reasonably and promptly made (1) by the Administrative Trustees by a majority vote of a quorum of disinterested Administrative Trustees, (2) if such a quorum is not obtainable, or, even if obtainable, if a quorum of disinterested Administrative Trustees so directs, by independent legal counsel in a written opinion or (3) the Common Security Holder of the Trust, that, based upon the facts known to the Administrative Trustees, counsel or the Common Security Holder at the time such determination is made, such Debenture Issuer Indemnified Person acted in bad faith or in a manner that such person did not believe to be in or not opposed to the best interests of the Trust, or, with respect to any criminal proceeding, that such Debenture Issuer Indemnified Person believed or had reasonable cause to believe his conduct was unlawful. In no event shall any advance be made in instances where the Administrative Trustees, independent legal counsel or Common Security Holder reasonably determine that such person deliberately breached his duty to the Trust or its Common or Capital Security Holders.

(e) The indemnification and advancement of expenses provided by, or granted pursuant to, the other paragraphs of this Section 9.4 shall not be deemed exclusive of any other rights to which those seeking indemnification and advancement of expenses may be entitled under any agreement, vote of stockholders or disinterested directors of the Debenture Issuer or Capital Security Holders of the Trust or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. All rights to indemnification under this Section 9.4 shall be deemed to be provided by a contract between the Debenture Issuer and each Debenture Issuer Indemnified Person who serves in such capacity at any time while this Section 9.4 is in effect. Any repeal or modification of this Section 9.4 shall not affect any rights or obligations then existing.

(f) The Debenture Issuer or the Trust may purchase and maintain insurance on behalf of any person who is or was a Debenture Issuer Indemnified Person against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Debenture Issuer would have the power to indemnify him against such liability under the provisions of this Section 9.4.

(g) For purposes of this Section 9.4, references to “the Trust” shall include, in addition to the resulting or surviving entity, any constituent entity (including any constituent of a constituent) absorbed in a consolidation or merger, so that any person who is or was a director, trustee, officer or employee of such constituent entity, or is or was serving at the request of such constituent entity as a director, trustee, officer, employee or agent of another entity, shall stand in the same position under the provisions of this Section 9.4 with respect to the resulting or surviving entity as he would have with respect to such constituent entity if its separate existence had continued.

(h) The indemnification and advancement of expenses provided by, or granted pursuant to, this Section 9.4 shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a Debenture Issuer Indemnified Person and shall inure to the benefit of the heirs, executors and administrators of such a person. The obligation to indemnify as set forth in this Section 9.4 shall survive the resignation or removal of the Delaware Trustee or the Property Trustee or the termination of this Trust Agreement.

#### SECTION 9.5. Outside Businesses.

Subject to the provisions of Section 6.3, any Covered Person, the Sponsor, the Delaware Trustee and the Property Trustee may engage in or possess an interest in other business ventures of any nature or description, independently or with others, similar or dissimilar to the activities of the Trust, and the Trust and the Holders of Securities shall have no rights by virtue of this Trust Agreement in and to such independent ventures or the income or profits derived therefrom, and the pursuit of any such venture, even if competitive with the activities of the Trust, shall not be deemed wrongful or improper. No Covered Person, the Sponsor, the Delaware Trustee or the Property Trustee shall be obligated to present any particular investment or other opportunity to the Trust even if such opportunity is of a character that, if presented to the Trust, could be taken by the Trust, and any Covered Person, the Sponsor, the Delaware Trustee and the Property Trustee shall have the right to take for its own account (individually or as a partner or fiduciary) or to recommend to others any such particular investment or other opportunity. Any Covered Person, the Delaware Trustee and the Property Trustee may engage or be interested in any financial or other transaction with the Sponsor or any Affiliate of the Sponsor, or may act as depositary for, trustee or agent for, or act on any committee or body of holders of, securities or other obligations of the Sponsor or its Affiliates.

ARTICLE 10  
ACCOUNTING

SECTION 10.1. Fiscal Year.

The fiscal year ("Fiscal Year") of the Trust shall be the calendar year, or such other year as is required by the Code.

SECTION 10.2. Certain Accounting Matters.

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

(b) The Administrative Trustees shall cause to be prepared and delivered to each of the Holders of Securities, within 90 days after the end of each Fiscal Year of the Trust, annual financial statements of the Trust, including a balance sheet of the Trust as of the end of such Fiscal Year, and the related statements of income or loss.

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

(d) The Administrative Trustees shall cause to be duly prepared and filed with the appropriate taxing authority, an annual United States federal income tax return, on a Form 1041 or such other form required by United States federal income tax law, and any other annual income tax returns required to be filed by the Administrative Trustees on behalf of the Trust with any state or local taxing authority.

SECTION 10.3. Banking.

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



#### SECTION 10.4. Withholding.

The Trust and the Administrative Trustees shall comply with all withholding requirements under United States federal, state and local law. The Trust shall request, and the Holders shall provide to the Trust, such forms or certificates as are necessary to establish an exemption from withholding with respect to each Holder, and any representations and forms as shall reasonably be requested by the Trust to assist it in determining the extent of, and in fulfilling, its withholding obligations. The Administrative Trustees shall file required forms with applicable jurisdictions and, unless an exemption from withholding is properly established by a Holder, shall remit amounts withheld with respect to the Holder to applicable jurisdictions. To the extent that the Trust is required to withhold and pay over any amounts to any authority with respect to distributions or allocations to any Holder, the amount withheld shall be deemed to be a distribution in the amount of the withholding to the Holder. In the event of any claimed over withholding, Holders shall be limited to an action against the applicable jurisdiction. If the amount required to be withheld was not withheld from actual Distributions made, the Trust may reduce subsequent Distributions by the amount of such withholding.

### ARTICLE 11

#### AMENDMENTS AND MEETINGS

##### SECTION 11.1. Amendments.

(a) Except as otherwise provided in this Trust Agreement or by any applicable terms of the Securities, this Trust Agreement may only be amended by a written instrument approved and executed by the Sponsor and (i) the Administrative Trustees (or, if there are more than two Administrative Trustees, a majority of the Administrative Trustees) and (ii) the Property Trustee if the amendment affects the rights, powers, duties, obligations or immunities of the Property Trustee; and (iii) the Delaware Trustee if the amendment affects the rights, powers, duties, obligations or immunities of the Delaware Trustee.

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

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

(ii) unless, in the case of any proposed amendment which affects the rights, powers, duties, obligations or immunities of the Property Trustee, the Property Trustee shall have first received:

- a. an Officers' Certificate from each of the Trust and the Sponsor that such amendment is permitted by, and conforms to, the terms of this Trust Agreement (including the terms of the Securities) and that all conditions

precedent to the execution and delivery of such amendment have been satisfied; and

- b. an opinion of counsel (who may be counsel to the Sponsor or the Trust) that such amendment is permitted by, and conforms to, the terms of this Trust Agreement (including the terms of the Securities) and that all conditions precedent to the execution and delivery of such amendment have been satisfied; and

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

- a. cause the Trust to be classified as other than a grantor trust for United States federal income tax purposes;
- b. reduce or otherwise adversely affect the powers of the Property Trustee in contravention of the Trust Indenture Act; or
- c. cause the Trust to be deemed to be an Investment Company required to be registered under the Investment Company Act.

(c) If the Trust has issued any Securities that remain outstanding:

(i) any amendment that would (a) change the amount or timing of any distribution of the Securities or otherwise adversely affect the amount of any distribution required to be made in respect of the Securities as of a specified date or (b) restrict the right of a Holder of Securities to institute suit for the enforcement of any such payment on or after such date, will entitle the Holders of such Securities, voting together as a single class, to vote on such amendment or proposal and such amendment or proposal shall not be effective except with the approval of each of the Holders of the Securities affected thereby; and

(ii) Except as provided in Section 11.1(c)(i) hereof, any provision of this Trust Agreement may be amended by the Trustee and the Sponsor with (i) the consent of the Holders representing not less than a Majority in Liquidation Amount of the Securities outstanding and (ii) receipt by the Trustees of an opinion of counsel to the effect that such amendment or the exercise of any power granted to the Trustees in accordance with such amendment will not affect the Trust's status as a grantor trust for United States federal income tax purposes or the Trust's exemption from status of an Investment Company.

(d) This Section 11.1 shall not be amended without the consent of all of the Holders of the Securities.

(e) Article 4 shall not be amended without the consent of the Holders of a Majority in Liquidation Amount of the Common Securities.

(f) The rights of the Holders of the Common Securities under Article 5 to increase or decrease the number of, and appoint and remove Trustees shall not be amended without the consent of the Holders of a Majority in Liquidation Amount of the Common Securities.

(g) Notwithstanding Section 11.1(c), this Trust Agreement may be amended without the consent of the Holders of the Securities, if such amendment does not adversely affect in any material respect the rights of the holders of the Securities, to:

- (i) cure any ambiguity;
- (ii) correct or supplement any provision in this Trust Agreement that may be defective or inconsistent with any other provision of this Trust Agreement;
- (iii) add to the covenants, restrictions or obligations of the Sponsor;
- (iv) to conform to any change in Rule 3a-5 of the Investment Company Act or written change in interpretation or application of Rule 3a-5 of the Investment Company Act by any legislative body, court, government agency or regulatory authority; or
- (v) to modify, eliminate and add to any provision of this Trust Agreement to ensure that the Trust will be classified as a grantor trust for United States federal income tax purposes at all times that any Securities are outstanding or to ensure that the Trust will not be required to register as an Investment Company under the Investment Company Act.

#### SECTION 11.2. Meetings of the Holders of Securities; Action by Written Consent.

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

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

(i) notice of any such meeting shall be given to all the Holders of Securities having a right to vote thereat at least 7 days and not more than 60 days before the date of such meeting. Whenever a vote, consent or approval of the Holders of Securities is permitted or required under this Trust Agreement or the rules of any stock exchange on which the Capital Securities are listed or admitted for trading, such vote, consent or approval may be given at a meeting of the Holders of Securities. Any action that may be taken at a meeting of the Holders of Securities may be taken without a meeting and without prior notice if a consent in writing setting forth the action so taken is signed by the Holders of Securities owning not less than the minimum amount of Securities in liquidation amount that would be necessary to authorize or take such action at a meeting at which all Holders of Securities having a right to vote thereon were present and voting. Prompt notice of the taking of action without a meeting shall be given to the Holders of Securities entitled to vote who have not consented in writing. The Administrative Trustees may specify that any written ballot submitted to the Security Holders for the purpose of taking any action without a meeting shall be returned to the Trust within the time specified by the Administrative Trustees;

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

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

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

## ARTICLE 12

### REPRESENTATIONS OF PROPERTY TRUSTEE AND DELAWARE TRUSTEE

#### SECTION 12.1. Representations and Warranties of the Property Trustee.

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

(a) the Property Trustee is a company duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization, with trust power and authority to execute and deliver, and to carry out and perform its obligations under the terms of, this Trust Agreement;

(b) the Property Trustee satisfies the requirements set forth in Section 6.3(a);

(c) the execution, delivery and performance by the Property Trustee of this Trust Agreement have been duly authorized by all necessary corporate action on the part of the Property Trustee. This Trust Agreement has been duly executed and delivered by the Property Trustee, and it constitutes a legal, valid and binding obligation of the Property Trustee, enforceable against it in accordance with its terms, subject to applicable bankruptcy, reorganization, moratorium, insolvency and other similar laws affecting creditors' rights generally and to general principles of equity and the discretion of the court (regardless of whether the enforcement of such remedies is considered in a proceeding in equity or at law);

(d) the execution, delivery and performance of this Trust Agreement by the Property Trustee do not conflict with or constitute a breach of the articles of association or incorporation, as the case may be, or the by-laws (or other similar organizational documents) of the Property Trustee; and

(e) no consent, approval or authorization of, or registration with or notice to, any Delaware or federal banking authority is required for the execution, delivery or performance by the Property Trustee of this Trust Agreement.

#### SECTION 12.2. Representations and Warranties of the Delaware Trustee.

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

(a) the Delaware Trustee satisfies the requirements set forth in Section 6.2, satisfies Trust Section 3807(a) of the Delaware Statutory Trust Act and has the power and authority to execute and deliver, and to carry out and perform its obligations under the terms of, this Trust Agreement and, if it is not a natural person, is duly organized, validly

existing and in good standing under the laws of its jurisdiction of incorporation or organization;

(b) the Delaware Trustee has been authorized to perform its obligations under the Certificate of Trust and this Trust Agreement. This Trust Agreement under Delaware law constitutes a legal, valid and binding obligation of the Delaware Trustee, enforceable against it in accordance with its terms, subject to applicable bankruptcy, reorganization, moratorium, insolvency and other similar laws affecting creditors' rights generally and to general principles of equity and the discretion of the court (regardless of whether the enforcement of such remedies is considered in a proceeding in equity or at law); and

(c) no consent, approval or authorization of, or registration with or notice to, any Delaware or federal banking authority is required for the execution, delivery or performance by the Delaware Trustee of this Trust Agreement.

## ARTICLE 13

### MISCELLANEOUS

#### SECTION 13.1. Notices.

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

(a) if given to the Trust, in care of the Administrative Trustees at the Trust's mailing address set forth below (or such other address as the Trust may give notice of to the Property Trustee, the Delaware Trustee and the Holders of the Securities):

c/o U.S. Bancorp  
800 Nicollet Mall  
Minneapolis, Minnesota 55402  
Attention: \_\_\_, Vice President  
Facsimile No: (\_\_\_) \_\_\_ - \_\_\_

(b) if given to the Delaware Trustee, at the mailing address set forth below (or such other address as the Delaware Trustee may give notice of to the Administrative Trustees, the Property Trustee and the Holders of the Securities):

Delaware Trust Company, National Association  
c/o 300 Delaware Avenue, 9th Floor  
Wilmington, Delaware 19801  
Facsimile No.: (\_\_\_) \_\_\_ - \_\_\_

(c) if given to the Property Trustee, at its Corporate Trust Office (or such other address as the Property Trustee may give notice of to the Administrative Trustees, the Delaware Trustee and the Holders of the Securities).

(d) if given to the Holder of the Common Securities, at the mailing address of the Sponsor set forth below (or such other address as the Holder of the Common Securities may give notice of to the Property Trustee, the Delaware Trustee and the Trust):

c/o U.S. Bancorp  
800 Nicollet Mall  
Minneapolis, Minnesota 55402  
Attention: \_\_\_\_, Vice President  
Facsimile No: (\_\_\_\_) \_\_\_\_ - \_\_\_\_

(e) if given to any other Holder, at the address set forth on the register of the Trust.

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

#### SECTION 13.2. Governing Law.

This Trust Agreement and the Securities and the rights of the parties hereunder and thereunder shall be governed by and interpreted in accordance with the laws of the State of Delaware.

#### SECTION 13.3. Intention of the Parties.

It is the intention of the parties hereto that the Trust be classified for United States federal income tax purposes as a grantor trust. The provisions of this Trust Agreement shall be interpreted in a manner consistent with such classification.

#### SECTION 13.4. Headings.

Headings contained in this Trust Agreement are inserted for convenience of reference only and do not affect the interpretation of this Trust Agreement or any provision hereof.

#### SECTION 13.5. Successors and Assigns.

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

#### SECTION 13.6. Partial Enforceability.

If any provision of this Trust Agreement, or the application of such provision to any Person or circumstance, shall be held invalid, the remainder of this Trust Agreement, or the application of

such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

SECTION 13.7. Counterparts.

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

*[The remainder of this page left blank intentionally; The signature page follows.]*



IN WITNESS WHEREOF, the undersigned have caused these presents to be executed as of the day and year first above written.

U.S. BANCORP,  
as Sponsor, as Common Securities Holder  
and as Debenture Issuer

By: \_\_\_\_\_  
Name:  
Title:

DELAWARE TRUST COMPANY, NATIONAL  
ASSOCIATION,  
as Property Trustee

By: \_\_\_\_\_  
Name:  
Title:

DELAWARE TRUST COMPANY, NATIONAL  
ASSOCIATION,  
as Delaware Trustee

By: \_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_  
DAVID M. MOFFETT,  
as Administrative Trustee

\_\_\_\_\_  
DARYL N. BIBLE,  
as Administrative Trustee

\_\_\_\_\_  
LEE R. MITAU,  
as Administrative Trustee

**[IF THE CAPITAL SECURITY IS TO BE A GLOBAL CAPITAL SECURITY, INSERT THE FOLLOWING: This Capital Security is a Global Security within the meaning of the Trust Agreement hereinafter referred to and is registered in the name of The Depository Trust Company, a New York corporation (the "Depository"), or a nominee of the Depository. This Capital Security is exchangeable for Capital Securities registered in the name of a person other than the Depository or its nominee only in the limited circumstances described in the Trust Agreement and no transfer of this Capital Security (other than a transfer of this Security as a whole by the Depository to a nominee of the Depository or by a nominee of the Depository to the Depository or another nominee of the Depository) may be registered except in limited circumstances.]**

**Unless this Capital Security Certificate is presented by an authorized representative of the Depository to the issuer or its agent for registration of transfer, exchange or payment, and any Capital Security Certificate issued is registered in the name of Cede & Co. or such other name as registered by an authorized representative of the Depository (and any payment hereon is made to Cede & Co. or to such other entity as is requested by an authorized representative of the Depository), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.]**

Certificate No. \_\_\_\_  
CUSIP No. \_\_\_\_

Number of Capital Securities: \_\_\_\_

**Certificate Evidencing [ ]% Trust Preferred Securities  
of  
USB Capital \_\_\_\_\_**

**[ ]% Trust Preferred Securities  
Fully and Unconditionally  
Guaranteed by U.S. Bancorp**

USB CAPITAL \_\_\_\_, a statutory trust created under the laws of the State of Delaware (the "Trust"), hereby certifies that \_\_\_\_ (the "Holder") is the registered owner of \_\_\_\_ capital securities of the Trust representing undivided beneficial ownership interests in the assets of the Trust designated the "\_\_\_\_% Trust Preferred Securities" (the "Capital Securities"). The Capital Securities are transferable on the register of the Trust, in person or by a duly authorized attorney, upon surrender of this certificate duly endorsed and in proper form for transfer as provided in the Trust Agreement (as defined below). The designation, rights, privileges, restrictions, preferences and other terms and provisions of the Capital Securities represented hereby are issued and shall in all respects be subject to the provisions of the Amended and Restated Trust Agreement of the Trust, dated as of \_\_\_\_, 20\_\_\_\_, as the same may be amended from time to time (the "Trust Agreement"), by and among U.S.

BANCORP, DAVID M. MOFFETT, DARYL N. BIBLE and LEE R. MITAU, as Administrative Trustees, DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION, as Property Trustee, and DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION, as Delaware Trustee, and the holders of undivided beneficial ownership interests in the assets of the Trust. Capitalized terms used herein but not defined shall have the meaning given them in the Trust Agreement. The Holder is entitled to the benefits of the Guarantee to the extent described therein. The Sponsor will provide a copy of the Trust Agreement, the Guarantee and the Indenture to a Holder without charge upon written request to the Sponsor at its principal place of business.

Upon receipt of this certificate, the Holder is bound by the Trust Agreement and is entitled to the benefits thereunder.

By acceptance, the Holder agrees to treat, for United States federal, state and local income tax purposes, the Debentures as indebtedness and the Capital Securities as evidence of undivided beneficial ownership interests in the Debentures.

IN WITNESS WHEREOF, the Trust has executed this certificate this \_\_\_\_ day of [ ], 20\_\_\_\_.

USB CAPITAL \_\_\_\_

By: \_\_\_\_\_  
Name:  
Title: Administrative Trustee

This is one of the Capital Securities referred to in the within-mentioned Trust Agreement.

DELAWARE TRUST COMPANY, NATIONAL  
ASSOCIATION,  
as Property Trustee

By: \_\_\_\_\_  
Authorized Officer

**TRANSFER OF THIS CERTIFICATE IS SUBJECT TO THE CONDITIONS SET FORTH IN THE TRUST AGREEMENT  
REFERRED TO BELOW.**

**Certificate No.** \_\_\_\_

**Number of Common Securities:** \_\_\_\_

**Certificate Evidencing Common Securities  
of  
USB Capital \_\_\_\_  
\_\_\_\_ % Common Securities**

USB CAPITAL \_\_\_\_, a statutory trust created under the laws of the State of Delaware (the "Trust"), hereby certifies that U.S. BANCORP (the "Holder") is the registered owner of common securities of the Trust representing an undivided beneficial ownership interest in the assets of the Trust designated the "\_\_\_\_% Common Securities" (the "Common Securities"). The Common Securities are not transferable and any attempted transfer thereof shall be void except as permitted by applicable law and by Section 7.9(b)(ii) of the Trust Agreement (as defined below). The designation, rights, privileges, restrictions, preferences and other terms and provisions of the Common Securities represented hereby are issued and shall in all respects be subject to the provisions of the Amended and Restated Trust Agreement of the Trust, dated as of \_\_\_\_, 20\_\_ (as the same may be amended from time to time, the "Trust Agreement"), by and among U.S. Bancorp, as Sponsor, DAVID M. MOFFETT, DARYL N. BIBLE AND LEE R. MITAU, as Administrative Trustees, DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION, as Property Trustee, and DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION, as Delaware Trustee, and the holders of undivided beneficial ownership interests in the assets of the Trust. The Holder is entitled to the benefits of the Guarantee to the extent described therein. Capitalized terms used herein but not defined shall have the meaning given them in the Trust Agreement. The Sponsor will provide a copy of the Trust Agreement, the Guarantee and the Indenture to the Holder without charge upon written request to the Sponsor at its principal place of business.

Upon receipt of this certificate, the Holder is bound by the Trust Agreement and is entitled to the benefits thereunder.

By acceptance, the Holder agrees to treat, for United States federal, state and local income tax purposes, the Debentures as indebtedness and the Common Securities as evidence of an undivided indirect beneficial ownership interest in the Debentures.

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IN WITNESS WHEREOF, the Trust has executed this certificate this \_\_\_\_ day of \_\_\_\_, 20 \_\_\_\_.

USB CAPITAL \_\_\_\_

By: \_\_\_\_\_

Name:

Title: Administrative Trustee

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**GUARANTEE AGREEMENT**

**Dated as of \_\_\_\_\_, 20\_\_**

**By and Between**

**U.S. BANCORP,  
as Guarantor**

**and**

**DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION,  
as Trustee**

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## CROSS REFERENCE TABLE<sup>1</sup>

Section of Trust Indenture Act of 1939, as amended	Section of Guarantee Agreement
310(a)	4.1(a)
310(b)	2.8; 4.1(c)
310(c)	Inapplicable
311(a)	2.2(b)
311(b)	2.2(b)
311(c)	Inapplicable
312(a)	2.2(a); 2.9
312(b)	2.2(b); 2.9
312(c)	2.9
313(a)	2.3
313(b)	2.3
313(c)	2.3
313(d)	2.3
314(a)	2.4
314(b)	Inapplicable
314(c)	2.5
314(d)	Inapplicable
314(e)	2.5
314(f)	Inapplicable
315(a)	3.1(d); 3.2(a)
315(b)	2.7(a)
315(c)	3.1(c)
315(d)	3.1(d)
316(a)	2.6; 5.4(a)
316(b)	5.3
316(c)	Inapplicable
317(a)	2.10
317(b)	Inapplicable
318(a)	2.1(b)

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



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## GUARANTEE AGREEMENT

This GUARANTEE AGREEMENT (the “Guarantee”), dated as of \_\_\_\_\_, 20\_\_\_\_, is executed and delivered by U.S. BANCORP, a Delaware corporation (the “Guarantor”), and DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States of America, as trustee (the “Guarantee Trustee”), for the benefit of the Holders (as defined herein) from time to time of the Securities (as defined herein) of USB CAPITAL \_\_\_\_\_, a Delaware statutory trust (the “Trust”).

### RECITALS

WHEREAS, pursuant to the Trust Agreement (as defined herein), the Trust may issue up to \$ \_\_\_\_\_ aggregate liquidation amount of capital securities, having a liquidation amount of \$ \_\_\_\_ per security and designated the “\_\_\_\_% Trust Preferred Securities” of the Trust (the “Capital Securities”) and up to \$ \_\_\_\_\_ aggregate liquidation amount of common securities, having a liquidation amount of \$ \_\_\_\_ per security and designated the “\_\_\_\_% Common Securities” of the Trust (the “Common Securities” and, together with the Capital Securities, the “Securities”);

WHEREAS, as incentive for the Holders to purchase the Securities, the Guarantor desires irrevocably and unconditionally to agree, to the extent set forth in this Guarantee, to pay to the Holders of the Securities the Guarantee Payments (as defined herein) and to make certain other payments on the terms and conditions set forth herein; and

WHEREAS, if a Trust Enforcement Event (as defined herein) has occurred and is continuing, the rights of holders of the Common Securities to receive Guarantee Payments (as defined herein) under this Guarantee are subordinated to the rights of Holders of Capital Securities to receive Guarantee Payments under this Guarantee;

NOW, THEREFORE, in consideration of the purchase by each Holder of Securities, which purchase the Guarantor hereby agrees shall benefit the Guarantor, the Guarantor executes and delivers this Guarantee for the benefit of the Holders.

### ARTICLE 1

#### INTERPRETATION AND DEFINITIONS

SECTION 1.1. Interpretation and Definitions. In this Guarantee, unless the context otherwise requires:

(a) capitalized terms used in this Guarantee but not defined in the preamble above have the respective meanings assigned to them in this Section 1.1;

(b) a term defined anywhere in this Guarantee has the same meaning throughout;

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

(d) all references in this Guarantee to Articles, Sections and Recitals are to Articles, Sections and Recitals of this Guarantee, unless otherwise specified;

(e) unless otherwise defined in this Guarantee, a term defined in the Trust Indenture Act has the same meaning when used in this Guarantee;

(f) a reference to the singular includes the plural and vice versa and a reference to any masculine form of a term shall include the feminine form of a term, as applicable; and

(g) the following terms have the following meanings:

“*Affiliate*” has the same meaning as given to that term in Rule 405 of the Securities Act of 1933, as amended, or any successor rule thereunder.

“*Business Day*” has the meaning specified in the Trust Agreement.

“*Capital Securities*” has the meaning specified in the Recitals hereto.

“*Common Securities*” has the meaning specified in the Recitals hereto.

“*Common Stock*” means the common stock, par value \$0.01 per share, of the Guarantor.

“*Corporate Trust Office*” means the principal office of the Guarantee Trustee at which at any particular time its corporate trust business shall be administered, which office at the date of execution of this Guarantee is located at 300 Delaware Avenue, 9th Floor, Wilmington, Delaware 19801.

“*Debentures*” means the series of junior subordinated debentures to be issued by U.S. Bancorp designated the “\_\_\_% Junior Subordinated Debentures due \_\_\_, \_\_\_, \_\_\_”, held by the Property Trustee as defined in the Trust Agreement.

“*Global Security*” means a fully registered, global Capital Security, as defined in the Indenture, representing the Capital Securities.

“*Guarantee Event of Default*” means a default by the Guarantor on any of its payment or other obligations under this Guarantee.

“*Guarantee Payments*” means the following payments or distributions, without duplication, with respect to the Securities, to the extent not paid by or on behalf of the Trust: (i) any accumulated and unpaid Distributions (as defined in the Trust Agreement) that are required to be paid on such Securities to the extent the Trust has sufficient funds available therefor at the time, (ii) the redemption price, including all accumulated and unpaid Distributions

to the date of redemption, with respect to any Securities called for redemption by the Trust, to the extent the Trust shall have sufficient funds available therefor at the time or (iii) upon a voluntary or involuntary dissolution, winding-up or termination of the Trust (other than in connection with the distribution of Debentures to the Holders in exchange for Securities as provided in the Trust Agreement), the lesser of (a) the aggregate of the liquidation amount and all accumulated and unpaid Distributions on the Securities to the date of payment, to the extent the Trust has sufficient funds available therefor and (b) the amount of assets of the Trust remaining available for distribution to Holders in liquidation of the Trust (in either case, the "Liquidation Distribution").

"*Guarantee Trustee*" means Delaware Trust Company, National Association, until a Successor Guarantee Trustee has been appointed and has accepted such appointment pursuant to the terms of this Guarantee and thereafter means each such Successor Guarantee Trustee.

"*Holder*" means any holder of Securities, as registered on the books and records of the Trust; provided, however, that, in determining whether the Holders of the requisite percentage of Capital Securities have given any request, notice, consent or waiver hereunder, "Holder" shall not include the Guarantor or any Affiliate of the Guarantor or any other obligor on the Capital Securities.

"*Indenture*" means the Junior Subordinated Indenture, dated as of \_\_\_\_, 2005, by and between U.S. Bancorp and Delaware Trust Company, National Association, as Trustee, and any indenture supplemental thereto pursuant to which the Debentures are to be issued to the Property Trustee, as defined in the Trust Agreement.

"*List of Holders*" has the meaning assigned to it in Section 2.2 hereof.

"*Majority in Liquidation Amount*" means, except as provided in the terms of the Capital Securities or by the Trust Indenture Act, Holder(s) of outstanding Securities, voting together as a single class, or, as the context may require, Holders of outstanding Capital Securities or Holders of outstanding Common Securities, voting separately as a class, who are the record owners of more than 50% of the aggregate liquidation amount (including the stated amount that would be paid on redemption, liquidation or otherwise, plus accumulated and unpaid Distributions to the date upon which the voting percentages are determined) of all outstanding Securities of the relevant class. In determining whether the Holders of the requisite amount of Securities have voted, Securities which are owned by the Guarantor or any Affiliate of the Guarantor or any other obligor on the Securities shall be disregarded for the purpose of any such determination.

"*Officers' Certificate*" means, with respect to any Person, a certificate signed on behalf of such Person by two Authorized Officers (as defined in the Trust Agreement) of such Person. Any Officers' Certificate delivered with respect to compliance with a condition or covenant provided for in this Guarantee shall include:

(i) a statement that each officer signing the Officers' Certificate has read the covenant or condition and the definitions relating thereto;

(ii) a brief statement of the nature and scope of the examination or investigation undertaken by each officer on behalf of such Person in rendering the Officers' Certificate;

(iii) a statement that each such officer has made such examination or investigation as, in such officer's opinion, is necessary to enable such officer on behalf of such Person to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(iv) a statement as to whether, in the opinion of each such officer acting on behalf of such Person, such condition or covenant has been complied with.

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

*"Redemption Price"* has the meaning specified in the Trust Agreement.

*"Responsible Officer"* means, with respect to the Guarantee Trustee, any officer with direct responsibility for the administration of this Guarantee and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of that officer's knowledge of and familiarity with the particular subject.

*"Securities"* has the meaning specified in the Recitals hereto.

*"Successor Guarantee Trustee"* means a successor Guarantee Trustee possessing the qualifications to act as Guarantee Trustee under Section 4.1.

*"Trust Agreement"* means the Amended and Restated Trust Agreement, dated as of the date hereof, as amended, modified or supplemented from time to time, among the trustees of the Trust named therein, the Guarantor, as sponsor, and the Holders, from time to time, of undivided beneficial ownership interests in the assets of the Trust.

*"Trust Enforcement Event"* in respect of the Securities means an Indenture Event of Default (as defined in the Indenture) has occurred and is continuing in respect of the Debentures.

*"Trust Indenture Act"* means the Trust Indenture Act of 1939, as amended from time to time, or any successor legislation.

## ARTICLE 2

### TRUST INDENTURE ACT

SECTION 2.1. Trust Indenture Act; Application (a) This Guarantee is subject to the provisions of the Trust Indenture Act that are required to be part of this Guarantee and shall, to the extent applicable, be governed by such provisions.

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

SECTION 2.2. Lists of Holders of Securities. (a) The Guarantor shall provide the Guarantee Trustee (i) except while the Capital Securities are represented by one or more Global Securities, at least two Business Days prior to the date for payment of Distributions, a list, in such form as the Guarantee Trustee may reasonably require, of the names and addresses of the Holders of the Securities ("List of Holders") as of the record date relating to the payment of such Distributions, and (ii) at any other time, within 30 days of receipt by the Guarantor of a written request from the Guarantee Trustee for a List of Holders as of a date no more than 15 days before such List of Holders is given to the Guarantee Trustee; provided that the Guarantor shall not be obligated to provide such List of Holders at any time the List of Holders does not differ from the most recent List of Holders given to the Guarantee Trustee by the Guarantor. The Guarantee Trustee shall preserve, in as current a form as is reasonably practicable, all information contained in Lists of Holders given to it, provided that the Guarantee Trustee may destroy any List of Holders previously given to it on receipt of a new List of Holders.

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

SECTION 2.3. Reports by Guarantee Trustee. Within 60 days after \_\_\_\_ of each year (commencing with the year of the first anniversary of the issuance of the Securities), the Guarantee Trustee shall provide to the Holders of the Securities such reports as are required by Section 313 of the Trust Indenture Act (if any) in the form and in the manner provided by Section 313 of the Trust Indenture Act. The Guarantee Trustee shall also comply with the requirements of Section 313(d) of the Trust Indenture Act.

SECTION 2.4. Periodic Reports to Guarantee Trustee. The Guarantor shall provide to the Guarantee Trustee such documents, reports and information as required by Section 314(a) (if any) of the Trust Indenture Act and the compliance certificate required by Section 314(a) of the Trust Indenture Act in the form, in the manner and at the times required by Section 314(a) of the Trust Indenture Act, but in no event later than 120 days after the end of each calendar year.

SECTION 2.5. Evidence of Compliance with Conditions Precedent. The Guarantor shall provide to the Guarantee Trustee such evidence of compliance with any conditions precedent, if any, provided for in this Guarantee that relate to any of the matters set forth in

Section 314(c) of the Trust Indenture Act. Any certificate or opinion required to be given by an officer pursuant to Section 314(c)(1) may be given in the form of an Officers' Certificate.

SECTION 2.6. Guarantee Event of Default; Waiver. The Holders of a Majority in Liquidation Amount of the Capital Securities may, by vote or written consent, on behalf of the Holders of all of the Securities, waive any past Guarantee Event of Default and its consequences. Upon such waiver, any such Guarantee Event of Default shall cease to exist, and any Guarantee Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Guarantee, but no such waiver shall extend to any subsequent or other default or Guarantee Event of Default or impair any right consequent thereon.

SECTION 2.7. Guarantee Event of Default; Notice. (a) The Guarantee Trustee shall, within 90 days after the occurrence of a Guarantee Event of Default actually known to a Responsible Officer of the Guarantee Trustee, transmit by mail, first class postage prepaid, to the Holders of the Securities, notices of all such Guarantee Events of Default, unless such defaults have been cured before the giving of such notice; provided, that the Guarantee Trustee shall be protected in withholding such notice if and so long as a Responsible Officer of the Guarantee Trustee in good faith determines that the withholding of such notice is in the interests of the Holders of the Securities.

(b) The Guarantee Trustee shall not be deemed to have knowledge of any Guarantee Event of Default unless the Guarantee Trustee shall have received written notice thereof or a Responsible Officer of the Guarantee Trustee charged with the administration of this Guarantee Agreement shall have obtained actual knowledge thereof.

SECTION 2.8. Conflicting Interests. The Trust Agreement shall be deemed to be specifically described in this Guarantee for the purposes of clause (i) of the first proviso contained in Section 310(b) of the Trust Indenture Act.

SECTION 2.9. Disclosure of Information. The disclosure of information as to the names and addresses of the Holders of the Securities in accordance with Section 312 of the Trust Indenture Act, regardless of the source from which such information was derived, shall not be deemed to be a violation of any existing law, or any law hereafter enacted which does not specifically refer to Section 312 of the Trust Indenture Act, nor shall the Guarantee Trustee be held accountable by reason of mailing any material pursuant to a request made under Section 312(b) of the Trust Indenture Act.

SECTION 2.10. Guarantee Trustee May File Proofs of Claim. Upon the occurrence of a Guarantee Event of Default, the Guarantee Trustee is hereby authorized to (a) recover judgment, in its own name and as trustee of an express trust, against the Guarantor for the whole amount of any Guarantee Payments remaining unpaid and (b) file such proofs of claim and other papers or documents as may be necessary or advisable in order to have its claims and those of the Holders of the Securities allowed in any judicial proceedings relative to the Guarantor, its creditors or its property.



## ARTICLE 3

### POWERS, DUTIES AND RIGHTS OF GUARANTEE TRUSTEE

#### SECTION 3.1. Powers and Duties of Guarantee Trustee.

(a) This Guarantee shall be held by the Guarantee Trustee on behalf of the Trust for the benefit of the Holders of the Securities, and the Guarantee Trustee shall not transfer this Guarantee to any Person except a Holder of Securities exercising his or her rights pursuant to Section 5.4(b) or to a Successor Guarantee Trustee on acceptance by such Successor Guarantee Trustee of its appointment to act as Successor Guarantee Trustee. The right, title and interest of the Guarantee Trustee in and to this Guarantee shall automatically vest in any Successor Guarantee Trustee, and such vesting and succession of title shall be effective whether or not conveyance documents have been executed and delivered pursuant to the appointment of such Successor Guarantee Trustee.

(b) If a Guarantee Event of Default actually known to a Responsible Officer of the Guarantee Trustee has occurred and is continuing, the Guarantee Trustee shall enforce this Guarantee for the benefit of the Holders of the Securities.

(c) The Guarantee Trustee, before the occurrence of any Guarantee Event of Default and after the curing of all Guarantee Events of Default that may have occurred, shall undertake to perform only such duties as are specifically set forth in this Guarantee, and no implied covenants shall be read into this Guarantee against the Guarantee Trustee. In case a Guarantee Event of Default has occurred (that has not been cured or waived pursuant to Section 2.6) and is actually known to a Responsible Officer of the Guarantee Trustee, the Guarantee Trustee shall exercise such of the rights and powers vested in it by this Guarantee, and use the same degree of care and skill in its exercise thereof, as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs.

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

(i) prior to the occurrence of any Guarantee Event of Default and after the curing or waiving of all such Guarantee Events of Default that may have occurred:

- (A) the duties and obligations of the Guarantee Trustee shall be determined solely by the express provisions of this Guarantee, and the Guarantee Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Guarantee, and no implied covenants or obligations shall be read into this Guarantee against the Guarantee Trustee; and

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

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

(iii) the Guarantee Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of not less than a Majority in Liquidation Amount of the Securities relating to the time, method and place of conducting any proceeding for any remedy available to the Guarantee Trustee, or exercising any trust or power conferred upon the Guarantee Trustee under this Guarantee; and

(iv) no provision of this Guarantee shall require the Guarantee Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers, if the Guarantee Trustee shall have reasonable grounds for believing that the repayment of such funds or liability is not reasonably assured to it under the terms of this Guarantee or if the Guarantee Trustee shall have reasonable grounds for believing that an indemnity, reasonably satisfactory to the Guarantee Trustee, against such risk or liability is not reasonably assured to it under the terms of this Guarantee.

SECTION 3.2. Certain Rights of Guarantee Trustee. (a) Subject to the provisions of Section 3.1:

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

(ii) Any direction or act of the Guarantor contemplated by this Guarantee shall be sufficiently evidenced by an Officers' Certificate;

(iii) Whenever, in the administration of this Guarantee, the Guarantee Trustee shall deem it desirable that a matter be proved or established before taking, suffering or omitting any action hereunder, the Guarantee Trustee (unless other evidence is herein specifically prescribed) may, in the absence of bad faith on its part, request and conclusively rely upon an Officers' Certificate which, upon receipt of such request, shall be promptly delivered by the Guarantor;

(iv) The Guarantee Trustee shall have no duty to see to any recording, filing or registration or any instrument (or any rerecording, refiling or re-registration thereof);

(v) The Guarantee Trustee may consult with counsel, and the advice or opinion of such counsel with respect to legal matters shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in accordance with such advice or opinion. Such counsel may be counsel to the Guarantor or any of its Affiliates and may include any of its employees. The Guarantee Trustee shall have the right at any time to seek instructions concerning the administration of this Guarantee from any court of competent jurisdiction;

(vi) The Guarantee Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Guarantee at the request or direction of any Holder, unless such Holder shall have provided to the Guarantee Trustee such security and indemnity, reasonably satisfactory to the Guarantee Trustee, against the costs, expenses (including attorneys' fees and expenses and the expenses of the Guarantee Trustee's agents, nominees or custodians) and liabilities that might be incurred by it in complying with such request or direction, including such reasonable advances as may be requested by the Guarantee Trustee; provided, that nothing contained in this Section 3.2(a)(vi) shall be taken to relieve the Guarantee Trustee, upon the occurrence of a Guarantee Event of Default, of its obligation to exercise the rights and powers vested in it by this Guarantee;

(vii) The Guarantee Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Guarantee Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit;

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

(ix) Any action taken by the Guarantee Trustee or its agents hereunder shall bind the Holders, and the signature of the Guarantee Trustee or its agents alone shall be sufficient and effective to perform any such action. No third party shall be required to inquire as to the authority of the Guarantee Trustee to so act or as to its compliance with any of the terms and provisions of this Guarantee, both of which shall be conclusively evidenced by the Guarantee Trustee's or its agent's taking such action; and

(x) Whenever in the administration of this Guarantee, the Guarantee Trustee shall deem it desirable to receive instructions with respect to enforcing any remedy or right or taking any other action hereunder, the Guarantee Trustee (i) may request written instructions from the Holders of a Majority in Liquidation Amount of the Securities, (ii) may refrain from enforcing such remedy or right or taking such other action until such written instructions are received and (iii) shall be protected in conclusively relying on or acting in accordance with such written instructions.

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

#### ARTICLE 4

##### GUARANTEE TRUSTEE

###### SECTION 4.1. Guarantee Trustee; Eligibility.

(a) There shall be at all times a Guarantee Trustee which shall:

(i) not be an Affiliate of the Guarantor; and

(ii) be a corporation organized and doing business under the laws of the United States of America or any state or territory thereof or of the District of Columbia, or a corporation or other Person permitted by the Securities and Exchange Commission to act as an institutional trustee under the Trust Indenture Act, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least 50 million U.S. dollars (\$50,000,000), and subject to supervision or examination by federal, state, territorial or District of Columbia authority. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of the supervising or examining authority referred to above, then, for the purposes of this Section 4.1(a)(ii), the combined capital and surplus of such corporation shall be deemed to be its

combined capital and surplus as set forth in its most recent report of condition so published.

(b) If at any time the Guarantee Trustee shall cease to be eligible to so act under Section 4.1(a), the Guarantee Trustee shall immediately resign in the manner and with the effect set out in Section 4.2(c).

(c) If the Guarantee Trustee has or shall acquire any "conflicting interest" within the meaning of Section 310(b) of the Trust Indenture Act, the Guarantee Trustee and Guarantor shall in all respects comply with the provisions of Section 310(b) of the Trust Indenture Act.

#### SECTION 4.2. Appointment, Removal and Resignation of Guarantee Trustee.

(a) Subject to Section 4.2(b), unless a Guarantee Event of Default shall have occurred and be continuing, the Guarantee Trustee may be appointed or removed with or without cause at any time by the Guarantor.

(b) The Guarantee Trustee shall not be removed in accordance with Section 4.2(a) until a Successor Guarantee Trustee has been appointed and has accepted such appointment by written instrument executed by such Successor Guarantee Trustee and delivered to the Guarantor.

(c) The Guarantee Trustee appointed to office shall hold such office until a Successor Guarantee Trustee shall have been appointed or until its removal or resignation. The Guarantee Trustee may resign from office (without need for prior or subsequent accounting) by an instrument in writing executed by the Guarantee Trustee and delivered to the Guarantor, which resignation shall not take effect until a Successor Guarantee Trustee has been appointed and has accepted such appointment by instrument in writing executed by such Successor Guarantee Trustee and delivered to the Guarantor and the resigning Guarantee Trustee.

(d) If no Successor Guarantee Trustee shall have been appointed and accepted appointment as provided in this Section 4.2 within 60 days after delivery to the Guarantor of an instrument of removal or resignation, the removed or resigning Guarantee Trustee may petition any court of competent jurisdiction for appointment of a Successor Guarantee Trustee. Such court may thereupon, after prescribing such notice, if any, as it may deem proper, appoint a Successor Guarantee Trustee.

(e) No Guarantee Trustee shall be liable for the acts or omissions to act of any Successor Guarantee Trustee.

(f) Upon termination of this Guarantee or removal or resignation of the Guarantee Trustee pursuant to this Section 4.2, the Guarantor shall pay to the Guarantee Trustee all amounts owing for fees and reimbursement of expenses which have accrued to the date of such termination, removal or resignation.

ARTICLE 5  
GUARANTEE

SECTION 5.1. Guarantee.

The Guarantor irrevocably and unconditionally agrees to pay in full to the Holders the Guarantee Payments (without duplication of amounts theretofore paid by the Trust), as and when due, regardless of any defense, right of set-off or counterclaim that the Trust may have or assert. The Guarantor's obligation to make a Guarantee Payment may be satisfied by direct payment of the required amounts by the Guarantor to the Holders or by causing the Trust to pay such amounts to the Holders. Notwithstanding anything to the contrary herein, the Guarantor retains all of its rights under the Indenture to extend the interest payment period on the Debentures pursuant to Section 3.11 thereof and the Guarantor shall not be obligated hereunder to make any Guarantee Payments during any Extension Period (as defined in the certificate evidencing the Debentures) with respect to the Distributions (as defined in the Trust Agreement) on the Securities.

SECTION 5.2. Waiver of Notice and Demand.

The Guarantor hereby waives notice of acceptance of this Guarantee and of any liability to which it applies or may apply, presentment, demand for payment, any right to require a proceeding first against the Trust or any other Person before proceeding against the Guarantor, protest, notice of nonpayment, notice of dishonor, notice of redemption and all other notices and demands.

SECTION 5.3. Obligations Not Affected.

The obligations, covenants, agreements and duties of the Guarantor under this Guarantee shall be absolute and unconditional and shall remain in full force and effect until the entire liquidation amount of all outstanding Securities shall have been paid and such obligation shall in no way be affected or impaired by reason of the happening from time to time of any event, including without limitation, the following, whether or not with notice to, or the consent of, the Guarantor:

(a) The release or waiver, by operation of law or otherwise, of the performance or observance by the Trust of any express or implied agreement, covenant, term or condition relating to the Securities to be performed or observed by the Trust;

(b) The extension of time for the payment by the Trust of all or any portion of the Distributions, Redemption Price, Liquidation Distribution or any other sums payable under the terms of the Securities or the extension of time for the performance of any other obligation under, arising out of, or in connection with the Securities (other than an extension of time for payment of Distributions, Redemption Price, Liquidation Distribution or other sum payable that results from the extension of any interest payment period on the Debentures);

(c) Any failure, omission, delay or lack of diligence on the part of the Property Trustee or the Holders to enforce, assert or exercise any right, privilege, power or remedy conferred on the Property Trustee or the Holders pursuant to the terms of the Securities, or any action on the part of the Trust granting indulgence or extension of any kind;

(d) The voluntary or involuntary liquidation, dissolution, sale of any collateral, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or readjustment of debt of, or other similar proceedings affecting, the Trust or any of the assets of the Trust;

(e) Any invalidity of, or defect or deficiency in, the Securities;

(f) The settlement or compromise of any obligation guaranteed hereby or hereby incurred; or

(g) Any other circumstance whatsoever that might otherwise constitute a legal or equitable discharge or defense of a guarantor, it being the intent of this Section 5.3 that the obligations of the Guarantor hereunder shall be absolute and unconditional under any and all circumstances.

There shall be no obligation of the Guarantee Trustee or the Holders to give notice to, or obtain consent of the Guarantor or any other Person with respect to the happening of any of the foregoing.

No setoff, counterclaim, reduction or diminution of any obligation, or any defense of any kind or nature that the Guarantor has or may have against any Holder shall be available hereunder to the Guarantor against such Holder to reduce the payments to it under this Guarantee.

#### SECTION 5.4. Rights of Holders.

(a) The Holders of at least a Majority in Liquidation Amount of the Securities have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Guarantee Trustee in respect of this Guarantee or to direct the exercise of any trust or power conferred upon the Guarantee Trustee under this Guarantee.

(b) If the Guarantee Trustee fails to enforce this Guarantee, then any Holder of Securities may, subject to the subordination provisions of Section 6.2, institute a legal proceeding directly against the Guarantor to enforce the Guarantee Trustee's rights under this Guarantee without first instituting a legal proceeding against the Trust, the Guarantee Trustee or any other person or entity. In addition, if the Guarantor has failed to make a Guarantee Payment, a Holder of Securities may, subject to the subordination provisions of Section 6.2, directly institute a proceeding against the Guarantor for enforcement of the Guarantee for such payment to the Holder of the Securities of the principal of or interest on the Debentures on or after the respective due dates specified in the Debentures, and the amount of the payment will be based on the Holder's pro rata share of the amount due and owing on all of the Securities. The Guarantor

hereby waives any right or remedy to require that any action on this Guarantee be brought first against the Trust or any other person or entity before proceeding directly against the Guarantor.

#### SECTION 5.5. Guarantee of Payment.

This Guarantee creates a guarantee of payment and not of collection.

#### SECTION 5.6. Subrogation.

The Guarantor shall be subrogated to all (if any) rights of the Holders of Securities against the Trust in respect of any amounts paid to such Holders by the Guarantor under this Guarantee; provided, however, that the Guarantor shall not (except to the extent required by mandatory provisions of law) be entitled to enforce or exercise any right that it may acquire by way of subrogation or any indemnity, reimbursement or other agreement, in all cases as a result of payment under this Guarantee, if at the time of any such payment, any amounts are due and unpaid under this Guarantee. If any amount shall be paid to the Guarantor in violation of the preceding sentence, the Guarantor agrees to hold such amount in trust for the Holders and to pay over such amount to the Guarantee Trustee for the benefit of the Holders.

#### SECTION 5.7. Independent Obligations.

The Guarantor acknowledges that its obligations hereunder are independent of the obligations of the Trust with respect to the Securities, and that the Guarantor shall be liable as principal and as debtor hereunder to make Guarantee Payments pursuant to the terms of this Guarantee notwithstanding the occurrence of any event referred to in subsections 5.3(a) through 5.3(g), inclusive, hereof.

### ARTICLE 6

#### LIMITATION OF TRANSACTIONS; SUBORDINATION

##### SECTION 6.1. Limitation of Transactions.

So long as any Securities remain outstanding, if (i) there shall have occurred an event of default under the Indenture with respect to the Debentures, (ii) there shall be a Guarantee Event of Default or (iii) the Guarantor shall have given notice of its election of an Extension Period as provided in the certificate evidencing the Debentures and shall not have rescinded such notice, or such Extension Period or any extension thereof shall be continuing, then the Guarantor shall not, and shall not permit any subsidiary of the Guarantor, to (x) declare or pay any dividends or distributions on, or redeem, purchase, acquire or make a liquidation payment with respect to, any of the Guarantor's capital stock or (y) make any payment of principal, interest or premium, if any, on or repay, repurchase or redeem any debt securities of the Guarantor that rank *pari passu* with or junior in interest to the Debentures or make any guarantee payments with respect to any guarantee by the Guarantor of the debt securities of any subsidiary of the Guarantor if such guarantee ranks *pari passu* with or junior in interest to the Debentures (other than (a) dividends or distributions in Common Stock of the Guarantor, (b) any declaration of a dividend in connection with the implementation of a rights plan or the issuance



of stock under any such plan or the redemption or repurchase of any such rights pursuant thereto, (c) payments under this Guarantee and (d) purchases of Common Stock related to the issuance of Common Stock or rights under any of the Company's benefits plans for its directors, officers or employees).

#### SECTION 6.2. Ranking.

This Guarantee will constitute an unsecured obligation of the Guarantor and will rank subordinate and junior in right of payment to all Senior and Subordinated Debt (as defined in the Indenture) of the Guarantor in the same manner and to the same extent as set forth in Article XIII of the Indenture.

#### SECTION 6.3. Subordination of Common Securities.

If a Trust Enforcement Event has occurred and is continuing under the Trust Agreement, the rights of the holders of the Common Securities to receive Guarantee Payments hereunder shall be subordinated to the rights of the Holders of the Capital Securities to receive Guarantee Payments under this Guarantee.

### ARTICLE 7

#### TERMINATION

##### SECTION 7.1. Termination.

This Guarantee shall terminate upon (i) full payment of the Redemption Price of all Securities, (ii) distribution of the Debentures to the Holders of all the Securities or (iii) full payment of the amounts payable in accordance with the Trust Agreement upon liquidation of the Trust. Notwithstanding the foregoing, this Guarantee will continue to be effective or will be reinstated, as the case may be, if at any time any Holder of Securities must restore payment of any sums paid under the Securities or under this Guarantee.

### ARTICLE 8

#### INDEMNIFICATION

##### SECTION 8.1. Indemnification.

The Guarantor agrees to indemnify each Indemnified Person for, and to hold each Indemnified Person harmless against any loss, liability or expense incurred without negligence or bad faith on its part, arising out of or in connection with the acceptance or administration of the trust or trusts hereunder, including the reasonable costs and expenses of defending itself against, or investigating, any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder. The provisions of this Section 8.1 shall survive the termination of this Guarantee or the resignation or removal of the Guarantee Trustee.

## ARTICLE 9

### MISCELLANEOUS

#### SECTION 9.1. Successors and Assigns.

All guarantees and agreements contained in this Guarantee shall bind the successors, assigns, receivers, trustees and representatives of the Guarantor and shall inure to the benefit of the Holders of the Securities then outstanding. Except in connection with a consolidation, merger or sale involving the Guarantor that is permitted under Article VIII of the Indenture and pursuant to which the successor or assignee agrees in writing to perform the Guarantor's obligations hereunder, the Guarantor shall not assign its obligations hereunder.

#### SECTION 9.2. Amendments.

Except with respect to any changes that do not materially adversely affect the rights of the Holders (in which case no consent of the Holders will be required), this Guarantee may not be amended without the prior approval of the Holders of at least a Majority in Liquidation Amount of the Securities. The provisions of Section 11.2 of the Trust Agreement with respect to meetings of, and action by written consent of, the Holders of the Securities apply to the giving of such approval.

#### SECTION 9.3. Notices.

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

(a) If given to the Guarantee Trustee, at the Guarantee Trustee's mailing address set forth below (or such other address as the Guarantee Trustee may give notice of to the Guarantor and the Holders of the Securities):

Delaware Trust Company, National Association  
300 Delaware Avenue  
Wilmington, Delaware 19801  
Facsimile No.: ( ) -  
Attention: \_\_\_\_\_

(b) If given to the Guarantor, at the Guarantor's mailing addresses set forth below (or such other address as the Guarantor may give notice of to the Guarantee Trustee and the Holders of the Securities):

U.S. Bancorp  
800 Nicollet Mall  
Minneapolis, Minnesota 55402  
Facsimile No.: ( ) -

Attention: \_\_\_\_\_

(c) If given to any Holder of Securities, at the address set forth on the books and records of the Trust.

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

SECTION 9.4. Benefit.

This Guarantee is solely for the benefit of the Holders of the Securities and, subject to Section 3.1(a), is not separately transferable from the Securities.

SECTION 9.5. Governing Law. THIS GUARANTEE SHALL BE GOVERNED BY AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE LAW OF THE STATE OF NEW YORK.

IN WITNESS WHEREOF, this Guarantee is executed as of the day and year first above written.

U.S. BANCORP,  
as Guarantor

By: \_\_\_\_\_  
Name:  
Title:

DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION  
as Guarantee Trustee

By: \_\_\_\_\_  
Name:  
Title:



### Form of Equity Securities Warrant Agreement

EQUITY SECURITIES WARRANT AGREEMENT dated as of \_\_\_\_\_, \_\_\_\_, between U.S. Bancorp, a Delaware corporation (hereinafter called the "Company"), and \_\_\_\_\_ having a corporate trust office in \_\_\_\_\_ as warrant agent (hereinafter called the "Warrant Agent").

WHEREAS, the Company proposes to issue [Class ] Purchase Warrants (hereinafter called the "Warrants") entitling the holders thereof to purchase an aggregate of \_\_\_\_ shares of [title of equity securities] (hereinafter called the "Shares") at an initial cash purchase price of \$ \_\_\_\_ per Share at any time [after \_\_\_\_\_ and] prior to 5:00 p.m., New York City time, \_\_\_\_\_ on , \_\_\_\_\_, (hereinafter called the "expiration date") (unless extended as provided in §9A hereof); and

***[IF WARRANTS ARE ATTACHED TO OTHER SECURITIES, INSERT -***

WHEREAS, the Warrants will be offered in Units, each of which consists of \_\_\_\_ and Warrants to purchase \_\_\_\_ Shares; and]

WHEREAS, the Company desires the Warrant Agent to act on behalf of the Company, and the Warrant Agent is willing so to act, in connection with the issuance, registration, transfer, exchange and exercise of Warrants to be issued from time to time by the Company;

NOW, THEREFORE, in consideration of the premises and the mutual agreements herein set forth, the parties hereto agree as follows:

§1. Appointment of Warrant Agent. The Company hereby appoints the Warrant Agent to act as agent for the Company in accordance with the instructions hereinafter in this Agreement set forth, and the Warrant Agent hereby accepts such appointment.

§2. Form of Warrant. The text of the Warrants and the form of election to purchase Shares to be set forth on the reverse thereof shall be substantially as set forth in Exhibit A attached hereto. Each Warrant shall, subject to the terms of this Warrant Agreement, entitle the registered holder thereof to initially purchase the number of Shares specified therein at an initial exercise price of \$ \_\_\_\_ per Share[; provided, however, that the warrant exercise price and the number of Shares issuable upon exercise of Warrants are subject to adjustment upon the occurrence of certain events, all as hereinafter provided]. The Warrants shall be executed on behalf of the Company by the manual or facsimile signature of the present or any future Chairman of the Board, President or Vice President of the Company, under its seal, affixed or in facsimile, and by the manual or facsimile signature of the present or any future Secretary or Assistant Secretary of the Company.

The Company shall promptly notify the Warrant Agent from time to time in writing of the number of Warrants to be issued and furnish written instructions in connection therewith signed by an executive officer of the Company; such notification and instructions may, but need not be, in the form of a general or continuing authorization to the Warrant Agent.

The Warrants shall be dated by the Warrant Agent as of the date of each initial issuance, and as of the date of issuance thereof upon any transfer or exchange thereof.

§3. Countersignature and Registration. The Warrant Agent shall maintain books for the transfer and registration of the Warrants. Upon the initial issuance of the Warrants, the Warrant Agent shall issue and register the Warrants in the names of the respective registered holders thereof. The Warrants shall be countersigned by the Warrant Agent (or by any successor to the Warrant Agent then acting as warrant agent under this Agreement) and shall not be valid for any purpose unless so countersigned. Such Warrants may be so countersigned, however, by the Warrant Agent (or by its successor as warrant agent) and be delivered by the Warrant Agent, notwithstanding that the persons whose manual or facsimile signatures appear thereon as proper officers of the Company shall have ceased to be such officers at the time of such countersignature or delivery.

Upon issuance of any Warrant, the Company will present the same, or cause the same to be presented, to the Warrant Agent for countersignature of such Warrant.

§4. Transfers and Exchanges. The Warrant Agent shall transfer, from time to time, any outstanding Warrants upon the books to be maintained by the Warrant Agent for that purpose, upon the surrender thereof for transfer properly endorsed or accompanied by appropriate instructions for transfer. Upon any such transfer, a new Warrant of like tenor shall be issued to the transferee and the surrendered Warrant shall be cancelled by the Warrant Agent. All such Warrants so cancelled shall be delivered by the Warrant Agent to the Company from time to time. The Warrants may be exchanged at the option of the holder thereof, when surrendered at the office in \_\_\_\_\_ of the Warrant Agent, for another Warrant, or other Warrants of different denominations, of like tenor and representing in the aggregate the right to purchase a like number of Shares. The Warrant Agent is hereby irrevocably authorized to countersign and deliver, in accordance with the provisions of this Section and §3 of this Agreement, such new Warrants required pursuant to the provisions of this Section, and the Company, whenever required by the Warrant Agent, will supply the Warrant Agent with Warrants duly executed on behalf of the Company for such purpose.

***[IF THE WARRANTS ARE ATTACHED TO OTHER SECURITIES, INSERT --***

Notwithstanding the foregoing, until \_\_\_\_\_, the Warrants shall not be transferable apart from the \_\_\_\_\_ to which they are attached, any transfer of the \_\_\_\_\_ shall be deemed a transfer of the Warrants attached thereto, and any attempt to transfer the Warrants apart from the \_\_\_\_\_ shall be void and of no effect. Each Warrant shall contain a legend to the foregoing effect.]

§5. Exercise of Warrants. The registered holder of each Warrant shall have the right, which may be exercised as in such Warrant expressed, to purchase from the Company (and the Company shall issue and sell to such registered holder) the number of Shares specified in such Warrants, upon surrender to the Company, at the office in \_\_\_\_\_ of the Warrant Agent of such Warrant, with the form of election to purchase on the reverse thereof duly filled in and signed, and upon payment to the Warrant Agent for the account of the Company of the warrant exercise price, determined in accordance with the provisions of §9 of this Agreement, for the number of Shares in respect of which such Warrant is then exercised. Payment of such warrant exercise price may be made in cash, or by certified check or bank draft or postal or express money order, payable in United States dollars, to the order of the Warrant Agent. No adjustment shall be made for any dividends on any Shares issuable upon exercise of any Warrant.

Subject to §6, upon such surrender of Warrants, and payment of the warrant exercise price as aforesaid, the Company shall issue and cause to be delivered with all reasonable dispatch to or upon the written order of the registered holder of such Warrants, and in such name or names as such registered holder may designate, a certificate or certificates for the number of full Shares so purchased upon the exercise of such Warrants, together with cash, as provided in §9 of this Agreement, in respect of any fraction of a Share otherwise issuable upon such surrender. Such certificate or certificates shall be deemed to have been issued and any person so designated to be named therein shall be deemed to have become a holder of record of such Shares as of the date of the surrender of such Warrants and payment of the warrant exercise price as aforesaid; provided, however, that if, at the date of surrender of such Warrants and payment of such warrant exercise price, the transfer books for the Shares purchasable upon the exercise of such Warrants shall be closed, no such surrender of such Warrants and no such payment of such warrant exercise price shall be effective to constitute the person so designated to be named therein as the holder of record of such Shares on such date, but shall be effective to constitute such person as the holder of record of such Shares for all purposes at the opening of business on the next succeeding day on which the transfer books for the Shares purchasable upon the exercise of such Warrants shall be opened, and the certificates for the Shares in respect of which such Warrants are then exercised shall be issuable as of the date on which such books shall next be opened, and until such date the Company shall be under no duty to deliver any certificate for such Shares. The rights of purchase represented by the Warrants shall be exercisable, at the election of the registered holders thereof, either as an entirety or from time to time for part only of the Shares specified therein and, in the event that any Warrant is exercised in respect of less than all of the Shares specified therein at any time prior to the date of expiration of the Warrants, a new Warrant or Warrants of like tenor will be issued for the remaining number of Shares specified in the Warrant so surrendered, and the Warrant Agent is hereby irrevocably authorized to countersign and to deliver the required new Warrants pursuant to the provisions of this Section and of §3 of this Agreement, and the Company, whenever required by the Warrant Agent, will supply the Warrant Agent with Warrants duly executed on behalf of the Company for such purpose.

§6. Payment of Taxes. The Company will pay any documentary stamp taxes attributable to the initial issuance of Shares issuable upon the exercise of Warrants; provided, however, that the Company shall not be required to pay any tax or taxes which may be payable in respect of any transfer involved in the issue or delivery of any certificates for Shares in a name

other than that of the registered holder of Warrants in respect of which such Shares are issued and the Company shall not be required to issue and deliver the certificates for such Shares unless and until the holder has paid to the Company the amount of any tax which may be payable in respect of any transfer involved in such issuance or shall establish to the satisfaction of the Company that such tax has been paid.

§7. Mutilated or Missing Warrants. In case any of the Warrants shall be mutilated, lost, stolen or destroyed, the Company will issue and the Warrant Agent will countersign and deliver in exchange and substitution for and upon cancellation of the mutilated Warrant, or in lieu of and substitution for the Warrant lost, stolen or destroyed, a new Warrant of like tenor and representing an equivalent right or interest, but only upon receipt of evidence satisfactory to the Company and the Warrant Agent of such loss, theft or destruction of such Warrants and indemnity, if requested, also satisfactory to them. Applicants for such substitute Warrants shall also comply with such other reasonable regulations and pay such other reasonable charges as the Company or the Warrant Agent may prescribe. Any such new Warrant shall constitute an original contractual obligation of the Company whether or not the allegedly lost, stolen, mutilated or destroyed Warrant shall be at any time enforceable by anyone.

§8. Reservation of Shares, etc. Prior to the issuance of any Warrants there shall have been reserved, and the Company shall at all times through the expiration date keep reserved, out of its authorized and unissued [title of equity securities], a number of Shares sufficient to provide for the exercise of the rights of purchase represented by the Warrants, and the Transfer Agent for the Shares and every subsequent Transfer Agent for the Shares issuable upon the exercise of any of the rights of purchase aforesaid are hereby irrevocably authorized and directed at all times to reserve such number of authorized and unissued Shares as shall be requisite for such purpose. The Company will keep a copy of this Agreement on file with the Transfer Agent for the Shares and with every subsequent Transfer Agent for the Shares issuable upon the exercise of the rights of purchase represented by the Warrants. The Warrant Agent is hereby irrevocably authorized to requisition from time to time from such Transfer Agent certificates required to honor outstanding Warrants that have been exercised.

The Company will supply such Transfer Agent with duly executed certificates for such purpose and will itself provide or otherwise make available any cash which may be issuable as provided in §9 of this Agreement. All Warrants surrendered in the exercise of the rights thereby evidenced or surrendered for transfer, exchange or partial exercise shall be cancelled by the Warrant Agent and shall thereafter be delivered to the Company.

§9. Warrant Price[: Adjustments].

A. The warrant price per share at which Shares shall be purchasable upon exercise of Warrants (herein called the “warrant exercise price”) to and including the expiration date (unless the expiration date is extended as provided below in this §9A) shall be \$ \_\_\_\_\_ per share[, or, if adjusted as provided in this Section, shall be such price as so adjusted]. The Warrants will not be exercisable prior to [the close of business on the date of any initial issuance thereof] [\_\_\_\_\_] and will expire at 5:00 p.m., New York City time, on the expiration date; provided that the Company reserves the right to, and may, in its sole discretion, at any time and from time to



time, at such time or times as the Company so determines, extend the expiration date of the Warrants for such periods of time as it chooses; further provided that in no case may the expiration date of the Warrants (as extended) be extended beyond five years from the expiration date set forth above. Whenever the expiration date of the Warrants is so extended, the Company shall at least 20 days prior to the then expiration date cause to be mailed to the Warrant Agent and the registered holders of the Warrants in accordance with the provisions of §17 hereof a notice stating that the expiration date has been extended and setting forth the new expiration date.

***/IF SHARES ARE COMMON STOCK, INSERT –***

B. The above provision is, however, subject to the following:

(1) The warrant purchase price, the number of Shares purchasable upon exercise of each Warrant and the number of Warrants outstanding shall be subject to adjustment as follows:

(a) In case the Company shall at any time after the date of this Agreement (i) pay a dividend, or make a distribution, on the Common Stock which is payable in shares of its capital stock (whether shares of Common Stock or of capital stock of any other class), (ii) subdivide or reclassify its outstanding shares of Common Stock into a greater number of securities (including shares of Common Stock), or (iii) combine or reclassify its outstanding shares of Common Stock into a smaller number of shares (including shares of Common Stock), the number of shares purchasable upon exercise of each Warrant immediately prior to the occurrence of such event shall be adjusted so that the holder of each Warrant shall be entitled to receive upon payment of the warrant purchase price the aggregate number of shares of the Company which, if such Warrant had been exercised immediately prior to the occurrence of such event, such holder would have owned or have been entitled to receive immediately after the occurrence of such event. An adjustment made pursuant to this subparagraph (a) shall become effective immediately after the record date in the case of a dividend and shall become effective immediately after the effective date in the case of a subdivision or combination. If, as a result of an adjustment made pursuant to this subparagraph (a), the holder of any Warrant thereafter exercised shall become entitled to receive shares of two or more classes of capital stock of the Company, the Board of Directors of the Company (whose determination shall be conclusive) shall determine the allocation between or among shares of such classes of capital stock.

In the event that at any time, as a result of an adjustment made pursuant to this subparagraph (a), the holder of any Warrant thereafter exercised shall become entitled to receive any shares or other securities of the Company other than shares of Common Stock, thereafter the number of such other shares so received upon exercise of any Warrant shall be subject to adjustment from time to time in a manner and on terms as nearly equivalent as practicable to the provisions with

respect to the shares of Common Stock contained in this paragraph, and other provisions of this paragraph 9B(1) with respect to the shares of Common Stock shall apply on like terms to any such other shares or other securities.

[(b) In case the Company shall fix a record date for the issuance of rights or warrants to all holders of its Common Stock entitling them (for a period expiring within 45 days after such record date) to subscribe for or purchase Common Stock at a price per share less than the current market price per share of Common Stock (as defined in subparagraph (e) below) at such record date, the warrant purchase price shall be determined by multiplying the warrant purchase price in effect immediately prior to such record date by a fraction, the numerator of which shall be the number of Shares of Common Stock outstanding on such record date plus the number of Shares of Common Stock which the aggregate offering price of the total number of Shares so offered would purchase at such current market price, and the denominator of which shall be the number of Shares of Common Stock outstanding on such record date plus the number of additional Shares of Common Stock offered for subscription or purchase. Such adjustment shall be made successively whenever such a record date is fixed, and shall become effective immediately after such record date. In determining whether any rights or warrants entitle the holders to subscribe for or purchase Shares of Common Stock at less than such current market price, and in determining the aggregate offering price of such shares, there shall be taken into account any consideration received by the Company for such rights or warrants, the value of such consideration, if other than cash, to be determined by the Board of Directors of the Company. Common Stock owned by or held for the account of the Company or any majority owned subsidiary shall not be deemed outstanding for the purpose of any adjustment required under this subparagraph (b).]

[(c) In case the Company shall fix a record date for making a distribution to all holders of its Common Stock of evidences of its indebtedness or assets (excluding regular quarterly or other periodic or recurring cash dividends or distributions and cash dividends or distributions paid from retained earnings or referred to in subparagraph (a) above) or rights or warrants to subscribe or warrants to purchase (excluding those referred to in subparagraph (b) above), then in each such case the warrant purchase price shall be determined by multiplying the warrant purchase price in effect immediately prior to such record date by a fraction (x) the numerator of which shall be such current market price (as defined in subparagraph (e) below) per Share of Common Stock on such record date, less the then fair market value (as determined in good faith by the Board of Directors, whose determination shall be conclusive) of the portion of the assets or evidences of indebtedness so distributed or of such subscription rights or warrants applicable to one share of the Common Stock and (y) the denominator of which shall be the current market price per share of the Common Stock on such record date. Such adjustment shall be made successively whenever such a record date is fixed and shall become effective immediately after such record date. Notwithstanding the foregoing, in the event that the Company shall distribute any rights or warrants to

acquire capital stock ("Rights") pursuant to this subparagraph (c), the distribution of separate certificates representing such Rights subsequent to their initial distribution (whether or not such distribution shall have occurred prior to the date of the issuance of such Warrants) shall be deemed to be the distribution of such Rights for purposes of this subparagraph (c), provided that the Company may, in lieu of making any adjustment pursuant to this subparagraph (c) upon a distribution of separate certificates representing such Rights, make proper provision so that each holder of such Warrants who exercises such Warrants (or any portion thereof) (A) before the record date for such distribution of separate certificates shall be entitled to receive upon such exercise shares of Common Stock issued with Rights and (B) after such record date and prior to the expiration, redemption or termination of such Rights shall be entitled to receive upon such exercise, in addition to the shares of Common Stock issuable upon such exercise, the same number of such Rights as would a holder of the number of shares of Common Stock that such Warrants so exercised would have entitled the holder thereof to purchase in accordance with the terms and provisions of and applicable to the Rights if such Warrants were exercised immediately prior to the record date for such distribution. Common Stock owned by or held for the account of the Company or any majority owned subsidiary shall not be deemed outstanding for the purpose of any adjustment required under this subparagraph (c).]

(d) After each adjustment of the number of shares purchasable upon exercise of each Warrant pursuant to subparagraph 9B(1)(a), the warrant exercise price shall be adjusted by multiplying such warrant exercise price immediately prior to such adjustment by a fraction of which the numerator shall be the number of Shares purchasable upon exercise of each Warrant immediately prior to such adjustment, and the denominator of which shall be the number of Shares so purchasable immediately thereafter. [After each adjustment of the warrant exercise price pursuant to subparagraph 9B(1)(b) or (c), the total number of Shares or fractional part thereof purchasable upon the exercise of each Warrant shall be proportionately adjusted to such number of shares or fractional parts thereof as the aggregate warrant exercise price of the number of shares or fractional part thereof purchasable immediately prior to such adjustment will buy at the adjusted warrant exercise price.]

[(e) For the purpose of any computation under subparagraphs 9B(1)(b) and (c) above, the current market price per Share of Common Stock at any date shall be deemed to be the average of the daily closing prices for the 30 consecutive business days commencing 45 business days before the day in question. The closing price for each day shall be (i) if the Common Stock is listed or admitted for trading on the New York Stock Exchange, the last sale price (regular way), or the average of the closing bid and ask prices (regular way), if no sale occurred, of Common Stock, in either case as reported on the New York Stock Exchange Composite Tape or, if the Common Stock is not listed or admitted to trading on the New York Stock Exchange, on the principal national

securities exchange on which the Common Stock is listed or admitted to trading or, if not listed or admitted to trading on any national securities exchange, on the Nasdaq National Market of the National Association of Securities Dealers, Inc. Automated Quotations System ("NASDAQ") or, (ii) if not listed or quoted as described in (i), the mean between the closing high bid and low asked quotations of Common Stock reported by NASDAQ, or any similar system for automated dissemination of quotations of securities prices then in common use, if so quoted, or (iii) if not quoted as described in clause (ii), the mean between the high bid and low asked quotations for Common Stock as reported by the National Quotation Bureau Incorporated if at least two securities dealers have inserted both bid and asked quotations for Common Stock on at least 5 of the 10 preceding days. If none of the conditions set forth above is met, the closing price of Common Stock on any day or the average of such closing prices for any period shall be the fair market value of Common Stock as determined by a member firm of the New York Stock Exchange selected by the Company.]

(f) (A) Nothing contained herein shall be construed to require an adjustment as a result of the issuance of Common Stock pursuant to, or the granting or exercise of any rights under, the Company's [List employee and shareholder plans, if any, that might otherwise result in adjustments].

(B) In addition, no adjustment in the warrant exercise price shall be required unless and until the earlier of the following shall have occurred: (x) such adjustment would require an increase or decrease of at least 1% in the warrant exercise price or (y) a period of 3 years shall have elapsed from the date of the occurrence of any event requiring any such adjustment pursuant to subparagraphs 9B(1)(a), (b) or (c) above. All adjustments shall be made to the nearest one hundredth of a Share and the nearest cent, and any adjustments which by reason of this subparagraph (f) are not required to be made shall be carried forward cumulatively and taken into account in any subsequent adjustment which (including such carry-forward) is required to be made under this subparagraph (f).

(g) In any case in which this subparagraph 9B(1) shall require that an adjustment be made retroactively immediately following a record date, the Company may elect to defer (but only until five business days following the mailing of the notice described in subparagraph 9B(5) below) issuing to the holder of any Warrant exercised after such record date the Shares of the Company issuable upon such exercise over and above the Shares issuable upon such exercise only on the basis of the warrant exercise price prior to adjustment.

(h) The Company may, at its option, at any time until the expiration date, reduce the then current warrant exercise price to any amount deemed appropriate by the Board of Directors of the Company for any period not exceeding twenty (20) consecutive days (as evidenced in a resolution adopted by

such Board of Directors), but only upon giving the notices required by subparagraph 9(B)(5) twenty (20) days prior to taking such action.

(i) Except as herein otherwise expressly provided, no adjustment in the warrant exercise price shall be made by reason of the issuance of Shares, or securities convertible into or exchangeable for Shares, or securities carrying the right to purchase any of the foregoing or for any other reason whatsoever.

(j) Irrespective of any of the adjustments in the warrant exercise price or the number of Shares, Warrant Certificates theretofore issued may continue to express the same prices and number of shares as are stated in a similar Warrant Certificate issuable initially, or at some subsequent time, pursuant to this Agreement and such number of Shares specified therein shall be deemed to have been so adjusted.

(2) No fractional Shares of Common Stock shall be issued upon the exercise of Warrants. If more than one Warrant shall be exercised at one time by the same holder, the number of full Shares which shall be issuable upon such exercise shall be computed on the basis of the aggregate number of Shares purchased pursuant to the Warrants so exercised. Instead of any fractional Share of Common Stock which would otherwise be issuable upon exercise of any Warrant, the Company shall pay a cash adjustment in respect of such fraction in an amount equal to the same fraction of the last sales price (or bid price if there were no sales) per Share of Common Stock, in either case as reported on the New York Stock Exchange Composite Tape on the business day which next precedes the day of exercise or, if the Common Stock is not then listed or admitted to trading on the New York Stock Exchange, an amount equal to the same fraction of the market price per share of Common Stock (as determined in a manner described by the Board of Directors of the Company) at the close of business on the business day which next precedes the day of exercise.

(3) In case any of the following shall occur while any Warrants are outstanding: (a) any reclassification or change of the outstanding Shares of Common Stock (other than a change in par value, or from par value to no par value, or from no par value to par value); or (b) any consolidation or merger to which the Company is a party (other than a consolidation or a merger in which the Company is the continuing corporation and which does not result in any reclassification of, or change in, the outstanding shares of Common Stock issuable upon exercise of the Warrants); or (c) any sale or conveyance to another corporation of the property of the Company as an entirety or substantially as an entirety; then the Company, or such successor or purchasing corporation, as the case may be, shall make appropriate provision by amendment of this Agreement or otherwise so that the holders of the Warrants then outstanding shall have the right at any time thereafter, upon exercise of such Warrants, to purchase the kind and amount of shares of stock and other securities and property receivable upon such reclassification, change, consolidation, merger, sale or conveyance as would be received by a holder of the number of shares of Common Stock issuable upon exercise of such Warrant immediately prior to such reclassification, change, consolidation, merger, sale or

conveyance. Such provision shall provide for adjustments which shall be as nearly equivalent as may be practicable to the adjustments provided for in this Section 9. The above provisions of this subparagraph 9B(3) shall similarly apply to successive reclassifications, changes, consolidations, mergers, sales or conveyances.

(4) Notwithstanding anything to the contrary contained herein, no adjustment to the warrant exercise price shall decrease such warrant exercise price below the then par value of the shares of Common Stock.

(5) Whenever the warrant exercise price then in effect is adjusted as herein provided, the Company shall mail to each holder of the Warrants at such holder's address as it shall appear on the books of the Company a statement setting forth the adjusted warrant exercise price then and thereafter effective under the provisions hereof, together with the facts, in reasonable detail, upon which such adjustment is based.

(6) In case (i) the Company shall declare a dividend (or any other distribution) on its Common Stock payable otherwise than in cash out of its current or retained earnings, or (ii) the Company shall authorize the granting to the holders of its Common Stock of rights to subscribe for or purchase any shares of capital stock of any class or of any other rights, or (iii) there is to be any reclassification of the Common Stock of the Company (other than a subdivision or combination of its outstanding shares of Common Stock), or any consolidation or merger to which the Company is a party and for which approval of any shareholders of the Company is required, or (iv) any distribution is to be made on or in respect of the Common Stock in connection with the dissolution, liquidation or winding up of the Company, then the Company shall mail to each holder of Warrants at such holder's address as it shall appear on the books of the Company, at least twenty days (or ten days in any case specified in clause (i) or (ii) above) prior to the applicable record date hereinafter specified, a notice stating (x) the record date for such dividend, distribution or rights, or, if a record is not to be taken, the date as of which the holders of Common Stock of record to be entitled to such dividend, distribution or rights are to be determined, or (y) the date on which such reclassification, consolidation, merger, dissolution, liquidation or winding up is expected to become effective, and the date as of which it is expected that holders of Common Stock of record shall be entitled to exchange their shares of Common Stock for securities or other property deliverable upon such reclassification, consolidation, merger, dissolution, liquidation or winding up.

No failure to mail such notice nor any defect therein or in the mailing thereof shall affect any such transaction or any adjustment in the warrant exercise price required by this Section 9.]

§10. Notice to Warrantholders. Nothing contained in this Agreement or in any of the Warrants shall be construed as conferring upon the holders thereof the right to vote or to consent or to receive notice as shareholders in respect of the meetings of shareholders or the election of directors of the Company or any other matter, or any rights whatsoever as shareholders of the Company.

§11. Certain Covenants of the Company.

A. So long as any unexpired Warrants remain outstanding and if required in order to comply with the Securities Act of 1933, as amended (the "Act"), the Company covenants and agrees that it will file such post-effective amendments to the registration statement filed pursuant to the Act with respect to the Warrants (File No. 333 \_\_\_\_ ) (or such other registration statements or post-effective amendments or supplements) as may be necessary to permit the Company to deliver to each person exercising a Warrant a prospectus meeting the requirements of Section 10(a)(3) of the Act and otherwise complying therewith, and will deliver such a prospectus to each such person. The Company further covenants and agrees that it will obtain and keep effective all permits, consents and approvals of governmental agencies and authorities, and will use its best efforts to take all action which may be necessary to qualify the Shares for sale under the securities laws of such of the United States, as may be necessary to permit the free exercise of the Warrants, and the issuance, sale, transfer and delivery of the Shares issued upon exercise of the Warrants, and to maintain such qualifications during the entire period in which the Warrants are exercisable.

B. The Company covenants and agrees that it shall take all such action as may be necessary to ensure that all Shares will at the time of delivery of certificates for such Shares (subject to payment of the warrant exercise price) be duly and validly authorized and issued and fully paid and nonassessable Shares, free from any preemptive rights and taxes, liens, charges and security interests created by or imposed upon the Company.

C. The Company covenants and agrees that it will take all action which may be necessary to cause the Shares to be duly listed on the New York Stock Exchange or any securities exchange on which the other shares of Common Stock of the Company are listed or on the National Market System of NASDAQ at the dates of exercise of the Warrants.

§12. Disposition of Proceeds, etc.

A. The Warrant Agent shall account promptly to the Company with respect to Warrants exercised and concurrently pay to the Company all moneys received by the Warrant Agent for the purchase of Shares through the exercise of such Warrants.

B. The Warrant Agent shall keep copies of this Agreement available for inspection by holders of Warrants during normal business hours at its principal office in the City of \_\_\_\_\_ , \_\_\_\_.

§13. Merger or Consolidation or Change of Name of Warrant Agent. Any corporation into which the Warrant Agent may be merged or with which it may be consolidated, or any corporation resulting from any merger or consolidation to which the Warrant Agent shall be a party, or any corporation succeeding to the corporate trust business of the Warrant Agent, shall be the successor to the Warrant Agent hereunder without the execution or filing of any paper or any further act on the part of any of the parties hereto, provided that such corporation would be eligible for appointment as a successor Warrant Agent under the provisions of §15 of this Agreement. In case at the time such successor to the Warrant Agent shall succeed to the agency created by this Agreement, and if any of the Warrants shall have been countersigned but not

delivered, any such successor to the Warrant Agent may adopt the countersignature of the original Warrant Agent and deliver such Warrants so countersigned; and in case at that time any of the Warrants shall not have been countersigned, any successor to the Warrant Agent may countersign such Warrants either in the name of the predecessor Warrant Agent or in the name of the successor Warrant Agent; and in all such cases such Warrant shall have the full force provided in the Warrants and in this Agreement.

In case at any time the name of the Warrant Agent shall be changed and at such time any of the Warrants shall have been countersigned but not delivered, the Warrant Agent may adopt the countersignature under its prior name and deliver Warrants so countersigned; and in case at that time any of the Warrants shall not have been countersigned, the Warrant Agent may countersign such Warrants either in its prior name or in its changed name; and in all such cases such Warrants shall have the full force provided in the Warrants and in this Agreement.

§14. Duties of Warrant Agent. The Warrant Agent undertakes the duties and obligations imposed by this Agreement upon the following terms and conditions, by all of which the Company and the holders of Warrants, by their acceptance thereof, shall be bound:

A. The statements contained herein and in the Warrants shall be taken as statements of the Company, and the Warrant Agent assumes no responsibility for the correctness of any of the same except such as describe the Warrant Agent or action taken or to be taken by it. The Warrant Agent assumes no responsibility with respect to the distribution of the Warrants except as herein otherwise provided.

B. The Warrant Agent shall not be responsible for any failure of the Company to comply with any of the covenants contained in this Agreement or in the Warrants to be complied with by the Company.

C. The Warrant Agent may execute and exercise any of the rights or powers hereby vested in it or perform any duty hereunder either itself or by or through its attorneys, agents or employees, and the Warrant Agent shall not be answerable or accountable for any act, default, neglect or misconduct of any such attorneys, agents or employees or for any loss to the Company resulting from such neglect or misconduct, provided reasonable care shall have been exercised in the selection and continued employment thereof.

D. The Warrant Agent may consult at any time with counsel satisfactory to it (who may be counsel for the Company), and the Warrant Agent shall incur no liability or responsibility to the Company or to any holder of any Warrant in respect of any action taken, suffered or omitted by it hereunder in good faith and in accordance with the opinion or the advice of such counsel.

E. The Warrant Agent shall incur no liability or responsibility to the Company or to any holder of any Warrant for any action taken in reliance on any notice, resolution, waiver, consent, order, certificate, or other paper, document or instrument believed by it to be genuine and to have been signed, sent or presented by the proper party or parties.



F. The Company agrees to pay to the Warrant Agent agreed upon compensation for all services rendered by the Warrant Agent in the execution of this Agreement, to reimburse the Warrant Agent for all expenses, taxes and governmental charges and other charges of any kind and nature incurred by the Warrant Agent in the execution of this Agreement and to indemnify the Warrant Agent and save it harmless against any and all liabilities, including judgments, costs and reasonable counsel fees, for anything done or omitted by the Warrant Agent in the execution of this Agreement except as a result of the Warrant Agent's negligence, bad faith or willful misconduct.

G. The Warrant Agent shall be under no obligation to institute any action, suit or legal proceeding or to take any other action likely to involve expense unless the Company or one or more registered holders of Warrants shall furnish the Warrant Agent with reasonable security and indemnity for any costs and expenses which may be incurred, but this provision shall not affect the power of the Warrant Agent to take such action as the Warrant Agent may consider proper, whether with or without any such security or indemnity. All rights of action under this Agreement or under any of the Warrants may be enforced by the Warrant Agent without the possession of any of the Warrants or the production thereof at any trial or other proceeding relative thereto, and any such action, suit or proceeding instituted by the Warrant Agent shall be brought in its name as Warrant Agent, and any recovery of judgment shall be for the ratable benefit of the registered holders of the Warrants, as their respective rights or interests may appear.

H. The Warrant Agent and any stockholder, director, officer or employee of the Warrant Agent may buy, sell or deal in any of the Warrants or other securities of the Company or become pecuniarily interested in any transaction in which the Company may be interested, or contract with or lend money to or otherwise act as fully and freely as though it were not Warrant Agent under this Agreement. Nothing herein shall preclude the Warrant Agent from acting in any other capacity for the Company or for any other legal entity.

I. The Warrant Agent shall act hereunder solely as agent and not in a ministerial capacity, and its duties shall be determined solely by the provisions hereof. The Warrant Agent shall not be liable for anything which it may do or refrain from doing in connection with this Agreement except for its own gross negligence or bad faith.

§15. Change of Warrant Agent. The Warrant Agent may resign and be discharged from its duties under this Agreement by giving to the Company notice in writing, and to the holders of the Warrants notice by publication, of such resignation, specifying a date when such resignation shall take effect, which notice shall be published at the expense of the Company at least once a week for two consecutive weeks in a newspaper of general circulation in the City of New York prior to the date so specified. The Warrant Agent may be removed by the Company by like notice from the Company to the Warrant Agent and the holders of Warrants at the expense of the Company. If the Warrant Agent shall resign or be removed or shall otherwise become incapable of acting, the Company shall appoint a successor to the Warrant Agent. If the Company shall fail to make such appointment within a period of 30 days after such removal or after it has been notified in writing of such resignation or incapacity by the resigning or incapacitated Warrant Agent or by the registered holder of a Warrant (who shall, with such

notice, submit his Warrant for inspection by the Company), then, at the expense of the Company, the Warrant Agent or the registered holder of any Warrant may apply to any court of competent jurisdiction for the appointment of a successor to the Warrant Agent. Any successor Warrant Agent, whether appointed by the Company or by such a court, shall be a bank or trust company, in good standing, incorporated under the laws of any State or of the United States of America, having at the time of its appointment as Warrant Agent a combined capital and surplus of at least [\$100,000,000]. After appointment the successor Warrant Agent shall be vested with the same powers, rights, duties and responsibilities as if it had been originally named as Warrant Agent without further act or deed; but the former Warrant Agent shall deliver and transfer to the successor Warrant Agent any property at the time held by it hereunder, and execute and deliver any further assurance, conveyance, act or deed necessary for the purpose. Failure to file or publish any notice provided for in this Section, however, or any defect therein, shall not affect the legality or validity of the resignation or removal of the Warrant Agent or the appointment of the successor Warrant Agent, as the case may be.

§16. Identity of Transfer Agent. Forthwith upon the appointment of any Transfer Agent for the Shares or of any subsequent Transfer Agent for Shares issuable upon the exercise of the rights of purchase represented by the Warrants, the Company will file with the Warrant Agent a statement setting forth the name and address of such Transfer Agent.

§17. Notices. Any notice pursuant to this Agreement to be given or made by the Warrant Agent or by the registered holder of any Warrant to or on the Company shall be sufficiently given or made if sent by first-class mail, postage prepaid, addressed (until another address is filed in writing by the Company with the Warrant Agent) as follows:

U.S. Bancorp  
800 Nicollet Mall  
Minneapolis, Minnesota 55402  
Attn: \_\_\_\_\_, Vice President

Any notice pursuant to this Agreement to be given or made by the Company or by the registered holder of any Warrant to or on the Warrant Agent shall be sufficiently given or made if sent by first-class mail, postage prepaid, addressed (until another address is filed in writing by the Warrant Agent with the Company) as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Any notice pursuant to this Agreement to be given or made by the Company or the Warrant Agent to the registered holder of any Warrant shall be sufficiently given or made (unless otherwise specifically provided for herein) if sent by first-class mail, postage prepaid, addressed to said registered holder at his address appearing on the Warrant register.

§18. Supplements and Amendments. The parties hereto may from time to time supplement or amend this Agreement without the approval of any holders of Warrants in order to

cure any ambiguity or to correct or supplement any provision contained herein which may be defective or inconsistent with any other provision herein, or to make any other provisions in regard to matters or questions arising hereunder which the Company and the Warrant Agent may deem necessary or desirable and which will not materially adversely affect the interest of the registered holders of the Warrants.

The parties hereto may also modify or amend this Agreement and the terms of the Warrant Certificates with the consent of the holders of not less than a majority in number of the then outstanding unexercised Warrant Certificates affected thereby; provided that no such modification or amendment that accelerates the expiration date, increases the exercise price or reduces the number of outstanding Warrant Certificates the consent of the holders of which is required for any such modification or amendment, may be made without the consent of each holder affected thereby.

§19. Successors. All the covenants and provisions of this Agreement by or for the benefit of the Company or the Warrant Agent shall bind and inure to the benefit of their respective successors and assigns hereunder.

§20. Law Governing. This Agreement and each Warrant issued hereunder shall be deemed to be a contract made under the laws of the State of New York and for all purposes shall be construed in accordance with the laws of said State.

§21. Benefits of This Agreement. Nothing in this Agreement shall be construed to give to any person or entity other than the Company and the Warrant Agent and the holders of Warrants any legal or equitable right, remedy or claim under this Agreement, but this Agreement shall be for the sole and exclusive benefit of the Company and the Warrant Agent and the holders of Warrants.

§22. Counterparts. This Agreement may be executed in any number of counterparts, and each of such counterparts shall for all purposes be deemed to be an original, and all such counterparts shall together constitute but one and the same instrument.

***[IF THE WARRANTS ARE SUBJECT TO ACCELERATION BY THE COMPANY, INSERT –***

§23. Acceleration of Warrants by the Company.

A. At any time on or after \_\_\_\_\_ the Company shall have the right to accelerate any or all Warrants at any time by causing them to expire at the close of business on the day next preceding a specified date (the “Acceleration Date”), if the Market Price (as hereinafter defined) of the Common Stock equals or exceeds \_\_\_percent (\_\_\_%) of the then effective warrant exercise price, adjusted as if no changes in such warrant exercise price had been made pursuant to subsection 9B, on any 20 Trading Days (as hereinafter defined) within a period of 30 consecutive Trading Days ending no more than five Trading Days prior to the date on which the Company gives notice to the Warrant Agent of its election to accelerate the Warrants.

B. "Market Price" for each Trading Day shall be, if the Common Stock is listed or admitted for trading on the New York Stock Exchange, the last reported sale price, regular way (or, if no such price is reported, the average of the reported closing bid and asked prices, regular way) of Common Stock, in either case as reported on the New York Stock Exchange Composite Tape or, if the Common Stock is not listed or admitted to trading on the New York Stock Exchange, on the principal national securities exchange on which the Common Stock is listed or admitted to trading or, if not listed or admitted to trading on any national securities exchange, on the National Market System of NASDAQ or, if not listed or admitted to trading on any national securities exchange or quoted on the National Market System of NASDAQ, the average of the closing high bid and low asked prices in the over-the-counter market, as reported by NASDAQ, or such other system then in use, or if on any such date the Shares of Common Stock are not quoted by any such organization, the average of the closing bid and asked prices as furnished by any New York Stock Exchange firm selected from time to time by the Company for the purpose. "Trading Day" shall be each Monday through Friday, other than any day on which securities are not traded in the system or on the exchange that is the principal market for the Common Stock, as determined by the Board of Directors of the Company.

C. In the event of an acceleration of less than all of the Warrants, the Warrant Agent shall select the Warrants to be accelerated by lot, pro rata or in such other manner as it deems, in its discretion, to be fair and appropriate.

D. Notice of an acceleration specifying the Acceleration Date shall be sent by mailing first class, postage prepaid, to each registered holder of a Warrant Certificate representing a Warrant accelerated at such holder's address appearing on the Warrant register not more than 60 days nor less than 30 days before the Acceleration Date. Such notice of an acceleration also shall be given no more than 20 days, and no less than 10 days, prior to the mailing of notice to registered holders of Warrants pursuant to this Section, by publication at least once in a newspaper of general circulation in the City of New York.

E. Any Warrant accelerated may be exercised until 5:00 p.m., New York City time, on the business day next preceding the Acceleration Date. The warrant exercise price shall be payable as provided in §5.]

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

U.S. BANCORP

By \_\_\_\_\_  
Its \_\_\_\_\_

Attest:

\_\_\_\_\_

Warrant Agent

By \_\_\_\_\_  
Its \_\_\_\_\_

Attest:

\_\_\_\_\_

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## EXHIBIT A

[Form of Warrant]

Unless extended, Void After 5:00 P.M.,  
New York City time, \_\_\_\_\_ \* \_\_\_\_\_, \_\_\_\_\_

[IF THE WARRANTS ARE ATTACHED TO OTHER SECURITIES, INSERT THE FOLLOWING – [UNTIL \_\_\_\_\_], THE WARRANTS REPRESENTED BY THIS CERTIFICATE SHALL NOT BE TRANSFERABLE APART FROM THE \_\_\_\_ TO WHICH THEY ARE ATTACHED, ANY TRANSFER OF THE \_\_\_\_ SHALL BE DEEMED A TRANSFER OF THE WARRANTS ATTACHED THERETO, AND ANY ATTEMPT OF TRANSFER THE WARRANTS APART FROM THE \_\_\_\_ SHALL BE VOID AND OF NO EFFECT.]

No. WA \_\_\_\_\_

Warrant to Purchase \_\_\_\_\_  
Shares of [title of equity securities]

CLASS \_\_\_\_\_ WARRANT

U.S. BANCORP

FOR VALUE RECEIVED, U.S. Bancorp (the “Company”), upon the surrender [after \_\_\_\_\_] and prior to 5:00 P.M., New York City time, \_\_\_\_\_ \* \_\_\_\_\_, \_\_\_\_\_ (unless extended) of this Warrant for exercise, with the exercise form on the reverse side hereof duly executed, at the office of \_\_\_\_\_, will sell and deliver or cause to be sold and delivered to \_\_\_\_\_ or assigns (the “Warrant Holder”) a certificate or certificates for the number of whole shares purchasable, as indicated above, of fully paid and non-assessable shares of [title of equity securities] of the Company (the “Shares”), for which this Warrant is exercised, at a price of \$ \_\_\_\_\_ per Share (the “Warrant Price”), subject to all the terms, provisions and conditions of a Equity Securities Warrant Agreement dated as of \_\_\_\_\_, \_\_\_\_\_ (the “Warrant Agreement”), executed by the Company and \_\_\_\_\_ (the “Warrant Agent”), which Warrant Agreement is hereby incorporated herein by reference and made a part hereof.

1. The Warrant Price shall be payable in cash, certified check, bank draft, postal or express money order or by bank wire transfer, in each case, in immediately available funds, payable in United States dollars, to the order of the Warrant Agent. [In certain events the Warrant Price and the number of Shares deliverable on exercise of this Warrant are subject to adjustments, as provided in the Warrant Agreement. No certificates for a fractional Share will be issued.]

[As to any fraction of a Share which would otherwise be purchasable on the exercise of a Warrant, the Company shall pay the cash value thereof determined as provided in the Warrant Agreement.]

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2. This Warrant is issued in accordance with the Warrant Agreement in which the rights of the Warrant Holders and the terms, provisions and conditions upon which this Warrant has been executed and delivered and may be exercised are more fully set forth. Every Warrant Holder, by acceptance hereof, assents to all the terms, provisions and conditions of the Warrant Agreement. A counterpart of the Warrant Agreement is on file at the office of the Company in Minneapolis, Minnesota, and at the office of the Warrant Agent in \_\_\_\_\_, \_\_\_\_.

3. In the event this Warrant shall not be exercised on or before \_\_\_\_ \* \_\_\_\_, \_\_\_\_, unless said date is extended as provided for in §9A of the Warrant Agreement, this Warrant shall become void and all rights hereunder shall cease.

Reference is made to the further provisions of this Warrant set forth on the reverse hereof. Such further provisions shall for all purposes have the same effect as though fully set forth at this place.

This Warrant shall not be valid for any purpose until it shall have been countersigned by the Warrant Agent.

\* The expiration date; see page 1 of the Warrant Agreement. \_\_\_\_\_

IN WITNESS WHEREOF, the Company has caused this Warrant to be executed in its name and on its behalf by the facsimile signatures of its duly authorized officers and a facsimile of its seal.

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

U.S. BANCORP

By \_\_\_\_\_  
Its \_\_\_\_\_

Attest:  
\_\_\_\_\_

Countersigned:  
\_\_\_\_\_  
\_\_\_\_\_

Warrant Agent  
  
By \_\_\_\_\_  
Authorized Signature



[REVERSE OF WARRANT]

4. Subject to the provisions of paragraph 3 contained on the face of this Warrant, (a) this Warrant, with or without other Warrants, upon surrender at the office of the Warrant Agent, may be exchanged for another Warrant or Warrants of like tenor in denominations entitling the Warrant Holder to purchase a like aggregate number of Shares, but only to the extent provided in the Warrant Agreement, or (b) this Warrant may be transferred at the office of the Warrant Agent by the Warrant Holder or his assigns, in person or by attorney duly authorized in writing, but only in the manner provided in the Warrant Agreement and upon surrender of this Warrant. If this Warrant shall be exercised in part, the Warrant Holder shall be entitled to receive, upon surrender hereof, another Warrant or Warrants of like tenor for the number of whole Shares not purchased upon such exercise.

5. No Warrant Holder shall be entitled to vote or receive dividends or be deemed the holder of Shares of the Company for any purpose, nor shall anything contained in the Warrant Agreement or herein be construed to confer upon the Warrant Holder, as such, any of the rights of a stockholder of the Company or any right to vote for the election of directors of the Company, or upon any matter submitted to stockholders at any meeting thereof, or to give or withhold consent to any action (whether upon any recapitalization, issue of securities, reclassification of securities, consolidation, merger, conveyance or otherwise) or to receive notice of meetings or other action affecting stockholders (except for notices as provided for in the Warrant Agreement), or to receive dividends or subscription rights or otherwise, until this Warrant shall have been exercised and the Shares purchasable on the exercise hereof shall have become deliverable as provided in the Warrant Agreement.

6. Every holder of a Warrant, by accepting this Warrant, consents and agrees with the Company, the Warrant Agent and with every subsequent holder of this Warrant that until this Warrant is transferred on the books of the Warrant Agent, the Company and the Warrant Agent may treat the registered holder hereof as the absolute owner hereof for all purposes notwithstanding any notice to the contrary.

7. The Company represents and warrants that the Shares to be issued by it as provided in the Warrant Agreement have been duly authorized and, when so issued in accordance with the Warrant Agreement, will be validly issued, fully-paid and non-assessable. The Company represents and warrants that it has authority to execute and deliver the Warrant Agreement and the Warrants thereunder, but the Warrant Agent makes no representation with respect thereto, or with respect to the validity or sufficiency of the Warrants, the Warrant Agreement or the Shares.

## FORM OF EXERCISE

(Form of exercise to be executed by the Warrant Holder at the time of exercise)

To \_\_\_\_\_

\_\_\_\_\_, Warrant Agent:

The undersigned, holder of the within Warrant, (1) exercises his right to purchase \_\_\_\_\_ of the Shares [title of equity securities] of U.S. Bancorp (the "Shares"), which the undersigned is entitled to purchase under the terms of the within Warrant, and (2) makes payment in full for the number of Shares so purchased by payment of \$\_\_\_\_ in cash.

Please issue the certificate for Shares (and any new Warrants in the case of a partial exercise) as follows:

\_\_\_\_\_  
Print or Type Name

\_\_\_\_\_  
Social Security or other Identifying Number

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip Code

and deliver it (together with any new Warrants in the case of a partial exercise) to the above address unless a different address is indicated below.

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

\_\_\_\_\_  
Signature

(Signature must conform in all respects to name of holder as specified on the face of the Warrant)

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To be used only for special instructions for delivery.

Deliver to:

\_\_\_\_\_  
Print or Type Name

\_\_\_\_\_  
Social Security or other Identifying Number

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip Code

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ASSIGNMENT

(Form of assignment to be executed if Warrant Holder desires to transfer Warrant)

FOR VALUE RECEIVED, \_\_\_\_\_ hereby sells, assigns and transfers unto \_\_\_\_\_

\_\_\_\_\_  
Print or Type Name

\_\_\_\_\_  
Social Security or other Identifying Number

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Social Security or other Identifying Number

the right represented by the within Warrant to purchase \_\_\_\_\_ shares of [title of equity securities] of U.S. Bancorp to which the within Warrant relates and appoints \_\_\_\_\_ attorney to transfer such right on the books of the Warrant Agent with full power of substitution in the Premises.

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

\_\_\_\_\_  
Signature

(Signature must conform in all respects To name of holder as specified on the face of the Warrant)

Signature Guaranteed  
\_\_\_\_\_

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## [LETTERHEAD OF SQUIRE, SANDERS &amp; DEMPSEY L.L.P.]

April 29, 2005

U.S. Bancorp  
800 Nicollet Mall  
Minneapolis, Minnesota 55402

Ladies and Gentlemen:

We have acted as counsel to U.S. Bancorp, a Delaware corporation (the “Company”) and Sponsor of USB Capital VII, USB Capital VIII, USB Capital IX, USB Capital X, USB Capital XI, USB Capital XII, USB Capital XIII, USB Capital XIV, USB Capital XV and USB Capital XVI, each a Delaware statutory trust (each a “Trust” and collectively, the “Trusts”), in connection with a Registration Statement on Form S-3 (the “Registration Statement”) relating to:

(A) the proposed sale by the Company from time to time, in one or more series, of (i) its unsecured debt securities, which may be either senior debt securities (the “Senior Debt Securities”) or unsecured subordinated debt securities (the “Subordinated Debt Securities” and, together with the Senior Debt Securities, the “Debt Securities”); (ii) shares of its preferred stock (the “Preferred Stock”); (iii) depositary shares (the “Depositary Shares”) representing fractional shares of Preferred Stock and evidenced by depositary receipts; (iv) shares of its common stock (the “Common Stock”); (v) warrants to purchase Debt Securities (the “Debt Warrants”); (vi) warrants to purchase equity securities of the Company (the “Equity Warrants”); (vii) units consisting of two or more securities, in any combination (the “Units”) and (viii) the guarantee by the Company of the Capital Securities (as hereinafter defined) of each of the Trusts (the “Guarantees”);

(B) the proposed sale by the Company from time to time, in one or more series, to the Trusts, of the Company’s junior subordinated deferrable interest debentures (the “Junior Subordinated Debentures”); and

(C) the proposed sale by each of the Trusts of its capital securities (the “Capital Securities”) from time to time, in one or more series.

The Debt Securities, Preferred Stock, Depositary Shares, Common Stock, Debt Warrants, Equity Warrants, Units, Guarantees, Junior Subordinated Debentures and Capital Securities and hereinafter collectively referred to as the “Securities”.

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We have examined such documents, including the resolutions of the Board of Directors of the Company adopted on April 19, 2005 (the "Resolutions"), and have reviewed such questions of law, as we have considered necessary and appropriate for the purposes of our opinion set forth below. In rendering our opinions set forth below, we have assumed the authenticity of all documents submitted to us as originals, the genuineness of all signatures and the conformity to authentic originals of all documents submitted to us as copies. We have also assumed the legal capacity for all purposes relevant hereto of all natural persons and, with respect to all parties to agreements or instruments relevant hereto other than the Company and the Trusts, that such parties had the requisite power and authority (corporate or otherwise) to execute, deliver and perform such agreements or instruments, that such agreements or instruments have been duly authorized by all requisite action (corporate or otherwise), executed and delivered by such parties and that such agreements or instruments are the valid, binding and enforceable obligations of such parties. As to questions of fact material to our opinion, we have relied upon certificates of officers of the Company and the Trusts and of public officials. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to them in the Indentures, the Trust Agreement and the Guarantees, each in the form incorporated by reference as exhibits to the Registration Statement.

Based on the foregoing, we are of the opinion that:

1. When the specific terms of a series of Debt Securities have been specified in a Supplemental Indenture or an Officer's Certificate, which has been executed and delivered to the Trustee by an Authorized Officer (as defined in the Resolutions), such series of Debt Securities will have been duly authorized by all requisite corporate action and, when executed and authenticated as specified in the Indentures and delivered against payment therefor pursuant to the terms described in the Registration Statement and as specified by an Authorized Officer, or when issued upon valid exercise of Debt Warrants that have been duly authorized by all requisite corporate action and validly issued, will constitute valid and binding obligations of the Company, enforceable in accordance with the terms of such series.

2. When the specific terms of a series of Debt Warrants have been specified in a Warrant Agreement executed and delivered by an Authorized Officer (as defined in the Resolutions), in substantially the form incorporated by reference as Exhibit 4.12 to the Registration Statement, the Debt Warrants established in such Warrant Agreement will have been duly authorized by all requisite corporate action and, when executed and authenticated as specified in such Warrant Agreement and delivered against payment therefor pursuant to the terms described in the Registration Statement and as specified by an Authorized Officer, will constitute valid and binding obligations of the Company, enforceable in accordance with the terms of such Debt Warrants.

3. When the specific terms of a series of Preferred Stock have been specified in a Certificate of Designations duly adopted by the Board of Directors or a duly authorized committee thereof, in substantially the form incorporated by reference as Exhibit 4.13 to the Registration Statement, and such Certificate of Designations has been duly filed with the Secretary of State of Delaware, such series of Preferred Stock will have been duly authorized by

all requisite corporate action and, upon issuance, delivery and payment therefor as described in the Registration Statement, or when issued upon valid exercise of Equity Warrants that have been duly authorized by all requisite corporate action and validly issued, shares of such series of Preferred Stock will be validly issued, fully paid and nonassessable.

4. Upon issuance, delivery and payment therefor as described in the Registration Statement or when issued upon valid exercise of Equity Warrants that have been duly authorized by all requisite corporate action and validly issued, shares of Common Stock will be validly issued, fully paid and nonassessable.

5. When the specific terms of a series of Depositary Shares have been specified in a Deposit Agreement executed and delivered by an Authorized Officer (as defined in the Resolutions), in substantially the form incorporated by reference as Exhibit 4.14 to the Registration Statement, the Depositary Shares established in such Deposit Agreement will have been duly authorized by all requisite corporate action and, upon issuance, delivery and payment therefor as described in the Registration Statement, will be validly issued, fully paid and nonassessable.

6. When the specific terms of a series of Equity Warrants have been specified in a Warrant Agreement executed and delivered by an Authorized Officer (as defined in the Resolutions), in substantially the form filed as Exhibit 4.15 to the Registration Statement, the Equity Warrants established in such Warrant Agreement will have been duly authorized by all requisite corporate action and, when executed and authenticated as specified in such Warrant Agreement and delivered against payment therefor pursuant to the terms described in the Registration Statement and as specified by an Authorized Officer, will constitute valid and binding obligations of the Company, enforceable in accordance with the terms of such Equity Warrants.

7. When the specific terms of a series of the Junior Subordinated Debentures have been specified in a Supplement Indenture or an Officer's Certificate, which has been executed and delivered to the Trustee by an Authorized Officer, such series of the Junior Subordinated Debentures will have been duly authorized by all requisite corporate action, and, when executed and authenticated as specified in the Junior Subordinated Indenture and delivered against payment therefor pursuant to the terms described in the Registration Statement and as specified by an Authorized Officer, will constitute valid and binding obligations of the Company, enforceable in accordance with the terms of such series.

8. When the Guarantees have been duly authorized by all requisite corporate action and, when executed and delivered as specified in the Guarantee Agreements, in substantially the form filed as Exhibit 4.10 to the Registration Statement, the Guarantees will constitute the valid and binding obligation of the Company, enforceable in accordance with its terms.

The opinions set forth above are subject to the following qualifications and exceptions:



(a) Our opinions in paragraphs 1, 2, 6, 7 and 8, above are subject to the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or other similar law of general application affecting creditors' rights.

(b) Our opinions in paragraphs 1, 2, 6, 7 and 8, above are subject to the effect of general principles of equity, including (without limitation) concepts of materiality, reasonableness, good faith and fair dealing, and other similar doctrines affecting the enforceability of agreements generally (regardless of whether considered in a proceeding in equity or at law).

(c) Our opinion on paragraph 1, 2, 6, 7 and 8, above, insofar as they relate to indemnification provisions, are subject to the effect of federal and state securities laws and public policy relating thereto.

(d) In rendering the opinions set forth above, we have assumed that, at the time of the authentication and delivery of a series of Securities, the Resolutions referred to above will not have been modified or rescinded, there will not have occurred any change in the law affecting the authorization, execution, delivery, validity or enforceability of the Securities, the Registration Statement will have been declared effective by the Commission and will continue to be effective, none of the particular terms of a series of Securities will violate any applicable law and neither the issuance and sale thereof nor the compliance by the Company and the Trusts with the terms thereof will result in a violation of any agreement or instrument then binding upon the Company and the Trusts or any order of any court or governmental body having jurisdiction over the Company and the Trusts.

(e) As of the date of this opinion, a judgment for money in an action based on a debt security denominated in a foreign currency or currency unit in a federal or State court in the United States ordinarily would be enforced in the United States only in United States dollars. The date used to determine the rate of conversion into United States dollars of the foreign currency or currency unit in which a particular debt security is denominated will depend upon various factors, including which court renders the judgment. Under Section 27 of the New York Judiciary Law, a state court in the State of New York rendering a judgment on a debt security would be required to render such judgment in the foreign currency or currency unit in which such debt security is denominated, and such judgment would be converted into United States dollars at the exchange rate prevailing on the date of entry of the judgment.

Our opinions expressed above are limited to the laws of the State of New York, the Delaware General Corporation Law and the federal laws of the United States of America.

We hereby consent to your filing this opinion as an exhibit to the Registration Statement and to the reference to our firm under the caption "Validity of Securities" contained in the Prospectuses included therein.

Very truly yours,

/s/ SQUIRE, SANDERS & DEMPSEY L.L.P.



[Letterhead of Richards, Layton & Finger, P.A.]

May 2, 2005

USB Capital VII  
USB Capital VIII  
USB Capital IX  
USB Capital X  
USB Capital XI  
USB Capital XII  
USB Capital XIII  
USB Capital XIV  
USB Capital XV  
USB Capital XVI  
c/o U.S. Bancorp  
601 Second Avenue South  
Minneapolis, Minnesota 55402-4302

Re: USB Capital VII – USB Capital XVI

Ladies and Gentlemen:

We have acted as special Delaware counsel for U.S. Bancorp, a Delaware corporation (the “Company”), USB Capital VII, a Delaware statutory trust (“Trust VII”), USB Capital VIII, a Delaware statutory trust (“Trust VIII”), USB Capital IX, a Delaware statutory trust (“Trust IX”), USB Capital X, a Delaware statutory trust (“Trust X”), USB Capital XI, a Delaware statutory trust (“Trust XI”), USB Capital XII, a Delaware statutory trust (“Trust XII”), USB Capital XIII, a Delaware statutory trust (“Trust XIII”), USB Capital XIV, a Delaware statutory trust (“Trust XIV”), USB Capital XV, a Delaware statutory trust (“Trust XV”), and USB Capital XVI, a Delaware statutory trust (“Trust XVI”) (Trust VII, Trust VIII, Trust IX, Trust X, Trust XI, Trust XII, Trust XIII, Trust XIV, Trust XV, and Trust XVI are hereinafter collectively referred to as the “Trusts” and sometimes hereinafter individually referred to as a “Trust”), in connection with the matters set forth herein. At your request, this opinion is being furnished to you.

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We have examined and relied upon such records, documents, certificates and other instruments as in our judgment are necessary or appropriate to enable us to render the opinions expressed below, including the following documents:

- a) The Restated Certificate of Trust of Trust VII, as filed with the office of the Secretary of State of the State of Delaware (the “Secretary of State”) on April 27, 2005;
  - b) The Certificate of Trust of Trust VIII, as filed with the Secretary of State on April 27, 2005;
  - c) The Certificate of Trust of Trust IX, as filed with the Secretary of State on April 27, 2005;
  - d) The Certificate of Trust of Trust X, as filed with the Secretary of State on April 27, 2005;
  - e) The Certificate of Trust of Trust XI, as filed with the Secretary of State on April 27, 2005;
  - f) The Certificate of Trust of Trust XII, as filed with the Secretary of State on April 27, 2005;
  - g) The Certificate of Trust of Trust XIII, as filed with the Secretary of State on April 27, 2005;
  - h) The Certificate of Trust of Trust XIV, as filed with the Secretary of State on April 27, 2005;
  - i) The Certificate of Trust of Trust XV, as filed with the Secretary of State on April 27, 2005;
  - j) The Certificate of Trust of Trust XVI, as filed with the Secretary of State on April 27, 2005;
  - k) The First Amended and Restated Trust Agreement of Trust VII, dated as of April 27, 2005, among the Company and the trustees of Trust VII named therein;
  - l) The Trust Agreement of Trust VIII, dated as of April 27, 2005, among the Company and the trustees of Trust VIII named therein;
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- m) The Trust Agreement of Trust IX, dated as of April 27, 2005, among the Company and the trustees of Trust IX named therein;
  - n) The Trust Agreement of Trust X, dated as of April 27, 2005, among the Company and the trustees of Trust X named therein;
  - o) The Trust Agreement of Trust XI, dated as of April 27, 2005, among the Company and the trustees of Trust XI named therein;
  - p) The Trust Agreement of Trust XII, dated as of April 27, 2005, among the Company and the trustees of Trust XII named therein;
  - q) The Trust Agreement of Trust XIII, dated as of April 27, 2005, among the Company and the trustees of Trust XIII named therein;
  - r) The Trust Agreement of Trust XIV, dated as of April 27, 2005, among the Company and the trustees of Trust XIV named therein;
  - s) The Trust Agreement of Trust XV, dated as of April 27, 2005, among the Company and the trustees of Trust XV named therein;
  - t) The Trust Agreement of Trust XVI, dated as of April 27, 2005, among the Company and the trustees of Trust XVI named therein;
  - u) The Registration Statement (the “Registration Statement”) on Form S-3, including a preliminary prospectus (the “Prospectus”), with respect to, among other things, the Capital Securities of the Trusts representing undivided beneficial interests in the assets of the Trusts (each, a “Capital Security” and collectively, the “Capital Securities”), as filed by the Company and the Trusts with the Securities and Exchange Commission on or about May 2, 2005;
  - v) A form of Amended and Restated Trust Agreement for each of the Trusts to be entered into between the Company, the trustees of the Trust named therein, and the holders, from time to time, of the undivided beneficial interests in the assets of such Trust (including all attachments and exhibits thereto) (collectively, the “Trust Agreements” and individually, a “Trust Agreement”), filed as an exhibit to the Registration Statement; and
  - w) A Certificate of Good Standing for each of the Trusts, dated May 2, 2005 obtained from the Secretary of State.
-

Initially capitalized terms used herein and not otherwise defined are used as defined in the Trust Agreements.

As to various questions of fact material to our opinion, we have relied upon the representations made in the foregoing documents. With respect to all documents examined by us, we have assumed (i) the authenticity of all documents submitted to us as authentic originals, (ii) the conformity with the originals of all documents submitted to us as copies or forms, and (iii) the genuineness of all signatures.

For purposes of this opinion, we have assumed (i) that each of the Trust Agreements and Certificates of Trust will be in full force and effect and will not be amended, (ii) except to the extent provided in paragraph 1 below, the due organization or due formation, as the case may be, and valid existence in good standing of each party to the documents examined by us under the laws of the jurisdiction governing its organization or formation, (iii) the legal capacity of natural persons who are parties to the documents examined by us, (iv) that each of the parties to the documents examined by us has the power and authority to execute and deliver, and to perform its obligations under, such documents, (v) the due authorization, execution and delivery by all parties thereto of all documents examined by us, (vi) the receipt by each Person to whom a Capital Security is to be issued by the Trusts (collectively, the “Capital Security Holders”) of a Capital Security Certificate for such Capital Security and the payment for such Capital Security, in accordance with the Trust Agreements and the Registration Statement, and (vii) that the Capital Securities will be issued and sold to the Capital Security Holders in accordance with the Trust Agreements and the Prospectus. We have not participated in the preparation of the Registration Statement (except for providing this opinion) or the Prospectus and assume no responsibility for their contents, other than this opinion.

This opinion is limited to the law of the State of Delaware, including the applicable provisions of the Delaware Constitution and the reported judicial decisions interpreting such laws (excluding the securities laws of the State of Delaware), and we have not considered and express no opinion on the laws of any other jurisdiction, including federal laws and rules and regulations relating thereto. Our opinions are rendered only with respect to Delaware laws and rules, regulations and orders thereunder which are currently in effect.

Based upon the foregoing, and upon our examination of such questions of law and statutes of the State of Delaware as we have considered necessary or appropriate, and subject to the assumptions, qualifications, limitations and exceptions set forth herein, we are of the opinion that:

1. Each of the Trusts has been duly created and is validly existing in good standing as a statutory trust under the Statutory Trust Act.

2. The Capital Securities of each Trust will represent valid and, subject to the qualifications set forth in paragraph 3 below, legally issued, fully paid and nonassessable undivided beneficial interests in the assets of the applicable Trust.

3. The Capital Security Holders, as beneficial owners of the applicable Trust, will be entitled to the same limitation of personal liability extended to stockholders of private corporations for profit organized under the General Corporation Law of the State of Delaware. We note that the Capital Security Holders may be obligated to make payments as set forth in the applicable Trust Agreement.

We consent to the filing of this opinion with the Securities and Exchange Commission as an exhibit to the Registration Statement. We hereby consent to the use of our name under the heading “Validity of Securities” in the Prospectus. In giving the foregoing consents, we do not thereby admit that we come within the category of persons whose consent is required under Section 7 of the Securities Act of 1933, as amended, or the rules and regulations of the Securities and Exchange Commission thereunder.

Very truly yours,

/s/ Richards, Layton & Finger P.A.





**Consent of Independent Registered Public Accounting Firm**

We consent to the reference to our firm under the caption “Experts” in the Registration Statement (Form S-3, No. 333-\_\_\_\_) and related Prospectus of U.S. Bancorp for the registration of debt securities (both senior and subordinated), preferred stock, depository shares, common stock, debt warrants, equity warrants and units, capital securities of USB Capital VII, VIII, IX, X, XI, XII, XIII, XIV, XV and XVI, severally, and junior subordinated debt securities and guarantees of the capital securities issued severally by USB Capital VII, VIII, IX, X, XI, XII, XIII, XIV, XV and XVI and to the incorporation by reference therein of our reports dated February 18, 2005, with respect to the consolidated financial statements of U.S. Bancorp, U.S. Bancorp management’s assessment of the effectiveness of internal control over financial reporting, and the effectiveness of internal control over financial reporting of U.S. Bancorp, included in its Annual Report (Form 10-K) for the year ended December 31, 2004, filed with the Securities and Exchange Commission.

/s/ Ernst & Young LLP

April 29, 2005  
Minneapolis, Minnesota



CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in this Registration Statement on Form S-3 of our report dated January 21, 2003, except for the effects of the adoption of the fair value provisions under Statement of Financial Accounting Standards No. 123, "Accounting for Stock-Based Compensation," as discussed in Note 2 of the Notes to Consolidated Financial Statements, and the effects of presenting discontinued operations, as discussed in Note 4 of the Notes to Consolidated Financial Statements, as to which the date of each is December 31, 2003, relating to the consolidated statements of income, shareholders' equity, and cash flows for the year ended December 31, 2002, which appears in the 2004 Annual Report on Form 10-K. We also consent to the reference to us under the heading "Experts" in such Registration Statement.

/s/ PricewaterhouseCoopers LLP

Minneapolis, Minnesota  
April 29, 2005



## POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints David M. Moffett, Lee R. Mitau and Terrance R. Dolan, and each of them, his or her true and lawful attorneys-in-fact and agents, each acting alone, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign one or more Registration Statements on Form S-3 of U.S. Bancorp (the "Company"), and any and all amendments thereto, including post-effective amendments, in connection with the registration under the Securities Act of 1933, as amended, of debt and equity securities, including other securities the Company may cause to be issued by one or more business trusts formed and controlled by the Company, and guarantees, limited guarantees and similar purchase and other obligations issued by the Company or related to the other securities issued by the business trusts, in an aggregate amount not to exceed \$10 billion, and to file the same, with all exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, each acting alone, full power and authority to do and perform any and all acts necessary or incidental to the performance and execution of the powers herein expressly granted, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, each acting alone, or the substitutes for such attorneys-in-fact and agents, may lawfully do or cause to be done by virtue hereof.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Jerry A. Grundhofer</u> Jerry A. Grundhofer	Chairman and Chief Executive Officer	April 19, 2005
<u>/s/ David M. Moffett</u> David M. Moffett	Vice Chairman and Chief Financial Officer	April 19, 2005
<u>/s/ Terrance R. Dolan</u> Terrance R. Dolan	Executive Vice President and Controller	April 19, 2005
<u>/s/ Victoria Buyniski Gluckman</u> Victoria Buyniski Gluckman	Director	April 19, 2005
<u>/s/ Arthur D. Collins, Jr.</u> Arthur D. Collins, Jr.	Director	April 19, 2005

Signature	Title	Date
<u>/s/ Peter H. Coors</u> Peter H. Coors	Director	April 19, 2005
<u>/s/ Joel W. Johnson</u> Joel W. Johnson	Director	April 19, 2005
<u>/s/ Jerry W. Levin</u> Jerry W. Levin	Director	April 19, 2005
<u>/s/ David B. O' Maley</u> David B. O' Maley	Director	April 19, 2005
<u>/s/ O' dell M. Owens, M.D., M.P.H.</u> O' dell M. Owens, M.D., M.P.H.	Director	April 19, 2005
<u>/s/ Richard G. Reiten</u> Richard G. Reiten	Director	April 19, 2005
<u>/s/ Craig D. Schnuck</u> Craig D. Schnuck	Director	April 19, 2005
<u>/s/ Warren R. Staley</u> Warren R. Staley	Director	April 19, 2005
<u>/s/ Patrick T. Stokes</u> Patrick T. Stokes	Director	April 19, 2005



SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

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## FORM T-1

STATEMENT OF ELIGIBILITY  
UNDER THE TRUST INDENTURE ACT OF 1939 OF A  
CORPORATION DESIGNATED TO ACT AS TRUSTEE

Check if an application to determine eligibility of a Trustee  
pursuant to Section 305 (b)(2) \_\_\_\_\_

---

CITIBANK, N.A.

(Exact name of trustee as specified in its charter)

13-5266470  
(I.R.S. employer  
identification no.)

399 Park Avenue, New York, New York  
(Address of principal executive office)

10043  
(Zip Code)

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U.S. BANCORP

(Exact name of obligor as specified in its charter)

Delaware  
(State or other jurisdiction of  
incorporation or organization)

41-0255900  
(I.R.S. employer  
identification no.)

800 Nicollet Mall  
Minneapolis, MN  
(Address of principal executive offices)

55402  
(Zip Code)

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Debt Securities  
(Title of the indenture securities)

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Item 1. General Information.

Furnish the following information as to the trustee:

- (a) Name and address of each examining or supervising authority to which it is subject.

Name	Address
Comptroller of the Currency	Washington, D.C.
Federal Reserve Bank of New York 33 Liberty Street New York, NY	New York, NY
Federal Deposit Insurance Corporation	Washington, D.C.

- (b) Whether it is authorized to exercise corporate trust powers.

Yes.

Item 2. Affiliations with Obligor.

If the obligor is an affiliate of the trustee, describe each such affiliation.

None.

Item 16. List of Exhibits.

List below all exhibits filed as a part of this Statement of Eligibility.

Exhibits identified in parentheses below, on file with the Commission, are incorporated herein by reference as exhibits hereto.

Exhibit 1 – Copy of Articles of Association of the Trustee, as now in effect. (Exhibit 1 to T-1 to Registration Statement No. 2-79983)

Exhibit 2 – Copy of certificate of authority of the Trustee to commence business. (Exhibit 2 to T-1 to Registration Statement No. 2-29577).

Exhibit 3 – Copy of authorization of the Trustee to exercise corporate trust powers. (Exhibit 3 to T-1 to Registration Statement No. 2-55519)

Exhibit 4 – Copy of existing By-Laws of the Trustee. (Exhibit 4 to T-1 to Registration Statement No. 33-34988)

Exhibit 5 – Not applicable.

Exhibit 6 – The consent of the Trustee required by Section 321(b) of the Trust Indenture Act of 1939. (Exhibit 6 to T-1 to Registration Statement No. 33-19227.)

Exhibit 7 – Copy of the latest Report of Condition of Citibank, N.A. (as of December 31, 2004 – attached)

Exhibit 8 - Not applicable.

Exhibit 9 - Not applicable.

---

SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, the Trustee, Citibank, N.A., a national banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility to be signed on its behalf by the undersigned, thereunto duly authorized, all in The City of New York and State of New York, on the 8th day of April, 2005.

CITIBANK, N.A.

By /s/Nancy Forte

Nancy Forte  
Assistant Vice President

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Exhibit 6 – The consent of the Trustee required by Section 321(b) of the Trust Indenture Act of 1939. (Exhibit 6 to T-1 to Registration Statement No. 33-19227.)

Exhibit 7 – Copy of the latest Report of Condition of Citibank, N.A. (as of December 31, 2004 – attached)

Exhibit 8 – Not applicable.

Exhibit 9 – Not applicable.

---

SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, the Trustee, Citibank, N.A., a national banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility to be signed on its behalf by the undersigned, thereunto duly authorized, all in The City of New York and State of New York, on the 8th day of April, 2005.

CITIBANK, N.A.

By /s/Nancy Forte  
Nancy Forte  
Assistant Vice President

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Charter No. 1461  
 Comptroller of the Currency  
 Northeastern District  
 REPORT OF CONDITION  
 CONSOLIDATING  
 DOMESTIC AND FOREIGN  
 SUBSIDIARIES OF

Citibank, N.A. of New York in the State of New York, at the close of business on December 31 2004, published in response to call made by Comptroller of the Currency, under Title 12, United States Code, Section 161. Charter Number 1461 Comptroller of the Currency Northeastern District.

	<u>Thousands of dollars</u>
<b>ASSETS</b>	
Cash and balances due from depository institutions:	
Noninterest-bearing balances and currency and coin	\$ 13,354,000
Interest-bearing balances	21,756,000
Held-to-maturity securities	47,000
Available-for-sale securities	105,096,000
Federal funds sold in domestic Offices	4,622,000
Federal funds sold and securities purchased under agreements to resell	11,015,000
Loans and leases held for sale	3,580,000
Loans and lease financing receivables:	
Loans and Leases, net of unearned income	378,100,000
LESS: Allowance for loan and lease losses	7,897,000
Loans and leases, net of unearned income, allowance, and reserve	370,203,000
Trading assets	97,697,000
Premises and fixed assets (including capitalized leases)	4,359,000
Other real estate owned	72,000
Investments in unconsolidated subsidiaries and associated companies	1,034,000
Customers' liability to this bank on acceptances outstanding	1,206,000
Intangible assets: Goodwill	9,593,000
Intangible assets: Other intangible assets	10,557,000
Other assets	40,338,000
<b>TOTAL ASSETS</b>	<b><u>\$ 694,529,000</u></b>
<b>LIABILITIES</b>	
Deposits: In domestic offices	\$ 124,428,000
Noninterest- bearing	22,303,000
Interest- bearing	102,125,000
In foreign offices, Edge and Agreement subsidiaries, and IBFs	334,574,000
Noninterest- bearing	24,540,000
Interest- bearing	310,034,000
Federal funds purchased in domestic Offices	12,799,000

	<b>Thousands of dollars</b>
Federal funds purchased and securities sold under agreements to repurchase	8,626,000
Demand notes issued to the U.S. Treasury	0
Trading liabilities	56,630,000
Other borrowed money (includes mortgage indebtedness and obligations under capitalized leases): ss	52,870,000
Bank' s liability on acceptances executed and outstanding	1,206,000
Subordinated notes and debentures	13,903,000
Other liabilities	34,852,000
<b>TOTAL LIABILITIES</b>	<b>\$ 639,888,000</b>
<b>Minority interest in consolidated Subsidiaries</b>	<b>500,000</b>
<b>EQUITY CAPITAL</b>	
Perpetual preferred stock and related surplus	1,950,000
Common stock	751,000
Surplus	25,972,000
Retained Earnings	25,935,000
Accumulated net gains (losses) on cash flow hedges	467,000
Other equity capital components	0
<b>TOTAL EQUITY CAPITAL</b>	<b>\$ 54,141,000</b>
<b>TOTAL LIABILITIES AND EQUITY CAPITAL</b>	<b>\$ 694,529,000</b>

I, William J. Gonska, Controller & Vice President of the above-named bank do hereby declare that this Report of Condition is true and correct to the best of my knowledge and belief.

William J. Gonska, CONTROLLER & VICE PRESIDENT

We, the undersigned directors, attest to the correctness of this Report of Condition. We declare that it has been examined by us, and to the best of our knowledge and belief has been prepared in conformance with the instructions and is true and correct.

ALAN S. MACDONALD  
WILLIAM R. RHODES  
ROBERT B. WILLUMSTAD  
DIRECTORS



**Registration No.**

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

**FORM T-1**

**STATEMENT OF ELIGIBILITY AND QUALIFICATION  
UNDER THE TRUST INDENTURE ACT OF 1939, AS AMENDED, OF A  
CORPORATION DESIGNATED TO ACT AS TRUSTEE**

CHECK IF AN APPLICATION TO DETERMINE ELIGIBILITY OF A TRUSTEE

PURSUANT TO SECTION 305(b)(2) \_\_\_\_\_

\_\_\_\_\_  
DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION  
(Exact name of trustee as specified in its charter)

United States National Banking Association  
(State of incorporation if not a national bank)  
Delaware Trust Company, National Association  
300 Delaware Avenue, 9th Floor  
Wilmington, DE  
(Address of principal executive offices)

56-1989961  
(I.R.S. employer identification no.)

19801  
(Zip Code)

Same as above

(Name, address and telephone number, including  
area code, of trustee's agent for service)

U.S. Bancorp  
(Exact name of obligor as specified in its charter)

The State of Delaware  
(State or other jurisdiction of incorporation or organization)

41-025590  
(I.R.S. employer identification no.)

c/o  
Steve Finklea, Vice President  
Delaware Trust Company, National Association  
300 Delaware Avenue, 9th Floor  
Wilmington, DE 19801

(Address, including zip code, of principal executive offices)

\_\_\_\_\_

JUNIOR SUBORDINATED DEBT SECURITIES OF U.S. BANCORP

(Title of the Securities)

1. General information. Furnish the following information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject:

Name	Address
Federal Reserve Bank of Richmond, VA	Richmond, VA
Comptroller of the Currency	Washington, D.C.
Securities and Exchange Commission Division of Market Regulation	Washington, D.C.
Federal Deposit Insurance Corporation	Washington, D.C.

(b) Whether it is authorized to exercise corporate trust powers.

The trustee is authorized to exercise corporate trust powers.

2. Affiliations with obligor and underwriters. If the obligor or any underwriter for the obligor is an affiliate of the trustee, describe each such affiliation.

The trustee is affiliated with Wachovia Capital Markets, LLC, who may act in the future as an underwriter of the securities.

(See Note 1 on Page 4.)

Because the obligor is not in default on any securities issued under indentures under which the applicant is trustee, Items 3 through 15 are not required herein.



16. List of Exhibits

All exhibits identified below are filed as part of this statement of eligibility.

1. A copy of the Articles of Association of Delaware Trust Company, National Association, as now in effect, which contain the authority to commence business and a grant of powers to exercise corporate trust powers.\*
2. A copy of the certificate of authority of the trustee to commence business, if not contained in the Articles of Association.\*
3. A copy of the authorization of the trustee to exercise corporate trust powers, if such authorization is not contained in the documents specified in exhibits (1) or (2) above.\*
4. A copy of the existing By-laws of Delaware Trust Company, National Association, or instruments corresponding thereto.\*
5. Inapplicable.
6. The consent of the trustee required by Section 321(b) of the Trust Indenture Act of 1939 is included at Page 4 of this Form T-1 Statement.
7. A copy of the latest report of condition of the trustee published pursuant to law or to the requirements of its supervising or examining authority is attached hereto.\*
8. Inapplicable.
9. Inapplicable.

\* Incorporated by reference to Form T-1 Statement of Eligibility of Delaware Trust Company to act as trustee under the Guarantee for the benefit of the holders of Capital Securities included as exhibit 25.2 to Form 8-K/A of US Bancorp filed on March 9, 2005.

## NOTE

Note 1: Inasmuch as this Form T-1 is filed prior to the ascertainment by the Trustee of all facts on which to base a responsive answer to Item 2, the answer to said Item is based on incomplete information. Item 2 may, however, be considered correct unless amended by an amendment to this Form T-1.

## SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, as amended, the trustee, Delaware Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility and qualification to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Wilmington, and State of Delaware, on the 28th day of April, 2005.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION (trustee)

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President

## CONSENT OF TRUSTEE

Under section 321(b) of the Trust Indenture Act of 1939, as amended, and in connection with the proposed issuance by U.S. Bancorp of Junior Subordinated Debt Securities, Delaware Trust Company, National Association, as the trustee herein named, hereby consents that reports of examinations of said Trustee by Federal, State, Territorial or District authorities may be furnished by such authorities to the Securities and Exchange Commission upon requests therefore.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President

Dated: **April 28, 2005**



**Registration No.**

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

**FORM T-1**

**STATEMENT OF ELIGIBILITY AND QUALIFICATION  
UNDER THE TRUST INDENTURE ACT OF 1939, AS AMENDED, OF A  
CORPORATION DESIGNATED TO ACT AS TRUSTEE**

CHECK IF AN APPLICATION TO DETERMINE ELIGIBILITY OF A TRUSTEE  
PURSUANT TO SECTION 305(b)(2) \_\_\_\_\_

\_\_\_\_\_  
DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION  
(Exact name of trustee as specified in its charter)

United States National Banking Association  
(State of incorporation if not a national bank)  
Delaware Trust Company, National Association  
300 Delaware Avenue, 9th Floor  
Wilmington, DE  
(Address of principal executive offices)

56-1989961  
(I.R.S. employer identification no.)  
  
19801  
(Zip Code)

Same as above

(Name, address and telephone number, including  
area code, of trustee's agent for service)

USB Capital VII  
(Exact name of obligor as specified in its charter)

The State of Delaware  
(State or other jurisdiction of incorporation or organization)

41-2006189  
(I.R.S. employer identification no.)

c/o  
Steve Finklea, Vice President  
Delaware Trust Company, National Association  
300 Delaware Avenue, 9th Floor  
Wilmington, DE 19801

(Address, including zip code, of principal executive offices)

\_\_\_\_\_

## CAPITAL SECURITIES

(Title of the Securities)

1. General information. Furnish the following information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject:

Name	Address
Federal Reserve Bank of Richmond, VA	Richmond, VA
Comptroller of the Currency	Washington, D.C.
Securities and Exchange Commission Division of Market Regulation	Washington, D.C.
Federal Deposit Insurance Corporation	Washington, D.C.

(b) Whether it is authorized to exercise corporate trust powers.

The trustee is authorized to exercise corporate trust powers.

2. Affiliations with obligor and underwriters. If the obligor or any underwriter for the obligor is an affiliate of the trustee, describe each such affiliation.

The trustee is affiliated with Wachovia Capital Markets, LLC, who may act in the future as an underwriter of the securities.

(See Note 1 on Page 4.)

Because the obligor is not in default on any securities issued under indentures under which the applicant is trustee, Items 3 through 15 are not required herein.

16. List of Exhibits

All exhibits identified below are filed as part of this statement of eligibility.

1. A copy of the Articles of Association of Delaware Trust Company, National Association, as now in effect, which contain the authority to commence business and a grant of powers to exercise corporate trust powers.\*
2. A copy of the certificate of authority of the trustee to commence business, if not contained in the Articles of Association.\*
3. A copy of the authorization of the trustee to exercise corporate trust powers, if such authorization is not contained in the documents specified in exhibits (1) or (2) above.\*
4. A copy of the existing By-laws of Delaware Trust Company, National Association, or instruments corresponding thereto.\*
5. Inapplicable.
6. The consent of the trustee required by Section 321(b) of the Trust Indenture Act of 1939 is included at Page 4 of this Form T-1 Statement.
7. A copy of the latest report of condition of the trustee published pursuant to law or to the requirements of its supervising or examining authority is attached hereto.\*
8. Inapplicable.
9. Inapplicable.

\* Incorporated by reference to Form T-1 Statement of Eligibility of Delaware Trust Company to act as trustee under the Guarantee for the benefit of the holders of Capital Securities included as exhibit 25.2 to Form 8-K/A of US Bancorp filed on March 9, 2005.

## NOTE

Note 1: Inasmuch as this Form T-1 is filed prior to the ascertainment by the Trustee of all facts on which to base a responsive answer to Item 2, the answer to said Item is based on incomplete information. Item 2 may, however, be considered correct unless amended by an amendment to this Form T-1.

## SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, as amended, the trustee, Delaware Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility and qualification to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Wilmington, and State of Delaware, on the 28th day of April, 2005.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION (trustee)

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President

## CONSENT OF TRUSTEE

Under section 321(b) of the Trust Indenture Act of 1939, as amended, and in connection with the proposed issuance by USB Capital VII of Trust Preferred Securities, Delaware Trust Company, National Association, as the trustee herein named, hereby consents that reports of examinations of said Trustee by Federal, State, Territorial or District authorities may be furnished by such authorities to the Securities and Exchange Commission upon requests therefore.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President

Dated: **April 28, 2005**





**Registration No.**

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

**FORM T-1****STATEMENT OF ELIGIBILITY AND QUALIFICATION  
UNDER THE TRUST INDENTURE ACT OF 1939, AS AMENDED, OF A  
CORPORATION DESIGNATED TO ACT AS TRUSTEE**CHECK IF AN APPLICATION TO DETERMINE ELIGIBILITY OF A TRUSTEE  
PURSUANT TO SECTION 305(b)(2) \_\_\_\_\_

DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION

(Exact name of trustee as specified in its charter)

United States National Banking Association  
(State of incorporation if not a national bank)  
Delaware Trust Company, National Association  
300 Delaware Avenue, 9th Floor  
Wilmington, DE  
(Address of principal executive offices)56-1989961  
(I.R.S. employer identification no.)  
  
19801  
(Zip Code)Same as above(Name, address and telephone number, including  
area code, of trustee's agent for service)USB Capital VIII  
(Exact name of obligor as specified in its charter)The State of Delaware  
(State or other jurisdiction of incorporation or organization)[Applied For]  
(I.R.S. employer identification no.)

c/o

Steve Finklea, Vice President  
Delaware Trust Company, National Association  
300 Delaware Avenue, 9th Floor  
Wilmington, DE 19801

(Address, including zip code, of principal executive offices)

## CAPITAL SECURITIES

(Title of the Securities)

1. General information. Furnish the following information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject:

Name	Address
Federal Reserve Bank of Richmond, VA	Richmond, VA
Comptroller of the Currency	Washington, D.C.
Securities and Exchange Commission Division of Market Regulation	Washington, D.C.
Federal Deposit Insurance Corporation	Washington, D.C.

(b) Whether it is authorized to exercise corporate trust powers.

The trustee is authorized to exercise corporate trust powers.

2. Affiliations with obligor and underwriters. If the obligor or any underwriter for the obligor is an affiliate of the trustee, describe each such affiliation.

The trustee is affiliated with Wachovia Capital Markets, LLC, who may act in the future as an underwriter of the securities.

(See Note 1 on Page 4.)

Because the obligor is not in default on any securities issued under indentures under which the applicant is trustee, Items 3 through 15 are not required herein.

16. List of Exhibits

All exhibits identified below are filed as part of this statement of eligibility.

1. A copy of the Articles of Association of Delaware Trust Company, National Association, as now in effect, which contain the authority to commence business and a grant of powers to exercise corporate trust powers.\*
2. A copy of the certificate of authority of the trustee to commence business, if not contained in the Articles of Association.\*
3. A copy of the authorization of the trustee to exercise corporate trust powers, if such authorization is not contained in the documents specified in exhibits (1) or (2) above.\*
4. A copy of the existing By-laws of Delaware Trust Company, National Association, or instruments corresponding thereto.\*
5. Inapplicable.
6. The consent of the trustee required by Section 321(b) of the Trust Indenture Act of 1939 is included at Page 4 of this Form T-1 Statement.
7. A copy of the latest report of condition of the trustee published pursuant to law or to the requirements of its supervising or examining authority is attached hereto.\*
8. Inapplicable.
9. Inapplicable.

\* Incorporated by reference to Form T-1 Statement of Eligibility of Delaware Trust Company to act as trustee under the Guarantee for the benefit of the holders of Capital Securities included as exhibit 25.2 to Form 8-K/A of US Bancorp filed on March 9, 2005.

## NOTE

Note 1: Inasmuch as this Form T-1 is filed prior to the ascertainment by the Trustee of all facts on which to base a responsive answer to Item 2, the answer to said Item is based on incomplete information. Item 2 may, however, be considered correct unless amended by an amendment to this Form T-1.

## SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, as amended, the trustee, Delaware Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility and qualification to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Wilmington, and State of Delaware, on the 28th day of April, 2005.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION (trustee)

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President

## CONSENT OF TRUSTEE

Under section 321(b) of the Trust Indenture Act of 1939, as amended, and in connection with the proposed issuance by USB Capital VIII of Trust Preferred Securities, Delaware Trust Company, National Association, as the trustee herein named, hereby consents that reports of examinations of said Trustee by Federal, State, Territorial or District authorities may be furnished by such authorities to the Securities and Exchange Commission upon requests therefore.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President

Dated: **April 28, 2005**



**Registration No.**

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

**FORM T-1**

**STATEMENT OF ELIGIBILITY AND QUALIFICATION  
UNDER THE TRUST INDENTURE ACT OF 1939, AS AMENDED, OF A  
CORPORATION DESIGNATED TO ACT AS TRUSTEE**

CHECK IF AN APPLICATION TO DETERMINE ELIGIBILITY OF A TRUSTEE  
PURSUANT TO SECTION 305(b)(2)     

\_\_\_\_\_  
DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION  
(Exact name of trustee as specified in its charter)

United States National Banking Association  
(State of incorporation if not a national bank)  
Delaware Trust Company, National Association  
300 Delaware Avenue, 9th Floor  
Wilmington, DE  
(Address of principal executive offices)

56-1989961  
(I.R.S. employer identification no.)  
  
19801  
(Zip Code)

Same as above

(Name, address and telephone number, including  
area code, of trustee's agent for service)

USB Capital IX  
(Exact name of obligor as specified in its charter)

The State of Delaware  
(State or other jurisdiction of incorporation or organization)

[Applied For]  
(I.R.S. employer identification no.)

c/o  
Steve Finklea, Vice President  
Delaware Trust Company, National Association  
300 Delaware Avenue, 9th Floor  
Wilmington, DE 19801

(Address, including zip code, of principal executive offices)

\_\_\_\_\_

CAPITAL SECURITIES

(Title of the Securities)

1. General information. Furnish the following information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject:

---

<u>Name</u>	<u>Address</u>
Federal Reserve Bank of Richmond, VA	Richmond, VA
Comptroller of the Currency	Washington, D.C.
Securities and Exchange Commission Division of Market Regulation	Washington, D.C.
Federal Deposit Insurance Corporation	Washington, D.C.

---

(b) Whether it is authorized to exercise corporate trust powers.

The trustee is authorized to exercise corporate trust powers.

2. Affiliations with obligor and underwriters. If the obligor or any underwriter for the obligor is an affiliate of the trustee, describe each such affiliation.

The trustee is affiliated with Wachovia Capital Markets, LLC, who may act in the future as an underwriter of the securities.

(See Note 1 on Page 4.)

Because the obligor is not in default on any securities issued under indentures under which the applicant is trustee, Items 3 through 15 are not required herein.

16. List of Exhibits

All exhibits identified below are filed as part of this statement of eligibility.

1. A copy of the Articles of Association of Delaware Trust Company, National Association, as now in effect, which contain the authority to commence business and a grant of powers to exercise corporate trust powers.\*
2. A copy of the certificate of authority of the trustee to commence business, if not contained in the Articles of Association.\*
3. A copy of the authorization of the trustee to exercise corporate trust powers, if such authorization is not contained in the documents specified in exhibits (1) or (2) above.\*
4. A copy of the existing By-laws of Delaware Trust Company, National Association, or instruments corresponding thereto.\*
5. Inapplicable.
6. The consent of the trustee required by Section 321(b) of the Trust Indenture Act of 1939 is included at Page 4 of this Form T-1 Statement.
7. A copy of the latest report of condition of the trustee published pursuant to law or to the requirements of its supervising or examining authority is attached hereto.\*
8. Inapplicable.
9. Inapplicable.

\* Incorporated by reference to Form T-1 Statement of Eligibility of Delaware Trust Company to act as trustee under the Guarantee for the benefit of the holders of Capital Securities included as exhibit 25.2 to Form 8-K/A of US Bancorp filed on March 9, 2005.



## NOTE

Note 1: Inasmuch as this Form T-1 is filed prior to the ascertainment by the Trustee of all facts on which to base a responsive answer to Item 2, the answer to said Item is based on incomplete information. Item 2 may, however, be considered correct unless amended by an amendment to this Form T-1.

## SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, as amended, the trustee, Delaware Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility and qualification to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Wilmington, and State of Delaware, on the 28th day of April, 2005.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION (trustee)

By: /s/ Steve Finklea  
Name: Steve Finklea  
Title: Vice President

## CONSENT OF TRUSTEE

Under section 321(b) of the Trust Indenture Act of 1939, as amended, and in connection with the proposed issuance by USB Capital IX of Trust Preferred Securities, Delaware Trust Company, National Association, as the trustee herein named, hereby consents that reports of examinations of said Trustee by Federal, State, Territorial or District authorities may be furnished by such authorities to the Securities and Exchange Commission upon requests therefore.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION

By: /s/ Steve Finklea  
Name: Steve Finklea  
Title: Vice President

Dated: **April 28, 2005**



**Registration No.**

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

**FORM T-1**

**STATEMENT OF ELIGIBILITY AND QUALIFICATION  
UNDER THE TRUST INDENTURE ACT OF 1939, AS AMENDED, OF A  
CORPORATION DESIGNATED TO ACT AS TRUSTEE**

CHECK IF AN APPLICATION TO DETERMINE ELIGIBILITY OF A TRUSTEE  
PURSUANT TO SECTION 305(b)(2)     

\_\_\_\_\_  
DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION  
(Exact name of trustee as specified in its charter)

United States National Banking Association  
(State of incorporation if not a national bank)  
Delaware Trust Company, National Association  
300 Delaware Avenue, 9th Floor  
Wilmington, DE  
(Address of principal executive offices)

56-1989961  
(I.R.S. employer identification no.)  
  
19801  
(Zip Code)

Same as above

(Name, address and telephone number, including  
area code, of trustee's agent for service)

USB Capital X  
(Exact name of obligor as specified in its charter)

The State of Delaware  
(State or other jurisdiction of incorporation or organization)

[Applied For]  
(I.R.S. employer identification no.)

c/o  
Steve Finklea, Vice President  
Delaware Trust Company, National Association  
300 Delaware Avenue, 9th Floor  
Wilmington, DE 19801

(Address, including zip code, of principal executive offices)

\_\_\_\_\_

CAPITAL SECURITIES

(Title of the Securities)

1. General information. Furnish the following information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject:

---

<u>Name</u>	<u>Address</u>
Federal Reserve Bank of Richmond, VA	Richmond, VA
Comptroller of the Currency	Washington, D.C.
Securities and Exchange Commission Division of Market Regulation	Washington, D.C.
Federal Deposit Insurance Corporation	Washington, D.C.

---

(b) Whether it is authorized to exercise corporate trust powers.

The trustee is authorized to exercise corporate trust powers.

2. Affiliations with obligor and underwriters. If the obligor or any underwriter for the obligor is an affiliate of the trustee, describe each such affiliation.

The trustee is affiliated with Wachovia Capital Markets, LLC, who may act in the future as an underwriter of the securities.

(See Note 1 on Page 4.)

Because the obligor is not in default on any securities issued under indentures under which the applicant is trustee, Items 3 through 15 are not required herein.

16. List of Exhibits

All exhibits identified below are filed as part of this statement of eligibility.

1. A copy of the Articles of Association of Delaware Trust Company, National Association, as now in effect, which contain the authority to commence business and a grant of powers to exercise corporate trust powers.\*
2. A copy of the certificate of authority of the trustee to commence business, if not contained in the Articles of Association.\*
3. A copy of the authorization of the trustee to exercise corporate trust powers, if such authorization is not contained in the documents specified in exhibits (1) or (2) above.\*
4. A copy of the existing By-laws of Delaware Trust Company, National Association, or instruments corresponding thereto.\*
5. Inapplicable.
6. The consent of the trustee required by Section 321(b) of the Trust Indenture Act of 1939 is included at Page 4 of this Form T-1 Statement.
7. A copy of the latest report of condition of the trustee published pursuant to law or to the requirements of its supervising or examining authority is attached hereto.\*
8. Inapplicable.
9. Inapplicable.

\* Incorporated by reference to Form T-1 Statement of Eligibility of Delaware Trust Company to act as trustee under the Guarantee for the benefit of the holders of Capital Securities included as exhibit 25.2 to Form 8-K/A of US Bancorp filed on March 9, 2005.

## NOTE

Note 1: Inasmuch as this Form T-1 is filed prior to the ascertainment by the Trustee of all facts on which to base a responsive answer to Item 2, the answer to said Item is based on incomplete information. Item 2 may, however, be considered correct unless amended by an amendment to this Form T-1.

## SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, as amended, the trustee, Delaware Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility and qualification to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Wilmington, and State of Delaware, on the 28th day of April, 2005.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION (trustee)

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President

## CONSENT OF TRUSTEE

Under section 321(b) of the Trust Indenture Act of 1939, as amended, and in connection with the proposed issuance by USB Capital X of Trust Preferred Securities, Delaware Trust Company, National Association, as the trustee herein named, hereby consents that reports of examinations of said Trustee by Federal, State, Territorial or District authorities may be furnished by such authorities to the Securities and Exchange Commission upon requests therefore.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President

Dated: **April 28, 2005**



**Registration No.**

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

**FORM T-1**

**STATEMENT OF ELIGIBILITY AND QUALIFICATION  
UNDER THE TRUST INDENTURE ACT OF 1939, AS AMENDED, OF A  
CORPORATION DESIGNATED TO ACT AS TRUSTEE**

CHECK IF AN APPLICATION TO DETERMINE ELIGIBILITY OF A TRUSTEE  
PURSUANT TO SECTION 305(b)(2)     

\_\_\_\_\_  
DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION  
(Exact name of trustee as specified in its charter)

United States National Banking Association  
(State of incorporation if not a national bank)  
Delaware Trust Company, National Association  
300 Delaware Avenue, 9th Floor  
Wilmington, DE  
(Address of principal executive offices)

56-1989961  
(I.R.S. employer identification no.)  
  
19801  
(Zip Code)

Same as above

(Name, address and telephone number, including  
area code, of trustee's agent for service)

USB Capital XI  
(Exact name of obligor as specified in its charter)

The State of Delaware  
(State or other jurisdiction of incorporation or organization)

[Applied For]  
(I.R.S. employer identification no.)

c/o  
Steve Finklea, Vice President  
Delaware Trust Company, National Association  
300 Delaware Avenue, 9th Floor  
Wilmington, DE 19801

(Address, including zip code, of principal executive offices)

\_\_\_\_\_



CAPITAL SECURITIES

(Title of the Securities)

1. General information. Furnish the following information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject:

---

<u>Name</u>	<u>Address</u>
Federal Reserve Bank of Richmond, VA	Richmond, VA
Comptroller of the Currency	Washington, D.C.
Securities and Exchange Commission Division of Market Regulation	Washington, D.C.
Federal Deposit Insurance Corporation	Washington, D.C.

---

(b) Whether it is authorized to exercise corporate trust powers.

The trustee is authorized to exercise corporate trust powers.

2. Affiliations with obligor and underwriters. If the obligor or any underwriter for the obligor is an affiliate of the trustee, describe each such affiliation.

The trustee is affiliated with Wachovia Capital Markets, LLC, who may act in the future as an underwriter of the securities.

(See Note 1 on Page 4.)

Because the obligor is not in default on any securities issued under indentures under which the applicant is trustee, Items 3 through 15 are not required herein.

16. List of Exhibits

All exhibits identified below are filed as part of this statement of eligibility.

1. A copy of the Articles of Association of Delaware Trust Company, National Association, as now in effect, which contain the authority to commence business and a grant of powers to exercise corporate trust powers.\*
2. A copy of the certificate of authority of the trustee to commence business, if not contained in the Articles of Association.\*
3. A copy of the authorization of the trustee to exercise corporate trust powers, if such authorization is not contained in the documents specified in exhibits (1) or (2) above.\*
4. A copy of the existing By-laws of Delaware Trust Company, National Association, or instruments corresponding thereto.\*
5. Inapplicable.
6. The consent of the trustee required by Section 321(b) of the Trust Indenture Act of 1939 is included at Page 4 of this Form T-1 Statement.
7. A copy of the latest report of condition of the trustee published pursuant to law or to the requirements of its supervising or examining authority is attached hereto.\*
8. Inapplicable.
9. Inapplicable.

\* Incorporated by reference to Form T-1 Statement of Eligibility of Delaware Trust Company to act as trustee under the Guarantee for the benefit of the holders of Capital Securities included as exhibit 25.2 to Form 8-K/A of US Bancorp filed on March 9, 2005.

## NOTE

Note 1: Inasmuch as this Form T-1 is filed prior to the ascertainment by the Trustee of all facts on which to base a responsive answer to Item 2, the answer to said Item is based on incomplete information. Item 2 may, however, be considered correct unless amended by an amendment to this Form T-1.

## SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, as amended, the trustee, Delaware Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility and qualification to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Wilmington, and State of Delaware, on the 28th day of April, 2005.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION (trustee)

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President

## CONSENT OF TRUSTEE

Under section 321(b) of the Trust Indenture Act of 1939, as amended, and in connection with the proposed issuance by USB Capital XI of Trust Preferred Securities, Delaware Trust Company, National Association, as the trustee herein named, hereby consents that reports of examinations of said Trustee by Federal, State, Territorial or District authorities may be furnished by such authorities to the Securities and Exchange Commission upon requests therefore.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President

Dated: **April 28, 2005**



**Registration No.**

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

**FORM T-1**

**STATEMENT OF ELIGIBILITY AND QUALIFICATION  
UNDER THE TRUST INDENTURE ACT OF 1939, AS AMENDED, OF A  
CORPORATION DESIGNATED TO ACT AS TRUSTEE**

CHECK IF AN APPLICATION TO DETERMINE ELIGIBILITY OF A TRUSTEE  
PURSUANT TO SECTION 305(b)(2)     

\_\_\_\_\_  
DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION  
(Exact name of trustee as specified in its charter)

United States National Banking Association  
(State of incorporation if not a national bank)  
Delaware Trust Company, National Association  
300 Delaware Avenue, 9th Floor  
Wilmington, DE  
(Address of principal executive offices)

56-1989961  
(I.R.S. employer identification no.)  
  
19801  
(Zip Code)

Same as above

(Name, address and telephone number, including  
area code, of trustee's agent for service)

USB Capital XII  
(Exact name of obligor as specified in its charter)

The State of Delaware  
(State or other jurisdiction of incorporation or organization)

[Applied For]  
(I.R.S. employer identification no.)

c/o  
Steve Finklea, Vice President  
Delaware Trust Company, National Association  
300 Delaware Avenue, 9th Floor  
Wilmington, DE 19801

(Address, including zip code, of principal executive offices)

\_\_\_\_\_

CAPITAL SECURITIES

(Title of the Securities)

1. General information. Furnish the following information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject:

---

<u>Name</u>	<u>Address</u>
Federal Reserve Bank of Richmond, VA	Richmond, VA
Comptroller of the Currency	Washington, D.C.
Securities and Exchange Commission Division of Market Regulation	Washington, D.C.
Federal Deposit Insurance Corporation	Washington, D.C.

---

(b) Whether it is authorized to exercise corporate trust powers.

The trustee is authorized to exercise corporate trust powers.

2. Affiliations with obligor and underwriters. If the obligor or any underwriter for the obligor is an affiliate of the trustee, describe each such affiliation.

The trustee is affiliated with Wachovia Capital Markets, LLC, who may act in the future as an underwriter of the securities.

(See Note 1 on Page 4.)

Because the obligor is not in default on any securities issued under indentures under which the applicant is trustee, Items 3 through 15 are not required herein.

16. List of Exhibits

All exhibits identified below are filed as part of this statement of eligibility.

1. A copy of the Articles of Association of Delaware Trust Company, National Association, as now in effect, which contain the authority to commence business and a grant of powers to exercise corporate trust powers.\*
2. A copy of the certificate of authority of the trustee to commence business, if not contained in the Articles of Association.\*
3. A copy of the authorization of the trustee to exercise corporate trust powers, if such authorization is not contained in the documents specified in exhibits (1) or (2) above.\*
4. A copy of the existing By-laws of Delaware Trust Company, National Association, or instruments corresponding thereto.\*
5. Inapplicable.
6. The consent of the trustee required by Section 321(b) of the Trust Indenture Act of 1939 is included at Page 4 of this Form T-1 Statement.
7. A copy of the latest report of condition of the trustee published pursuant to law or to the requirements of its supervising or examining authority is attached hereto.\*
8. Inapplicable.
9. Inapplicable.

\* Incorporated by reference to Form T-1 Statement of Eligibility of Delaware Trust Company to act as trustee under the Guarantee for the benefit of the holders of Capital Securities included as exhibit 25.2 to Form 8-K/A of US Bancorp filed on March 9, 2005.

## NOTE

Note 1: Inasmuch as this Form T-1 is filed prior to the ascertainment by the Trustee of all facts on which to base a responsive answer to Item 2, the answer to said Item is based on incomplete information. Item 2 may, however, be considered correct unless amended by an amendment to this Form T-1.

## SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, as amended, the trustee, Delaware Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility and qualification to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Wilmington, and State of Delaware, on the 28th day of April, 2005.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION (trustee)

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President

## CONSENT OF TRUSTEE

Under section 321(b) of the Trust Indenture Act of 1939, as amended, and in connection with the proposed issuance by USB Capital XII of Trust Preferred Securities, Delaware Trust Company, National Association, as the trustee herein named, hereby consents that reports of examinations of said Trustee by Federal, State, Territorial or District authorities may be furnished by such authorities to the Securities and Exchange Commission upon requests therefore.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President

Dated: **April 28, 2005**





**Registration No.**

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

**FORM T-1**

**STATEMENT OF ELIGIBILITY AND QUALIFICATION  
UNDER THE TRUST INDENTURE ACT OF 1939, AS AMENDED, OF A  
CORPORATION DESIGNATED TO ACT AS TRUSTEE**

CHECK IF AN APPLICATION TO DETERMINE ELIGIBILITY OF A TRUSTEE  
PURSUANT TO SECTION 305(b)(2) ☐

\_\_\_\_\_  
DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION  
(Exact name of trustee as specified in its charter)

United States National Banking Association (State of incorporation if not a national bank) Delaware Trust Company, National Association 300 Delaware Avenue, 9th Floor Wilmington, DE (Address of principal executive offices)	56-1989961 (I.R.S. employer identification no.)    19801 (Zip Code)
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------

Same as above

(Name, address and telephone number, including  
area code, of trustee's agent for service)

USB Capital XIII  
(Exact name of obligor as specified in its charter)

The State of Delaware  
(State or other jurisdiction of incorporation or organization)

[Applied For]  
(I.R.S. employer identification no.)

c/o  
Steve Finklea, Vice President  
Delaware Trust Company, National Association  
300 Delaware Avenue, 9th Floor  
Wilmington, DE 19801

(Address, including zip code, of principal executive offices)

\_\_\_\_\_

## CAPITAL SECURITIES

(Title of the Securities)

1. General information. Furnish the following information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject:

Name	Address
Federal Reserve Bank of Richmond, VA	Richmond, VA
Comptroller of the Currency	Washington, D.C.
Securities and Exchange Commission Division of Market Regulation	Washington, D.C.
Federal Deposit Insurance Corporation	Washington, D.C.

(b) Whether it is authorized to exercise corporate trust powers.

The trustee is authorized to exercise corporate trust powers.

2. Affiliations with obligor and underwriters. If the obligor or any underwriter for the obligor is an affiliate of the trustee, describe each such affiliation.

The trustee is affiliated with Wachovia Capital Markets, LLC, who may act in the future as an underwriter of the securities.

(See Note 1 on Page 4.)

Because the obligor is not in default on any securities issued under indentures under which the applicant is trustee, Items 3 through 15 are not required herein.

16. List of Exhibits

All exhibits identified below are filed as part of this statement of eligibility.

1. A copy of the Articles of Association of Delaware Trust Company, National Association, as now in effect, which contain the authority to commence business and a grant of powers to exercise corporate trust powers.\*
2. A copy of the certificate of authority of the trustee to commence business, if not contained in the Articles of Association.\*
3. A copy of the authorization of the trustee to exercise corporate trust powers, if such authorization is not contained in the documents specified in exhibits (1) or (2) above.\*
4. A copy of the existing By-laws of Delaware Trust Company, National Association, or instruments corresponding thereto.\*
5. Inapplicable.
6. The consent of the trustee required by Section 321(b) of the Trust Indenture Act of 1939 is included at Page 4 of this Form T-1 Statement.
7. A copy of the latest report of condition of the trustee published pursuant to law or to the requirements of its supervising or examining authority is attached hereto.\*
8. Inapplicable.
9. Inapplicable.

\* Incorporated by reference to Form T-1 Statement of Eligibility of Delaware Trust Company to act as trustee under the Guarantee for the benefit of the holders of Capital Securities included as exhibit 25.2 to Form 8-K/A of US Bancorp filed on March 9, 2005.

## NOTE

Note 1: Inasmuch as this Form T-1 is filed prior to the ascertainment by the Trustee of all facts on which to base a responsive answer to Item 2, the answer to said Item is based on incomplete information. Item 2 may, however, be considered correct unless amended by an amendment to this Form T-1.

## SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, as amended, the trustee, Delaware Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility and qualification to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Wilmington, and State of Delaware, on the 28th day of April, 2005.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION (trustee)

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President

## CONSENT OF TRUSTEE

Under section 321(b) of the Trust Indenture Act of 1939, as amended, and in connection with the proposed issuance by USB Capital XIII of Trust Preferred Securities, Delaware Trust Company, National Association, as the trustee herein named, hereby consents that reports of examinations of said Trustee by Federal, State, Territorial or District authorities may be furnished by such authorities to the Securities and Exchange Commission upon requests therefore.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President

Dated: **April 28, 2005**



**Registration No.**

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

**FORM T-1**

**STATEMENT OF ELIGIBILITY AND QUALIFICATION  
UNDER THE TRUST INDENTURE ACT OF 1939, AS AMENDED, OF A  
CORPORATION DESIGNATED TO ACT AS TRUSTEE**

CHECK IF AN APPLICATION TO DETERMINE ELIGIBILITY OF A TRUSTEE  
PURSUANT TO SECTION 305(b)(2) ☐

\_\_\_\_\_  
DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION  
(Exact name of trustee as specified in its charter)

United States National Banking Association	56-1989961
(State of incorporation if not a national bank)	(I.R.S. employer identification no.)
Delaware Trust Company, National Association	
300 Delaware Avenue, 9th Floor	
Wilmington, DE	19801
(Address of principal executive offices)	(Zip Code)

Same as above

(Name, address and telephone number, including  
area code, of trustee's agent for service)

USB Capital XIV  
(Exact name of obligor as specified in its charter)

The State of Delaware  
(State or other jurisdiction of incorporation or organization)

[Applied For]  
(I.R.S. employer identification no.)

c/o  
Steve Finklea, Vice President  
Delaware Trust Company, National Association  
300 Delaware Avenue, 9th Floor  
Wilmington, DE 19801

(Address, including zip code, of principal executive offices)

\_\_\_\_\_

## CAPITAL SECURITIES

(Title of the Securities)

1. General information. Furnish the following information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject:

Name	Address
Federal Reserve Bank of Richmond, VA	Richmond, VA
Comptroller of the Currency	Washington, D.C.
Securities and Exchange Commission Division of Market Regulation	Washington, D.C.
Federal Deposit Insurance Corporation	Washington, D.C.

(b) Whether it is authorized to exercise corporate trust powers.

The trustee is authorized to exercise corporate trust powers.

2. Affiliations with obligor and underwriters. If the obligor or any underwriter for the obligor is an affiliate of the trustee, describe each such affiliation.

The trustee is affiliated with Wachovia Capital Markets, LLC, who may act in the future as an underwriter of the securities.

(See Note 1 on Page 4.)

Because the obligor is not in default on any securities issued under indentures under which the applicant is trustee, Items 3 through 15 are not required herein.



16. List of Exhibits

All exhibits identified below are filed as part of this statement of eligibility.

1. A copy of the Articles of Association of Delaware Trust Company, National Association, as now in effect, which contain the authority to commence business and a grant of powers to exercise corporate trust powers.\*
2. A copy of the certificate of authority of the trustee to commence business, if not contained in the Articles of Association.\*
3. A copy of the authorization of the trustee to exercise corporate trust powers, if such authorization is not contained in the documents specified in exhibits (1) or (2) above.\*
4. A copy of the existing By-laws of Delaware Trust Company, National Association, or instruments corresponding thereto.\*
5. Inapplicable.
6. The consent of the trustee required by Section 321(b) of the Trust Indenture Act of 1939 is included at Page 4 of this Form T-1 Statement.
7. A copy of the latest report of condition of the trustee published pursuant to law or to the requirements of its supervising or examining authority is attached hereto.\*
8. Inapplicable.
9. Inapplicable.

\* Incorporated by reference to Form T-1 Statement of Eligibility of Delaware Trust Company to act as trustee under the Guarantee for the benefit of the holders of Capital Securities included as exhibit 25.2 to Form 8-K/A of US Bancorp filed on March 9, 2005.

## NOTE

Note 1: Inasmuch as this Form T-1 is filed prior to the ascertainment by the Trustee of all facts on which to base a responsive answer to Item 2, the answer to said Item is based on incomplete information. Item 2 may, however, be considered correct unless amended by an amendment to this Form T-1.

## SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, as amended, the trustee, Delaware Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility and qualification to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Wilmington, and State of Delaware, on the 28th day of April, 2005.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION (trustee)

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President

## CONSENT OF TRUSTEE

Under section 321(b) of the Trust Indenture Act of 1939, as amended, and in connection with the proposed issuance by USB Capital XIV of Trust Preferred Securities, Delaware Trust Company, National Association, as the trustee herein named, hereby consents that reports of examinations of said Trustee by Federal, State, Territorial or District authorities may be furnished by such authorities to the Securities and Exchange Commission upon requests therefore.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President

Dated: **April 28, 2005**



**Registration No.**

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

**FORM T-1**

**STATEMENT OF ELIGIBILITY AND QUALIFICATION  
UNDER THE TRUST INDENTURE ACT OF 1939, AS AMENDED, OF A  
CORPORATION DESIGNATED TO ACT AS TRUSTEE**

CHECK IF AN APPLICATION TO DETERMINE ELIGIBILITY OF A TRUSTEE  
PURSUANT TO SECTION 305(b)(2) ☐

\_\_\_\_\_  
DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION  
(Exact name of trustee as specified in its charter)

United States National Banking Association  
(State of incorporation if not a national bank)  
Delaware Trust Company, National Association  
300 Delaware Avenue, 9th Floor  
Wilmington, DE  
(Address of principal executive offices)

56-1989961  
(I.R.S. employer identification no.)  
  
19801  
(Zip Code)

Same as above

(Name, address and telephone number, including  
area code, of trustee's agent for service)

USB Capital XV  
(Exact name of obligor as specified in its charter)

The State of Delaware  
(State or other jurisdiction of incorporation or organization)

[Applied For]  
(I.R.S. employer identification no.)

c/o  
Steve Finklea, Vice President  
Delaware Trust Company, National Association  
300 Delaware Avenue, 9th Floor  
Wilmington, DE 19801

(Address, including zip code, of principal executive offices)

\_\_\_\_\_

## CAPITAL SECURITIES

(Title of the Securities)

1. General information. Furnish the following information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject:

Name	Address
Federal Reserve Bank of Richmond, VA	Richmond, VA
Comptroller of the Currency	Washington, D.C.
Securities and Exchange Commission Division of Market Regulation	Washington, D.C.
Federal Deposit Insurance Corporation	Washington, D.C.

(b) Whether it is authorized to exercise corporate trust powers.

The trustee is authorized to exercise corporate trust powers.

2. Affiliations with obligor and underwriters. If the obligor or any underwriter for the obligor is an affiliate of the trustee, describe each such affiliation.

The trustee is affiliated with Wachovia Capital Markets, LLC, who may act in the future as an underwriter of the securities.

(See Note 1 on Page 4.)

Because the obligor is not in default on any securities issued under indentures under which the applicant is trustee, Items 3 through 15 are not required herein.

16. List of Exhibits

All exhibits identified below are filed as part of this statement of eligibility.

1. A copy of the Articles of Association of Delaware Trust Company, National Association, as now in effect, which contain the authority to commence business and a grant of powers to exercise corporate trust powers.\*
2. A copy of the certificate of authority of the trustee to commence business, if not contained in the Articles of Association.\*
3. A copy of the authorization of the trustee to exercise corporate trust powers, if such authorization is not contained in the documents specified in exhibits (1) or (2) above.\*
4. A copy of the existing By-laws of Delaware Trust Company, National Association, or instruments corresponding thereto.\*
5. Inapplicable.
6. The consent of the trustee required by Section 321(b) of the Trust Indenture Act of 1939 is included at Page 4 of this Form T-1 Statement.
7. A copy of the latest report of condition of the trustee published pursuant to law or to the requirements of its supervising or examining authority is attached hereto.\*
8. Inapplicable.
9. Inapplicable.

\* Incorporated by reference to Form T-1 Statement of Eligibility of Delaware Trust Company to act as trustee under the Guarantee for the benefit of the holders of Capital Securities included as exhibit 25.2 to Form 8-K/A of US Bancorp filed on March 9, 2005.

## NOTE

Note 1: Inasmuch as this Form T-1 is filed prior to the ascertainment by the Trustee of all facts on which to base a responsive answer to Item 2, the answer to said Item is based on incomplete information. Item 2 may, however, be considered correct unless amended by an amendment to this Form T-1.

## SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, as amended, the trustee, Delaware Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility and qualification to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Wilmington, and State of Delaware, on the 28th day of April, 2005.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION (trustee)

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President

## CONSENT OF TRUSTEE

Under section 321(b) of the Trust Indenture Act of 1939, as amended, and in connection with the proposed issuance by USB Capital XV of Trust Preferred Securities, Delaware Trust Company, National Association, as the trustee herein named, hereby consents that reports of examinations of said Trustee by Federal, State, Territorial or District authorities may be furnished by such authorities to the Securities and Exchange Commission upon requests therefore.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President

Dated: **April 28, 2005**





**Registration No.**

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

**FORM T-1**

**STATEMENT OF ELIGIBILITY AND QUALIFICATION  
UNDER THE TRUST INDENTURE ACT OF 1939, AS AMENDED, OF A  
CORPORATION DESIGNATED TO ACT AS TRUSTEE**

CHECK IF AN APPLICATION TO DETERMINE ELIGIBILITY OF A TRUSTEE  
PURSUANT TO SECTION 305(b)(2) ☐

\_\_\_\_\_  
DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION  
(Exact name of trustee as specified in its charter)

United States National Banking Association (State of incorporation if not a national bank)	56-1989961 (I.R.S. employer identification no.)
Delaware Trust Company, National Association 300 Delaware Avenue, 9th Floor Wilmington, DE	19801 (Zip Code)
(Address of principal executive offices)	

Same as above

(Name, address and telephone number, including  
area code, of trustee's agent for service)

USB Capital XVI  
(Exact name of obligor as specified in its charter)

The State of Delaware  
(State or other jurisdiction of incorporation or organization)

[Applied For]  
(I.R.S. employer identification no.)

c/o  
Steve Finklea, Vice President  
Delaware Trust Company, National Association  
300 Delaware Avenue, 9th Floor  
Wilmington, DE 19801

(Address, including zip code, of principal executive offices)

\_\_\_\_\_

## CAPITAL SECURITIES

(Title of the Securities)

1. General information. Furnish the following information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject:

Name	Address
Federal Reserve Bank of Richmond, VA	Richmond, VA
Comptroller of the Currency	Washington, D.C.
Securities and Exchange Commission Division of Market Regulation	Washington, D.C.
Federal Deposit Insurance Corporation	Washington, D.C.

(b) Whether it is authorized to exercise corporate trust powers.

The trustee is authorized to exercise corporate trust powers.

2. Affiliations with obligor and underwriters. If the obligor or any underwriter for the obligor is an affiliate of the trustee, describe each such affiliation.

The trustee is affiliated with Wachovia Capital Markets, LLC, who may act in the future as an underwriter of the securities.

(See Note 1 on Page 4.)

Because the obligor is not in default on any securities issued under indentures under which the applicant is trustee, Items 3 through 15 are not required herein.

16. List of Exhibits

All exhibits identified below are filed as part of this statement of eligibility.

1. A copy of the Articles of Association of Delaware Trust Company, National Association, as now in effect, which contain the authority to commence business and a grant of powers to exercise corporate trust powers.\*
2. A copy of the certificate of authority of the trustee to commence business, if not contained in the Articles of Association.\*
3. A copy of the authorization of the trustee to exercise corporate trust powers, if such authorization is not contained in the documents specified in exhibits (1) or (2) above.\*
4. A copy of the existing By-laws of Delaware Trust Company, National Association, or instruments corresponding thereto.\*
5. Inapplicable.
6. The consent of the trustee required by Section 321(b) of the Trust Indenture Act of 1939 is included at Page 4 of this Form T-1 Statement.
7. A copy of the latest report of condition of the trustee published pursuant to law or to the requirements of its supervising or examining authority is attached hereto.\*
8. Inapplicable.
9. Inapplicable.

\* Incorporated by reference to Form T-1 Statement of Eligibility of Delaware Trust Company to act as trustee under the Guarantee for the benefit of the holders of Capital Securities included as exhibit 25.2 to Form 8-K/A of US Bancorp filed on March 9, 2005.

## NOTE

Note 1: Inasmuch as this Form T-1 is filed prior to the ascertainment by the Trustee of all facts on which to base a responsive answer to Item 2, the answer to said Item is based on incomplete information. Item 2 may, however, be considered correct unless amended by an amendment to this Form T-1.

## SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, as amended, the trustee, Delaware Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility and qualification to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Wilmington, and State of Delaware, on the 28th day of April, 2005.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION (trustee)

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President

## CONSENT OF TRUSTEE

Under section 321(b) of the Trust Indenture Act of 1939, as amended, and in connection with the proposed issuance by USB Capital XVI of Trust Preferred Securities, Delaware Trust Company, National Association, as the trustee herein named, hereby consents that reports of examinations of said Trustee by Federal, State, Territorial or District authorities may be furnished by such authorities to the Securities and Exchange Commission upon requests therefore.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION

By: /s/ Steve Finklea

Name: Steve Finklea

Title: Vice President

Dated: **April 28, 2005**



**Registration No.**

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

**FORM T-1**

**STATEMENT OF ELIGIBILITY AND QUALIFICATION  
UNDER THE TRUST INDENTURE ACT OF 1939, AS AMENDED, OF A  
CORPORATION DESIGNATED TO ACT AS TRUSTEE**

CHECK IF AN APPLICATION TO DETERMINE ELIGIBILITY OF A TRUSTEE  
PURSUANT TO SECTION 305(b)(2)       

DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION  
(Exact name of trustee as specified in its charter)

United States National Banking Association  
(State of incorporation if not a national bank)  
Delaware Trust Company, National Association  
300 Delaware Avenue, 9th Floor  
Wilmington, DE  
(Address of principal executive offices)

56-1989961  
(I.R.S. employer identification no.)

19801  
(Zip Code)

Same as above

(Name, address and telephone number, including  
area code, of trustee's agent for service)

U.S. Bancorp  
(Exact name of obligor as specified in its charter)

The State of Delaware  
(State or other jurisdiction of incorporation or organization)

41-025590  
(I.R.S. employer identification no.)

c/o  
Steve Finklea, Vice President  
Delaware Trust Company, National Association  
300 Delaware Avenue, 9th Floor

Wilmington, DE 19801 (Address, including zip code, of principal executive offices)

## GUARANTEE OF CAPITAL SECURITIES OF USB CAPITAL VII

(Title of the Securities)

1. General information. Furnish the following information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject:

Name	Address
Federal Reserve Bank of Richmond, VA	Richmond, VA
Comptroller of the Currency	Washington, D.C.
Securities and Exchange Commission Division of Market Regulation	Washington, D.C.
Federal Deposit Insurance Corporation	Washington, D.C.

(b) Whether it is authorized to exercise corporate trust powers.

The trustee is authorized to exercise corporate trust powers.

2. Affiliations with obligor and underwriters. If the obligor or any underwriter for the obligor is an affiliate of the trustee, describe each such affiliation.

The trustee is affiliated with Wachovia Capital Markets, LLC, who may act in the future as an underwriter of the securities.

(See Note 1 on Page 4.)

Because the obligor is not in default on any securities issued under indentures under which the applicant is trustee, Items 3 through 15 are not required herein.

16. List of Exhibits

All exhibits identified below are filed as part of this statement of eligibility.

1. A copy of the Articles of Association of Delaware Trust Company, National Association, as now in effect, which contain the authority to commence business and a grant of powers to exercise corporate trust powers.\*
2. A copy of the certificate of authority of the trustee to commence business, if not contained in the Articles of Association.\*
3. A copy of the authorization of the trustee to exercise corporate trust powers, if such authorization is not contained in the documents specified in exhibits (1) or (2) above.\*
4. A copy of the existing By-laws of Delaware Trust Company, National Association, or instruments corresponding thereto.\*
5. Inapplicable.
6. The consent of the trustee required by Section 321(b) of the Trust Indenture Act of 1939 is included at Page 4 of this Form T-1 Statement.
7. A copy of the latest report of condition of the trustee published pursuant to law or to the requirements of its supervising or examining authority is attached hereto.\*
8. Inapplicable.
9. Inapplicable.

\* Incorporated by reference to Form T-1 Statement of Eligibility of Delaware Trust Company to act as trustee under the Guarantee for the benefit of the holders of Capital Securities included as exhibit 25.2 to Form 8-K/A of US Bancorp filed on March 9, 2005.



## NOTE

Note 1: Inasmuch as this Form T-1 is filed prior to the ascertainment by the Trustee of all facts on which to base a responsive answer to Item 2, the answer to said Item is based on incomplete information. Item 2 may, however, be considered correct unless amended by an amendment to this Form T-1.

## SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, as amended, the trustee, Delaware Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility and qualification to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Wilmington, and State of Delaware, on the 28th day of April, 2005.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION (trustee)

By: /s/ Steve Finklea  
Name: Steve Finklea  
Title: Vice President

## CONSENT OF TRUSTEE

Under section 321(b) of the Trust Indenture Act of 1939, as amended, and in connection with the proposed issuance by U.S. Bancorp of the Guarantee described herein, Delaware Trust Company, National Association, as the trustee herein named, hereby consents that reports of examinations of said Trustee by Federal, State, Territorial or District authorities may be furnished by such authorities to the Securities and Exchange Commission upon requests therefore.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION

By: /s/ Steve Finklea  
Name: Steve Finklea  
Title: Vice President

Dated: **April 28, 2005**



**Registration No.**

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

**FORM T-1**

**STATEMENT OF ELIGIBILITY AND QUALIFICATION  
UNDER THE TRUST INDENTURE ACT OF 1939, AS AMENDED, OF A  
CORPORATION DESIGNATED TO ACT AS TRUSTEE**

CHECK IF AN APPLICATION TO DETERMINE ELIGIBILITY OF A TRUSTEE

PURSUANT TO SECTION 305(b)(2) \_\_\_\_

DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION  
(Exact name of trustee as specified in its charter)

United States National Banking Association  
(State of incorporation if not a national bank)  
Delaware Trust Company, National Association  
300 Delaware Avenue, 9th Floor  
Wilmington, DE  
(Address of principal executive offices)

56-1989961  
(I.R.S. employer identification no.)  
  
19801  
(Zip Code)

Same as above

(Name, address and telephone number, including  
area code, of trustee's agent for service)

U.S. Bancorp

(Exact name of obligor as specified in its charter)

The State of Delaware

(State or other jurisdiction of incorporation or organization)

41-025590

(I.R.S. employer identification no.)

c/o

Steve Finklea, Vice President  
Delaware Trust Company, National Association  
300 Delaware Avenue, 9th Floor  
Wilmington, DE 19801

(Address, including zip code, of principal executive offices)

# GUARANTEE OF CAPITAL SECURITIES OF USB CAPITAL VIII

(Title of the Securities)

1. General information. Furnish the following information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject:

Name	Address
Federal Reserve Bank of Richmond, VA	Richmond, VA
Comptroller of the Currency	Washington, D.C.
Securities and Exchange Commission Division of Market Regulation	Washington, D.C.
Federal Deposit Insurance Corporation	Washington, D.C.

(b) Whether it is authorized to exercise corporate trust powers.

The trustee is authorized to exercise corporate trust powers.

2. Affiliations with obligor and underwriters. If the obligor or any underwriter for the obligor is an affiliate of the trustee, describe each such affiliation.

The trustee is affiliated with Wachovia Capital Markets, LLC, who may act in the future as an underwriter of the securities.

(See Note 1 on Page 4.)

Because the obligor is not in default on any securities issued under indentures under which the applicant is trustee, Items 3 through 15 are not required herein.

16. List of Exhibits

All exhibits identified below are filed as part of this statement of eligibility.

1. A copy of the Articles of Association of Delaware Trust Company, National Association, as now in effect, which contain the authority to commence business and a grant of powers to exercise corporate trust powers.\*
2. A copy of the certificate of authority of the trustee to commence business, if not contained in the Articles of Association.\*
3. A copy of the authorization of the trustee to exercise corporate trust powers, if such authorization is not contained in the documents specified in exhibits (1) or (2) above.\*
4. A copy of the existing By-laws of Delaware Trust Company, National Association, or instruments corresponding thereto.\*
5. Inapplicable.
6. The consent of the trustee required by Section 321(b) of the Trust Indenture Act of 1939 is included at Page 4 of this Form T-1 Statement.
7. A copy of the latest report of condition of the trustee published pursuant to law or to the requirements of its supervising or examining authority is attached hereto.\*
8. Inapplicable.
9. Inapplicable.

\* Incorporated by reference to Form T-1 Statement of Eligibility of Delaware Trust Company to act as trustee under the Guarantee for the benefit of the holders of Capital Securities included as exhibit 25.2 to Form 8-K/A of US Bancorp filed on March 9, 2005.

## NOTE

Note 1: Inasmuch as this Form T-1 is filed prior to the ascertainment by the Trustee of all facts on which to base a responsive answer to Item 2, the answer to said Item is based on incomplete information. Item 2 may, however, be considered correct unless amended by an amendment to this Form T-1.

## SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, as amended, the trustee, Delaware Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility and qualification to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Wilmington, and State of Delaware, on the 28th day of April, 2005.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION (trustee)

By: /s/ Steve Finklea  
Name: Steve Finklea  
Title: Vice President

## CONSENT OF TRUSTEE

Under section 321(b) of the Trust Indenture Act of 1939, as amended, and in connection with the proposed issuance by U.S. Bancorp of the Guarantee described herein, Delaware Trust Company, National Association, as the trustee herein named, hereby consents that reports of examinations of said Trustee by Federal, State, Territorial or District authorities may be furnished by such authorities to the Securities and Exchange Commission upon requests therefore.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION

By: /s/ Steve Finklea  
Name: Steve Finklea  
Title: Vice President

Dated: **April 28, 2005**



**Registration No.**

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

**FORM T-1****STATEMENT OF ELIGIBILITY AND QUALIFICATION****UNDER THE TRUST INDENTURE ACT OF 1939, AS AMENDED, OF A  
CORPORATION DESIGNATED TO ACT AS TRUSTEE**

CHECK IF AN APPLICATION TO DETERMINE ELIGIBILITY OF A TRUSTEE

PURSUANT TO SECTION 305(b)(2) \_\_\_\_

\_\_\_\_\_  
DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION  
(Exact name of trustee as specified in its charter)United States National Banking Association  
(State of incorporation if not a national bank)  
Delaware Trust Company, National Association  
300 Delaware Avenue, 9th Floor  
Wilmington, DE  
(Address of principal executive offices)56-1989961  
(I.R.S. employer identification no.)19801  
(Zip Code)Same as above(Name, address and telephone number, including  
area code, of trustee's agent for service)

U.S. Bancorp

(Exact name of obligor as specified in its charter)

The State of Delaware

(State or other jurisdiction of incorporation or organization)

41-025590

(I.R.S. employer identification no.)

c/o

Steve Finklea, Vice President  
Delaware Trust Company, National Association  
300 Delaware Avenue, 9th Floor  
Wilmington, DE 19801(Address, including zip code, of principal executive offices)  
\_\_\_\_\_



GUARANTEE OF CAPITAL SECURITIES OF USB CAPITAL IX

(Title of the Securities)

1. General information. Furnish the following information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject:

Name	Address
Federal Reserve Bank of Richmond, VA	Richmond, VA
Comptroller of the Currency	Washington, D.C.
Securities and Exchange Commission Division of Market Regulation	Washington, D.C.
Federal Deposit Insurance Corporation	Washington, D.C.

(b) Whether it is authorized to exercise corporate trust powers.

The trustee is authorized to exercise corporate trust powers.

2. Affiliations with obligor and underwriters. If the obligor or any underwriter for the obligor is an affiliate of the trustee, describe each such affiliation.

The trustee is affiliated with Wachovia Capital Markets, LLC, who may act in the future as an underwriter of the securities.

(See Note 1 on Page 4.)

Because the obligor is not in default on any securities issued under indentures under which the applicant is trustee, Items 3 through 15 are not required herein.

16. List of Exhibits

All exhibits identified below are filed as part of this statement of eligibility.

1. A copy of the Articles of Association of Delaware Trust Company, National Association, as now in effect, which contain the authority to commence business and a grant of powers to exercise corporate trust powers.\*
2. A copy of the certificate of authority of the trustee to commence business, if not contained in the Articles of Association.\*
3. A copy of the authorization of the trustee to exercise corporate trust powers, if such authorization is not contained in the documents specified in exhibits (1) or (2) above.\*
4. A copy of the existing By-laws of Delaware Trust Company, National Association, or instruments corresponding thereto.\*
5. Inapplicable.
6. The consent of the trustee required by Section 321(b) of the Trust Indenture Act of 1939 is included at Page 4 of this Form T-1 Statement.
7. A copy of the latest report of condition of the trustee published pursuant to law or to the requirements of its supervising or examining authority is attached hereto.\*
8. Inapplicable.
9. Inapplicable.

\* Incorporated by reference to Form T-1 Statement of Eligibility of Delaware Trust Company to act as trustee under the Guarantee for the benefit of the holders of Capital Securities included as exhibit 25.2 to Form 8-K/A of US Bancorp filed on March 9, 2005.

## NOTE

Note 1: Inasmuch as this Form T-1 is filed prior to the ascertainment by the Trustee of all facts on which to base a responsive answer to Item 2, the answer to said Item is based on incomplete information. Item 2 may, however, be considered correct unless amended by an amendment to this Form T-1.

## SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, as amended, the trustee, Delaware Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility and qualification to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Wilmington, and State of Delaware, on the 28th day of April, 2005.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION (trustee)

By: /s/ Steve Finklea  
Name: Steve Finklea  
Title: Vice President

## CONSENT OF TRUSTEE

Under section 321(b) of the Trust Indenture Act of 1939, as amended, and in connection with the proposed issuance by U.S. Bancorp of the Guarantee described herein, Delaware Trust Company, National Association, as the trustee herein named, hereby consents that reports of examinations of said Trustee by Federal, State, Territorial or District authorities may be furnished by such authorities to the Securities and Exchange Commission upon requests therefore.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION

By: /s/ Steve Finklea  
Name: Steve Finklea  
Title: Vice President

Dated: **April 28, 2005**



**Registration No.**

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

**FORM T-1****STATEMENT OF ELIGIBILITY AND QUALIFICATION****UNDER THE TRUST INDENTURE ACT OF 1939, AS AMENDED, OF A  
CORPORATION DESIGNATED TO ACT AS TRUSTEE**

CHECK IF AN APPLICATION TO DETERMINE ELIGIBILITY OF A TRUSTEE

PURSUANT TO SECTION 305(b)(2) \_\_\_\_  
\_\_\_\_\_

DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION

(Exact name of trustee as specified in its charter)

United States National Banking Association  
 (State of incorporation if not a national bank)  
 Delaware Trust Company, National Association  
 300 Delaware Avenue, 9th Floor  
 Wilmington, DE  
 (Address of principal executive offices)

56-1989961  
 (I.R.S. employer identification no.)

19801  
 (Zip Code)

Same as above

(Name, address and telephone number, including  
 area code, of trustee's agent for service)

U.S. Bancorp

(Exact name of obligor as specified in its charter)

The State of Delaware

(State or other jurisdiction of incorporation or organization)

41-025590

(I.R.S. employer identification no.)

c/o

Steve Finklea, Vice President  
 Delaware Trust Company, National Association  
 300 Delaware Avenue, 9th Floor  
 Wilmington, DE 19801

(Address, including zip code, of principal executive offices)  
\_\_\_\_\_



GUARANTEE OF CAPITAL SECURITIES OF USB CAPITAL X

(Title of the Securities)

1. General information. Furnish the following information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject:

Name	Address
Federal Reserve Bank of Richmond, VA	Richmond, VA
Comptroller of the Currency	Washington, D.C.
Securities and Exchange Commission Division of Market Regulation	Washington, D.C.
Federal Deposit Insurance Corporation	Washington, D.C.

(b) Whether it is authorized to exercise corporate trust powers.

The trustee is authorized to exercise corporate trust powers.

2. Affiliations with obligor and underwriters. If the obligor or any underwriter for the obligor is an affiliate of the trustee, describe each such affiliation.

The trustee is affiliated with Wachovia Capital Markets, LLC, who may act in the future as an underwriter of the securities.

(See Note 1 on Page 4.)

Because the obligor is not in default on any securities issued under indentures under which the applicant is trustee, Items 3 through 15 are not required herein.

16. List of Exhibits

All exhibits identified below are filed as part of this statement of eligibility.

1. A copy of the Articles of Association of Delaware Trust Company, National Association, as now in effect, which contain the authority to commence business and a grant of powers to exercise corporate trust powers.\*
2. A copy of the certificate of authority of the trustee to commence business, if not contained in the Articles of Association.\*
3. A copy of the authorization of the trustee to exercise corporate trust powers, if such authorization is not contained in the documents specified in exhibits (1) or (2) above.\*
4. A copy of the existing By-laws of Delaware Trust Company, National Association, or instruments corresponding thereto.\*
5. Inapplicable.
6. The consent of the trustee required by Section 321(b) of the Trust Indenture Act of 1939 is included at Page 4 of this Form T-1 Statement.
7. A copy of the latest report of condition of the trustee published pursuant to law or to the requirements of its supervising or examining authority is attached hereto.\*
8. Inapplicable.
9. Inapplicable.

\* Incorporated by reference to Form T-1 Statement of Eligibility of Delaware Trust Company to act as trustee under the Guarantee for the benefit of the holders of Capital Securities included as exhibit 25.2 to Form 8-K/A of US Bancorp filed on March 9, 2005.



## NOTE

Note 1: Inasmuch as this Form T-1 is filed prior to the ascertainment by the Trustee of all facts on which to base a responsive answer to Item 2, the answer to said Item is based on incomplete information. Item 2 may, however, be considered correct unless amended by an amendment to this Form T-1.

## SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, as amended, the trustee, Delaware Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility and qualification to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Wilmington, and State of Delaware, on the 28th day of April, 2005.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION (trustee)

By: /s/ Steve Finklea  
Name: Steve Finklea  
Title: Vice President

## CONSENT OF TRUSTEE

Under section 321(b) of the Trust Indenture Act of 1939, as amended, and in connection with the proposed issuance by U.S. Bancorp of the Guarantee described herein, Delaware Trust Company, National Association, as the trustee herein named, hereby consents that reports of examinations of said Trustee by Federal, State, Territorial or District authorities may be furnished by such authorities to the Securities and Exchange Commission upon requests therefore.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION

By: /s/ Steve Finklea  
Name: Steve Finklea  
Title: Vice President

Dated: **April 28, 2005**



**Registration No.**

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

**FORM T-1****STATEMENT OF ELIGIBILITY AND QUALIFICATION****UNDER THE TRUST INDENTURE ACT OF 1939, AS AMENDED, OF A  
CORPORATION DESIGNATED TO ACT AS TRUSTEE**

CHECK IF AN APPLICATION TO DETERMINE ELIGIBILITY OF A TRUSTEE

PURSUANT TO SECTION 305(b)(2) \_\_\_\_  
\_\_\_\_\_

DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION

(Exact name of trustee as specified in its charter)

United States National Banking Association  
 (State of incorporation if not a national bank)  
 Delaware Trust Company, National Association  
 300 Delaware Avenue, 9th Floor  
 Wilmington, DE  
 (Address of principal executive offices)

56-1989961  
 (I.R.S. employer identification no.)

19801  
 (Zip Code)

Same as above

(Name, address and telephone number, including  
 area code, of trustee's agent for service)

U.S. Bancorp

(Exact name of obligor as specified in its charter)

The State of Delaware

(State or other jurisdiction of incorporation or organization)

41-025590

(I.R.S. employer identification no.)

c/o

Steve Finklea, Vice President  
 Delaware Trust Company, National Association  
 300 Delaware Avenue, 9th Floor  
 Wilmington, DE 19801

(Address, including zip code, of principal executive offices)  
\_\_\_\_\_



GUARANTEE OF CAPITAL SECURITIES OF USB CAPITAL XI

(Title of the Securities)

1. General information. Furnish the following information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject:

Name	Address
Federal Reserve Bank of Richmond, VA	Richmond, VA
Comptroller of the Currency	Washington, D.C.
Securities and Exchange Commission Division of Market Regulation	Washington, D.C.
Federal Deposit Insurance Corporation	Washington, D.C.

(b) Whether it is authorized to exercise corporate trust powers.

The trustee is authorized to exercise corporate trust powers.

2. Affiliations with obligor and underwriters. If the obligor or any underwriter for the obligor is an affiliate of the trustee, describe each such affiliation.

The trustee is affiliated with Wachovia Capital Markets, LLC, who may act in the future as an underwriter of the securities.

(See Note 1 on Page 4.)

Because the obligor is not in default on any securities issued under indentures under which the applicant is trustee, Items 3 through 15 are not required herein.

16. List of Exhibits

All exhibits identified below are filed as part of this statement of eligibility.

1. A copy of the Articles of Association of Delaware Trust Company, National Association, as now in effect, which contain the authority to commence business and a grant of powers to exercise corporate trust powers.\*
2. A copy of the certificate of authority of the trustee to commence business, if not contained in the Articles of Association.\*
3. A copy of the authorization of the trustee to exercise corporate trust powers, if such authorization is not contained in the documents specified in exhibits (1) or (2) above.\*
4. A copy of the existing By-laws of Delaware Trust Company, National Association, or instruments corresponding thereto.\*
5. Inapplicable.
6. The consent of the trustee required by Section 321(b) of the Trust Indenture Act of 1939 is included at Page 4 of this Form T-1 Statement.
7. A copy of the latest report of condition of the trustee published pursuant to law or to the requirements of its supervising or examining authority is attached hereto.\*
8. Inapplicable.
9. Inapplicable.

\* Incorporated by reference to Form T-1 Statement of Eligibility of Delaware Trust Company to act as trustee under the Guarantee for the benefit of the holders of Capital Securities included as exhibit 25.2 to Form 8-K/A of US Bancorp filed on March 9, 2005.

## NOTE

Note 1: Inasmuch as this Form T-1 is filed prior to the ascertainment by the Trustee of all facts on which to base a responsive answer to Item 2, the answer to said Item is based on incomplete information. Item 2 may, however, be considered correct unless amended by an amendment to this Form T-1.

## SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, as amended, the trustee, Delaware Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility and qualification to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Wilmington, and State of Delaware, on the 28th day of April, 2005.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION (trustee)

By: /s/ Steve Finklea  
Name: Steve Finklea  
Title: Vice President

## CONSENT OF TRUSTEE

Under section 321(b) of the Trust Indenture Act of 1939, as amended, and in connection with the proposed issuance by U.S. Bancorp of the Guarantee described herein, Delaware Trust Company, National Association, as the trustee herein named, hereby consents that reports of examinations of said Trustee by Federal, State, Territorial or District authorities may be furnished by such authorities to the Securities and Exchange Commission upon requests therefore.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION

By: /s/ Steve Finklea  
Name: Steve Finklea  
Title: Vice President

Dated: **April 28, 2005**





**Registration No.**

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

**FORM T-1****STATEMENT OF ELIGIBILITY AND QUALIFICATION****UNDER THE TRUST INDENTURE ACT OF 1939, AS AMENDED, OF A  
CORPORATION DESIGNATED TO ACT AS TRUSTEE**

CHECK IF AN APPLICATION TO DETERMINE ELIGIBILITY OF A TRUSTEE

PURSUANT TO SECTION 305(b)(2) \_\_\_\_  
\_\_\_\_\_

DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION

(Exact name of trustee as specified in its charter)

United States National Banking Association  
 (State of incorporation if not a national bank)  
 Delaware Trust Company, National Association  
 300 Delaware Avenue, 9th Floor  
 Wilmington, DE  
 (Address of principal executive offices)

56-1989961  
 (I.R.S. employer identification no.)

19801  
 (Zip Code)

Same as above

(Name, address and telephone number, including  
 area code, of trustee's agent for service)

U.S. Bancorp

(Exact name of obligor as specified in its charter)

The State of Delaware

(State or other jurisdiction of incorporation or organization)

41-025590

(I.R.S. employer identification no.)

c/o

Steve Finklea, Vice President  
 Delaware Trust Company, National Association  
 300 Delaware Avenue, 9th Floor  
 Wilmington, DE 19801

(Address, including zip code, of principal executive offices)  
\_\_\_\_\_



GUARANTEE OF CAPITAL SECURITIES OF USB CAPITAL XII

(Title of the Securities)

1. General information. Furnish the following information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject:

Name	Address
Federal Reserve Bank of Richmond, VA	Richmond, VA
Comptroller of the Currency	Washington, D.C.
Securities and Exchange Commission Division of Market Regulation	Washington, D.C.
Federal Deposit Insurance Corporation	Washington, D.C.

(b) Whether it is authorized to exercise corporate trust powers.

The trustee is authorized to exercise corporate trust powers.

2. Affiliations with obligor and underwriters. If the obligor or any underwriter for the obligor is an affiliate of the trustee, describe each such affiliation.

The trustee is affiliated with Wachovia Capital Markets, LLC, who may act in the future as an underwriter of the securities.

(See Note 1 on Page 4.)

Because the obligor is not in default on any securities issued under indentures under which the applicant is trustee, Items 3 through 15 are not required herein.

16. List of Exhibits

All exhibits identified below are filed as part of this statement of eligibility.

1. A copy of the Articles of Association of Delaware Trust Company, National Association, as now in effect, which contain the authority to commence business and a grant of powers to exercise corporate trust powers.\*
2. A copy of the certificate of authority of the trustee to commence business, if not contained in the Articles of Association.\*
3. A copy of the authorization of the trustee to exercise corporate trust powers, if such authorization is not contained in the documents specified in exhibits (1) or (2) above.\*
4. A copy of the existing By-laws of Delaware Trust Company, National Association, or instruments corresponding thereto.\*
5. Inapplicable.
6. The consent of the trustee required by Section 321(b) of the Trust Indenture Act of 1939 is included at Page 4 of this Form T-1 Statement.
7. A copy of the latest report of condition of the trustee published pursuant to law or to the requirements of its supervising or examining authority is attached hereto.\*
8. Inapplicable.
9. Inapplicable.

\* Incorporated by reference to Form T-1 Statement of Eligibility of Delaware Trust Company to act as trustee under the Guarantee for the benefit of the holders of Capital Securities included as exhibit 25.2 to Form 8-K/A of US Bancorp filed on March 9, 2005.

## NOTE

Note 1: Inasmuch as this Form T-1 is filed prior to the ascertainment by the Trustee of all facts on which to base a responsive answer to Item 2, the answer to said Item is based on incomplete information. Item 2 may, however, be considered correct unless amended by an amendment to this Form T-1.

## SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, as amended, the trustee, Delaware Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility and qualification to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Wilmington, and State of Delaware, on the 28th day of April, 2005.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION (trustee)

By: /s/ Steve Finklea  
Name: Steve Finklea  
Title: Vice President

## CONSENT OF TRUSTEE

Under section 321(b) of the Trust Indenture Act of 1939, as amended, and in connection with the proposed issuance by U.S. Bancorp of the Guarantee described herein, Delaware Trust Company, National Association, as the trustee herein named, hereby consents that reports of examinations of said Trustee by Federal, State, Territorial or District authorities may be furnished by such authorities to the Securities and Exchange Commission upon requests therefore.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION

By: /s/ Steve Finklea  
Name: Steve Finklea  
Title: Vice President

Dated: **April 28, 2005**



**Registration No.**

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

**FORM T-1****STATEMENT OF ELIGIBILITY AND QUALIFICATION****UNDER THE TRUST INDENTURE ACT OF 1939, AS AMENDED, OF A  
CORPORATION DESIGNATED TO ACT AS TRUSTEE**

CHECK IF AN APPLICATION TO DETERMINE ELIGIBILITY OF A TRUSTEE

PURSUANT TO SECTION 305(b)(2) \_\_\_\_  
\_\_\_\_\_

DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION

(Exact name of trustee as specified in its charter)

United States National Banking Association  
 (State of incorporation if not a national bank)  
 Delaware Trust Company, National Association  
 300 Delaware Avenue, 9th Floor  
 Wilmington, DE  
 (Address of principal executive offices)

56-1989961  
 (I.R.S. employer identification no.)

19801  
 (Zip Code)

Same as above

(Name, address and telephone number, including  
 area code, of trustee's agent for service)

U.S. Bancorp

(Exact name of obligor as specified in its charter)

The State of Delaware

(State or other jurisdiction of incorporation or organization)

41-025590

(I.R.S. employer identification no.)

c/o

Steve Finklea, Vice President  
 Delaware Trust Company, National Association  
 300 Delaware Avenue, 9th Floor  
 Wilmington, DE 19801

(Address, including zip code, of principal executive offices)  
\_\_\_\_\_





GUARANTEE OF CAPITAL SECURITIES OF USB CAPITAL XIII

(Title of the Securities)

1. General information. Furnish the following information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject:

Name	Address
Federal Reserve Bank of Richmond, VA	Richmond, VA
Comptroller of the Currency	Washington, D.C.
Securities and Exchange Commission Division of Market Regulation	Washington, D.C.
Federal Deposit Insurance Corporation	Washington, D.C.

(b) Whether it is authorized to exercise corporate trust powers.

The trustee is authorized to exercise corporate trust powers.

2. Affiliations with obligor and underwriters. If the obligor or any underwriter for the obligor is an affiliate of the trustee, describe each such affiliation.

The trustee is affiliated with Wachovia Capital Markets, LLC, who may act in the future as an underwriter of the securities.

(See Note 1 on Page 4.)

Because the obligor is not in default on any securities issued under indentures under which the applicant is trustee, Items 3 through 15 are not required herein.

16. List of Exhibits

All exhibits identified below are filed as part of this statement of eligibility.

1. A copy of the Articles of Association of Delaware Trust Company, National Association, as now in effect, which contain the authority to commence business and a grant of powers to exercise corporate trust powers.\*
2. A copy of the certificate of authority of the trustee to commence business, if not contained in the Articles of Association.\*
3. A copy of the authorization of the trustee to exercise corporate trust powers, if such authorization is not contained in the documents specified in exhibits (1) or (2) above.\*
4. A copy of the existing By-laws of Delaware Trust Company, National Association, or instruments corresponding thereto.\*
5. Inapplicable.
6. The consent of the trustee required by Section 321(b) of the Trust Indenture Act of 1939 is included at Page 4 of this Form T-1 Statement.
7. A copy of the latest report of condition of the trustee published pursuant to law or to the requirements of its supervising or examining authority is attached hereto.\*
8. Inapplicable.
9. Inapplicable.

\* Incorporated by reference to Form T-1 Statement of Eligibility of Delaware Trust Company to act as trustee under the Guarantee for the benefit of the holders of Capital Securities included as exhibit 25.2 to Form 8-K/A of US Bancorp filed on March 9, 2005.

## NOTE

Note 1: Inasmuch as this Form T-1 is filed prior to the ascertainment by the Trustee of all facts on which to base a responsive answer to Item 2, the answer to said Item is based on incomplete information. Item 2 may, however, be considered correct unless amended by an amendment to this Form T-1.

## SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, as amended, the trustee, Delaware Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility and qualification to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Wilmington, and State of Delaware, on the 28th day of April, 2005.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION (trustee)

By: /s/ Steve Finklea  
Name: Steve Finklea  
Title: Vice President

## CONSENT OF TRUSTEE

Under section 321(b) of the Trust Indenture Act of 1939, as amended, and in connection with the proposed issuance by U.S. Bancorp of the Guarantee described herein, Delaware Trust Company, National Association, as the trustee herein named, hereby consents that reports of examinations of said Trustee by Federal, State, Territorial or District authorities may be furnished by such authorities to the Securities and Exchange Commission upon requests therefore.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION

By: /s/ Steve Finklea  
Name: Steve Finklea  
Title: Vice President

Dated: **April 28, 2005**



**Registration No.**

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

**FORM T-1****STATEMENT OF ELIGIBILITY AND QUALIFICATION****UNDER THE TRUST INDENTURE ACT OF 1939, AS AMENDED, OF A  
CORPORATION DESIGNATED TO ACT AS TRUSTEE**

CHECK IF AN APPLICATION TO DETERMINE ELIGIBILITY OF A TRUSTEE

PURSUANT TO SECTION 305(b)(2) \_\_\_\_

\_\_\_\_\_  
DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION  
(Exact name of trustee as specified in its charter)United States National Banking Association  
(State of incorporation if not a national bank)  
Delaware Trust Company, National Association  
300 Delaware Avenue, 9th Floor  
Wilmington, DE  
(Address of principal executive offices)56-1989961  
(I.R.S. employer identification no.)  
  
19801  
(Zip Code)Same as above(Name, address and telephone number, including  
area code, of trustee's agent for service)

U.S. Bancorp

(Exact name of obligor as specified in its charter)

The State of Delaware

(State or other jurisdiction of incorporation or organization)

41-025590

(I.R.S. employer identification no.)

c/o

Steve Finklea, Vice President  
Delaware Trust Company, National Association  
300 Delaware Avenue, 9th Floor  
Wilmington, DE 19801(Address, including zip code, of principal executive offices)  
\_\_\_\_\_

GUARANTEE OF CAPITAL SECURITIES OF USB CAPITAL XIV

(Title of the Securities)

1. General information. Furnish the following information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject:

Name	Address
Federal Reserve Bank of Richmond, VA	Richmond, VA
Comptroller of the Currency	Washington, D.C.
Securities and Exchange Commission Division of Market Regulation	Washington, D.C.
Federal Deposit Insurance Corporation	Washington, D.C.

(b) Whether it is authorized to exercise corporate trust powers.

The trustee is authorized to exercise corporate trust powers.

2. Affiliations with obligor and underwriters. If the obligor or any underwriter for the obligor is an affiliate of the trustee, describe each such affiliation.

The trustee is affiliated with Wachovia Capital Markets, LLC, who may act in the future as an underwriter of the securities.

(See Note 1 on Page 4.)

Because the obligor is not in default on any securities issued under indentures under which the applicant is trustee, Items 3 through 15 are not required herein.

16. List of Exhibits

All exhibits identified below are filed as part of this statement of eligibility.

1. A copy of the Articles of Association of Delaware Trust Company, National Association, as now in effect, which contain the authority to commence business and a grant of powers to exercise corporate trust powers.\*
2. A copy of the certificate of authority of the trustee to commence business, if not contained in the Articles of Association.\*
3. A copy of the authorization of the trustee to exercise corporate trust powers, if such authorization is not contained in the documents specified in exhibits (1) or (2) above.\*
4. A copy of the existing By-laws of Delaware Trust Company, National Association, or instruments corresponding thereto.\*
5. Inapplicable.
6. The consent of the trustee required by Section 321(b) of the Trust Indenture Act of 1939 is included at Page 4 of this Form T-1 Statement.
7. A copy of the latest report of condition of the trustee published pursuant to law or to the requirements of its supervising or examining authority is attached hereto.\*
8. Inapplicable.
9. Inapplicable.

\* Incorporated by reference to Form T-1 Statement of Eligibility of Delaware Trust Company to act as trustee under the Guarantee for the benefit of the holders of Capital Securities included as exhibit 25.2 to Form 8-K/A of US Bancorp filed on March 9, 2005.

## NOTE

Note 1: Inasmuch as this Form T-1 is filed prior to the ascertainment by the Trustee of all facts on which to base a responsive answer to Item 2, the answer to said Item is based on incomplete information. Item 2 may, however, be considered correct unless amended by an amendment to this Form T-1.

## SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, as amended, the trustee, Delaware Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility and qualification to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Wilmington, and State of Delaware, on the 28th day of April, 2005.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION (trustee)

By: /s/ Steve Finklea  
Name: Steve Finklea  
Title: Vice President

## CONSENT OF TRUSTEE

Under section 321(b) of the Trust Indenture Act of 1939, as amended, and in connection with the proposed issuance by U.S. Bancorp of the Guarantee described herein, Delaware Trust Company, National Association, as the trustee herein named, hereby consents that reports of examinations of said Trustee by Federal, State, Territorial or District authorities may be furnished by such authorities to the Securities and Exchange Commission upon requests therefore.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION

By: /s/ Steve Finklea  
Name: Steve Finklea  
Title: Vice President

Dated: **April 28, 2005**





**Registration No.**

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

**FORM T-1****STATEMENT OF ELIGIBILITY AND QUALIFICATION****UNDER THE TRUST INDENTURE ACT OF 1939, AS AMENDED, OF A  
CORPORATION DESIGNATED TO ACT AS TRUSTEE**

CHECK IF AN APPLICATION TO DETERMINE ELIGIBILITY OF A TRUSTEE

PURSUANT TO SECTION 305(b)(2) \_\_\_\_  
\_\_\_\_\_

DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION

(Exact name of trustee as specified in its charter)

United States National Banking Association  
 (State of incorporation if not a national bank)  
 Delaware Trust Company, National Association  
 300 Delaware Avenue, 9th Floor  
 Wilmington, DE  
 (Address of principal executive offices)

56-1989961  
 (I.R.S. employer identification no.)  
  
 19801  
 (Zip Code)

Same as above

(Name, address and telephone number, including  
 area code, of trustee's agent for service)

U.S. Bancorp

(Exact name of obligor as specified in its charter)

The State of Delaware

(State or other jurisdiction of incorporation or organization)

41-025590

(I.R.S. employer identification no.)

c/o

Steve Finklea, Vice President  
 Delaware Trust Company, National Association  
 300 Delaware Avenue, 9th Floor  
 Wilmington, DE 19801

(Address, including zip code, of principal executive offices)  
\_\_\_\_\_



GUARANTEE OF CAPITAL SECURITIES OF USB CAPITAL XV

(Title of the Securities)

1. General information. Furnish the following information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject:

Name	Address
Federal Reserve Bank of Richmond, VA	Richmond, VA
Comptroller of the Currency	Washington, D.C.
Securities and Exchange Commission Division of Market Regulation	Washington, D.C.
Federal Deposit Insurance Corporation	Washington, D.C.

(b) Whether it is authorized to exercise corporate trust powers.

The trustee is authorized to exercise corporate trust powers.

2. Affiliations with obligor and underwriters. If the obligor or any underwriter for the obligor is an affiliate of the trustee, describe each such affiliation.

The trustee is affiliated with Wachovia Capital Markets, LLC, who may act in the future as an underwriter of the securities.

(See Note 1 on Page 4.)

Because the obligor is not in default on any securities issued under indentures under which the applicant is trustee, Items 3 through 15 are not required herein.

16. List of Exhibits

All exhibits identified below are filed as part of this statement of eligibility.

1. A copy of the Articles of Association of Delaware Trust Company, National Association, as now in effect, which contain the authority to commence business and a grant of powers to exercise corporate trust powers.\*
2. A copy of the certificate of authority of the trustee to commence business, if not contained in the Articles of Association.\*
3. A copy of the authorization of the trustee to exercise corporate trust powers, if such authorization is not contained in the documents specified in exhibits (1) or (2) above.\*
4. A copy of the existing By-laws of Delaware Trust Company, National Association, or instruments corresponding thereto.\*
5. Inapplicable.
6. The consent of the trustee required by Section 321(b) of the Trust Indenture Act of 1939 is included at Page 4 of this Form T-1 Statement.
7. A copy of the latest report of condition of the trustee published pursuant to law or to the requirements of its supervising or examining authority is attached hereto.\*
8. Inapplicable.
9. Inapplicable.

\* Incorporated by reference to Form T-1 Statement of Eligibility of Delaware Trust Company to act as trustee under the Guarantee for the benefit of the holders of Capital Securities included as exhibit 25.2 to Form 8-K/A of US Bancorp filed on March 9, 2005.

## NOTE

Note 1: Inasmuch as this Form T-1 is filed prior to the ascertainment by the Trustee of all facts on which to base a responsive answer to Item 2, the answer to said Item is based on incomplete information. Item 2 may, however, be considered correct unless amended by an amendment to this Form T-1.

## SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, as amended, the trustee, Delaware Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility and qualification to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Wilmington, and State of Delaware, on the 28th day of April, 2005.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION (trustee)

By: /s/ Steve Finklea  
Name: Steve Finklea  
Title: Vice President

## CONSENT OF TRUSTEE

Under section 321(b) of the Trust Indenture Act of 1939, as amended, and in connection with the proposed issuance by U.S. Bancorp of the Guarantee described herein, Delaware Trust Company, National Association, as the trustee herein named, hereby consents that reports of examinations of said Trustee by Federal, State, Territorial or District authorities may be furnished by such authorities to the Securities and Exchange Commission upon requests therefore.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION

By: /s/ Steve Finklea  
Name: Steve Finklea  
Title: Vice President

Dated: **April 28, 2005**



**Registration No.**

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

**FORM T-1****STATEMENT OF ELIGIBILITY AND QUALIFICATION****UNDER THE TRUST INDENTURE ACT OF 1939, AS AMENDED, OF A  
CORPORATION DESIGNATED TO ACT AS TRUSTEE**

CHECK IF AN APPLICATION TO DETERMINE ELIGIBILITY OF A TRUSTEE

PURSUANT TO SECTION 305(b)(2) \_\_\_\_

\_\_\_\_\_  
DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION  
(Exact name of trustee as specified in its charter)United States National Banking Association  
(State of incorporation if not a national bank)  
Delaware Trust Company, National Association  
300 Delaware Avenue, 9th Floor  
Wilmington, DE  
(Address of principal executive offices)56-1989961  
(I.R.S. employer identification no.)  
  
19801  
(Zip Code)Same as above(Name, address and telephone number, including  
area code, of trustee's agent for service)

U.S. Bancorp

(Exact name of obligor as specified in its charter)

The State of Delaware

(State or other jurisdiction of incorporation or organization)

41-025590

(I.R.S. employer identification no.)

c/o

Steve Finklea, Vice President  
Delaware Trust Company, National Association  
300 Delaware Avenue, 9th Floor  
Wilmington, DE 19801(Address, including zip code, of principal executive offices)  
\_\_\_\_\_



GUARANTEE OF CAPITAL SECURITIES OF USB CAPITAL XVI

(Title of the Securities)

1. General information. Furnish the following information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject:

Name	Address
Federal Reserve Bank of Richmond, VA	Richmond, VA
Comptroller of the Currency	Washington, D.C.
Securities and Exchange Commission Division of Market Regulation	Washington, D.C.
Federal Deposit Insurance Corporation	Washington, D.C.

(b) Whether it is authorized to exercise corporate trust powers.

The trustee is authorized to exercise corporate trust powers.

2. Affiliations with obligor and underwriters. If the obligor or any underwriter for the obligor is an affiliate of the trustee, describe each such affiliation.

The trustee is affiliated with Wachovia Capital Markets, LLC, who may act in the future as an underwriter of the securities.

(See Note 1 on Page 4.)

Because the obligor is not in default on any securities issued under indentures under which the applicant is trustee, Items 3 through 15 are not required herein.

16. List of Exhibits

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2. A copy of the certificate of authority of the trustee to commence business, if not contained in the Articles of Association.\*
3. A copy of the authorization of the trustee to exercise corporate trust powers, if such authorization is not contained in the documents specified in exhibits (1) or (2) above.\*
4. A copy of the existing By-laws of Delaware Trust Company, National Association, or instruments corresponding thereto.\*
5. Inapplicable.
6. The consent of the trustee required by Section 321(b) of the Trust Indenture Act of 1939 is included at Page 4 of this Form T-1 Statement.
7. A copy of the latest report of condition of the trustee published pursuant to law or to the requirements of its supervising or examining authority is attached hereto.\*
8. Inapplicable.
9. Inapplicable.

\* Incorporated by reference to Form T-1 Statement of Eligibility of Delaware Trust Company to act as trustee under the Guarantee for the benefit of the holders of Capital Securities included as exhibit 25.2 to Form 8-K/A of US Bancorp filed on March 9, 2005.

## NOTE

Note 1: Inasmuch as this Form T-1 is filed prior to the ascertainment by the Trustee of all facts on which to base a responsive answer to Item 2, the answer to said Item is based on incomplete information. Item 2 may, however, be considered correct unless amended by an amendment to this Form T-1.

## SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, as amended, the trustee, Delaware Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility and qualification to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Wilmington, and State of Delaware, on the 28th day of April, 2005.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION (trustee)

By: /s/ Steve Finklea  
Name: Steve Finklea  
Title: Vice President

## CONSENT OF TRUSTEE

Under section 321(b) of the Trust Indenture Act of 1939, as amended, and in connection with the proposed issuance by U.S. Bancorp of the Guarantee described herein, Delaware Trust Company, National Association, as the trustee herein named, hereby consents that reports of examinations of said Trustee by Federal, State, Territorial or District authorities may be furnished by such authorities to the Securities and Exchange Commission upon requests therefore.

DELAWARE TRUST COMPANY,  
NATIONAL ASSOCIATION

By: /s/ Steve Finklea  
Name: Steve Finklea  
Title: Vice President

Dated: **April 28, 2005**