

SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
Civil Division

DISTRICT OF COLUMBIA,
Department of Insurance, Securities
and Banking,

Petitioner,

v.

D. C. CHARTERED HEALTH PLAN,
INC.,

Respondent.

Civil Action No.: 2012 CA 008227 2

Judge: Wright

Calendar No.: 15

Next Event: Status – 6/20/13 at 9:30

Expedited Status Conference
Requested

PRAECIPE

The District of Columbia and William P. White, Commissioner of the District of Columbia Department of Insurance, Securities and Banking (“DISB”), by and through his attorneys, the Office of the Attorney General of the District of Columbia, files this Praecipe to respectively request that the Clerk of the Court docket the attached Second Status Report Final Exhibits to the Notice of Filing Special Deputy to the Rehabilitator’s Second Status Report.

Respectfully submitted,

IRVIN B. NATHAN
Attorney General for the
District of Columbia

ELLEN A. EFROS
Deputy Attorney General
Public Interest Division

/s/ Stephane J. Latour
STEPHANE J. LATOUR
Chief, Civil Enforcement Section

/s/ E. Louise R. Phillips
E. LOUISE R. PHILLIPS
Assistant Attorney General
Bar Number 422074
441 Fourth Street, N.W., 650N
Washington, D.C. 20001
202-727-0874, fax 202-630-0658
louise.phillips@dc.gov
Attorney for the D. C. and the Commissioner

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of February, 2013, a copy of the foregoing was filed
and served by email upon:

William P. White, Commissioner
c/o Thomas M. Glassic, General Counsel,
DISB, Office of the General Counsel
810 First St., NE, Suite 701
Washington, D. C. 20002
Thomas.Glassic@dc.gov

Charles T. Richardson, Esquire
FAEGRE BAKER DANIELS LLP
1050 K Street NW
Suite 400
Washington, DC 20001
crichardson@faegredb.com

Daniel Watkins, Esquire
Special Deputy Rehabilitator
1050 K Street NW
Suite 400
Washington, DC 20001
danwatkins@sunflower.com

Courtesy Copies to:

David Killalea, Esquire
Manatt, Phelps & Phillips, LLP
700 12th Street, NW, Suite 1100
Washington, DC 20005-4075
dkillalea@manatt.com

Steven I. Glover, Esquire
Gibson, Dunn & Crutcher
1050 Connecticut Avenue, NW
Washington, D. C. 20036
siglover@gibsondunn.com

/s/ E. Louise R. Phillips
E. Louise R. Phillips
Assistant Attorney General

EXHIBIT 1

D.C. CHARTERED HEALTH PLAN, INC.
 Statutory Statement of Revenue and Expenses
 Period Ended September 30, 2012

Underwriting income	
Net premium income	\$ 300,950,889
Underwriting expenses	
Claims incurred	262,021,803
Claims adjustment expenses	7,981,318
General administrative expenses	<u>23,937,896</u>
Total underwriting expenses	<u>293,941,017</u>
Net underwriting income	7,009,872
Net investment income	210,605
Net loss from premium balances charged off	6,000,000
Other income (expense)	<u>(492,253)</u>
Net income (loss) before federal taxes	728,224
Federal income tax expense	<u>254,878</u>
Net income	<u><u>\$ 473,346</u></u>

D.C. CHARTERED HEALTH PLAN, INC.
Statutory Statement of Changes in Capital and Surplus
Period Ended September 30, 2012

Capital and surplus, beginning of year	\$ 5,949,445
Net income (loss)	473,346
Change in nonadmitted assets	2,614,428
Change in net deferred income taxes	<u>-</u>
Capital and surplus, end of year	<u><u>\$ 9,037,219</u></u>

D.C. CHARTERED HEALTH PLAN, INC.

Statutory Statements of Cash Flows

Period Ended September 30, 2012

Cash flows from operating activities

Premiums collected, net of reinsurance	\$ 289,299,226
Benefit payments	(257,456,561)
General and administrative expenses paid	(39,424,329)
Net investment income	157,581
Federal income taxes (paid) recovered	-
	<hr/>
Net cash (used in) provided by operating activities	(7,424,083)

Cash flows from investing activities

Proceeds from investments	2,515,700
Costs of investments acquired	(2,916,667)
	<hr/>
Net cash used in investing activities	(400,967)

Cash flows from financing activities

Other cash provided, net	842,746
	<hr/>
Net cash (used in) provided by investing activities	842,746

Net decrease in cash, cash equivalents and short-term investments	(6,982,304)
---	-------------

Cash, cash equivalents and short-term investments

Beginning of year	16,975,318
End of year	<hr/> <hr/> \$ 9,993,014

EXHIBIT 2

FINAL

1
2
3
4
5
6

ASSET PURCHASE AGREEMENT

7

BY AND BETWEEN

8

DC CHARTERED HEALTH PLAN, INC. (IN REHABILITATION)

9

AND

10

AMERIHEALTH DISTRICT OF COLUMBIA, INC.

11

DATED AS OF

12

13

FEBRUARY 8, 2013

14

TABLE OF CONTENTS

ARTICLE I	DEFINITIONS	2
ARTICLE II	PURCHASE AND SALE.....	14
Section 2.01	..... Purchase and Sale of Assets	14
Section 2.02	..... Excluded Assets	16
Section 2.03	..... Assumed Liabilities	17
Section 2.04	..... Excluded Liabilities	17
Section 2.05	..... Purchase Price	18
Section 2.06	..... Allocation of Purchase Price	18
Section 2.07	..... Non-assignable Assets	19
ARTICLE III	CLOSING	20
Section 3.01	..... Closing	20
Section 3.02	..... Closing Deliverables	20
ARTICLE IV	REPRESENTATIONS AND WARRANTIES OF SELLER	22
Section 4.01	..... Organization and Qualification of Seller	22
Section 4.02	..... Authority of Seller	22
Section 4.03	..... No Conflicts; Consents	23
Section 4.04	..... Financial Statements	23
Section 4.05	..... Absence of Certain Changes, Events and Conditions	24
Section 4.06	..... Material Contracts	26
Section 4.07	..... Title to Purchased Assets	29
Section 4.08	..... Sufficiency of Assets	29
Section 4.09	..... Real Property	29
Section 4.10	..... Intellectual Property	30
Section 4.11	..... Legal Proceedings; Governmental Orders	31
Section 4.12	..... Compliance With Laws; Permits	32
Section 4.13	..... Environmental Matters	32
Section 4.14	..... Employee Benefit Matters	33

TABLE OF CONTENTS
(continued)

	Page
Section 4.15..... Employment Matters	35
Section 4.16..... Taxes	37
Section 4.17..... Accounts Receivable	37
Section 4.18..... Insurance	37
Section 4.19..... Related Party Transactions	38
Section 4.20..... Brokers	38
Section 4.21..... Program Providers	39
Section 4.22..... No Other Representations and Warranties	39
ARTICLE V REPRESENTATIONS AND WARRANTIES OF BUYER.....	39
Section 5.01..... Organization and Authority of Buyer	39
Section 5.02..... Authority of Buyer	39
Section 5.03..... No Conflicts; Consents	40
Section 5.04..... Brokers	40
Section 5.05..... Sufficiency of Funds	40
Section 5.06..... Solvency	40
Section 5.07..... Legal Proceedings	41
Section 5.08..... Independent Investigation	41
ARTICLE VI COVENANTS	41
Section 6.01..... Conduct of Business Prior to the Closing	41
Section 6.02..... Access to Information	41
Section 6.03..... Notice of Developments	42
Section 6.04..... Employees and Employee Benefits	43
Section 6.05..... Confidentiality	45
Section 6.06..... Governmental Approvals and Consents; Cooperation	46
Section 6.07..... Books and Records	47
Section 6.08..... Closing Conditions	48

TABLE OF CONTENTS
(continued)

	Page
Section 6.09..... Public Announcements	48
Section 6.10..... Bulk Sales Laws	48
Section 6.11..... Transfer Taxes	49
Section 6.12..... Allocation of Taxes	49
Section 6.13..... Buyer Capitalization	49
Section 6.14..... Health Maintenance Organization License	49
Section 6.15..... No Solicitation of Other Bids	49
Section 6.16..... Non-Solicitation	50
Section 6.17..... Insurance Matters	50
Section 6.18..... Termination of Rights to the Intellectual Property Assets	50
Section 6.19..... Further Assurances	51
ARTICLE VII CONDITIONS TO CLOSING	51
Section 7.01..... Conditions to Obligations of All Parties	51
Section 7.02..... Conditions to Obligations of Buyer	52
Section 7.03..... Conditions to Obligations of Seller	54
ARTICLE VIII INDEMNIFICATION	55
Section 8.01..... Survival	55
Section 8.02..... Indemnification By Seller	56
Section 8.03..... Indemnification By Buyer	56
Section 8.04..... Certain Limitations	56
Section 8.05..... Indemnification Procedures	57
Section 8.06..... Tax Treatment of Indemnification Payments	60
Section 8.07..... Exclusive Remedies	60
ARTICLE IX TERMINATION	60
Section 9.01..... Termination	60
Section 9.02..... Effect of Termination	61

TABLE OF CONTENTS
(continued)

	Page
ARTICLE X MISCELLANEOUS	61
Section 10.01..... Expenses	61
Section 10.02..... Notices	62
Section 10.03..... Interpretation	63
Section 10.04..... Headings	63
Section 10.05..... Severability	63
Section 10.06..... Entire Agreement	64
Section 10.07..... Successors and Assigns	64
Section 10.08..... No Third Party Beneficiaries	64
Section 10.09..... Amendment and Modification; Waiver	64
Section 10.10..... Governing Law; Submission to Jurisdiction; Waiver of Jury Trial	65
Section 10.11..... Specific Performance	66
Section 10.12..... Counterparts	66
EXHIBITS	
Exhibit A Bill of Sale	
Exhibit B Assignment and Assumption Agreement	
Exhibit C Intellectual Property Assignment	

DISCLOSURE SCHEDULES

1

ASSET PURCHASE AGREEMENT

2 THIS ASSET PURCHASE AGREEMENT (“**Agreement**”), dated as of February
3 8, 2013, is entered into by and between DC CHARTERED HEALTH PLAN, INC. (In
4 Rehabilitation), a health maintenance organization organized, existing and licensed under
5 the laws of the District of Columbia (“**Seller**”) and AMERIHEALTH DISTRICT OF
6 COLUMBIA, INC., a corporation organized and existing under the laws of the District of
7 Columbia (“**Buyer**” and together with Seller, collectively, the “**Parties**”).

8

Recitals

9 A. Seller is engaged in the business of providing managed health care
10 services in the District of Columbia to Medicaid enrollees (“**Business**”).

11 B. Seller wishes to sell and assign to Buyer, and Buyer wishes to purchase
12 and assume from Seller, certain of the assets and liabilities of Seller and the Business,
13 subject to the terms and conditions set forth herein. In addition, Seller wishes to enter
14 into that certain Termination Agreement by and between Seller and AmeriHealth Mercy
15 Health Plan, dated as of the date hereof.

16 C. The Commissioner of the Department Of Insurance, Securities and
17 Banking for the District of Columbia, in his capacity as Rehabilitator of DC Chartered
18 Health Plan, Inc., will cause Seller to sell and assign to Buyer such assets and liabilities
19 of Seller and the Business, subject to the terms and conditions set forth herein, under and
20 pursuant to a plan under D.C. Official Code 31-1312, generally, and 31-1312 (c) and (e),
21 specifically (the “**Plan**”), which shall be subject to the review and approval by the
22 Superior Court of the District of Columbia (“**Superior Court**”) in the proceedings
23 pending at *District of Columbia, Department of Insurance, Securities and Banking v. DC*
24 *Chartered Health Plan, Inc.*, Civil Action No. 2012 CA 8227 (“**Proceedings**”).

25

Agreement

26 NOW, THEREFORE, in consideration of the mutual covenants and agreements
27 hereinafter set forth and for other good and valuable consideration, the receipt and
28 sufficiency of which are hereby acknowledged, the parties hereto (“**Parties**”) agree as
29 follows:

1 **“Balance Sheet”** has the meaning set forth in **Section 4.04**.

2 **“Balance Sheet Date”** has the meaning set forth in **Section 4.04**.

3 **“Benefit Plan”** has the meaning set forth in **Section 4.14(a)**.

4 **“Bill of Sale”** has the meaning set forth in **Section 3.02(a)(i)**.

5 **“Books and Records”** has the meaning set forth in **Section 2.02(j)**.

6 **“Business”** has the meaning set forth in Recital A.

7 **“Business Day”** means any day except Saturday, Sunday or any other day on
8 which commercial banks located in the District of Columbia are authorized or required by
9 Law to be closed for business.

10 **“Buyer”** has the meaning set forth in the preamble.

11 **“Buyer Closing Certificate”** has the meaning set forth in **Section 7.03(d)**.

12 **“Buyer Indemnitees”** has the meaning set forth in **Section 8.02**.

13 **“Buyer Transition Services Agreement”** has the meaning set forth in **Section**
14 **3.02(b)(iv)**.

15 **“CAB”** has the meaning set forth in **Section 2.01(i)**.

16 **“CERCLA”** means the Comprehensive Environmental Response, Compensation,
17 and Liability Act of 1980, as amended by the Superfund Amendments and
18 Reauthorization Act of 1986, 42 U.S.C. §§ 9601 et seq.

19 **“Closing”** has the meaning set forth in **Section 3.01**.

20 **“Closing Date”** has the meaning set forth in **Section 3.01**.

21 **“Code”** means the Internal Revenue Code of 1986, as amended.

22 **“Confidentiality Agreement”** means the Confidentiality Agreement, dated as of
23 November 1, 2012, between AmeriHealth Mercy Health Plan and Seller.

24 **“Confidential Information”** has the meaning set forth in the definition of
25 “Intellectual Property”.

26 **“Contracts”** means all written or oral contracts, agreements, leases, subleases,
27 mortgages, licenses, sublicenses, instruments, notes, commitments, loan agreements,
28 undertakings, indentures, purchase orders, licenses, obligations, commitments,

1 undertakings, understandings, instruments or other arrangements to which a Person is a
2 party or otherwise bound, or any binding legal commitments to enter into any of the
3 foregoing.

4 “**Credits**” has the meaning set forth in **Section 2.01(h)**.

5 “**Current Program Year**” means the one (1)-year period ending April 30, 2013
6 during which Seller is to provide Medicaid managed care health services to Program
7 Enrollees under and pursuant to the DHCF Contract.

8 “**Data Room**” means the electronic documentation site established by IntraLinks
9 on behalf of Seller.

10 “**Deductible**” has the meaning set forth in **Section 8.04(b)**.

11 “**Department**” means the Department of Insurance, Securities and Banking of the
12 District of Columbia.

13 “**DHCF**” has the meaning set forth in **Section 7.02(h)**.

14 “**DHCF Contract**” means that certain Contract No. DCHC-2008-D-5052 dated
15 May 1, 2008, by and between DHCF and Seller under which Seller provides managed
16 health care services to Medicaid program beneficiaries in the District of Columbia for the
17 Current Program Year.

18 “**Direct Claim**” has the meaning set forth in **Section 8.05(c)**.

19 “**Disclosure Schedules**” means the Disclosure Schedules delivered by Seller and
20 Buyer concurrently with the execution and delivery of this Agreement.

21 “**Dollars**” or “**\$**” means the lawful currency of the United States.

22 “**Drop Dead Date**” means April 1, 2013.

23 “**Effective Date**” means 12:01 am, Eastern Standard Time, on the Closing Date,
24 or such other time mutually agreed to by the Parties.

25 “**Employees**” means those Persons employed by Seller who worked primarily for
26 the Business immediately prior to the Closing.

27 “**Encumbrance**” means any community property interest, lien, pledge,
28 hypothecation, condition mortgage, deed of trust, equitable interest (statutory or
29 otherwise), option, security interest, charge, claim, easement, encroachment, right of way,
30 right of first refusal, security agreement, or restriction of any kind on any use, voting,
31 transfer, receipt of income or exercise of any other attribute of ownership, or any other
32 similar encumbrance.

1 **“Environmental Claim”** means any Governmental Order, Action, suit, claim,
2 investigation or other legal proceeding by any Person alleging Liability of whatever kind
3 or nature (including Liability or responsibility for the costs of enforcement proceedings,
4 investigations, cleanup, governmental response, removal or remediation, natural
5 resources damages, property damages, personal injuries, medical monitoring, penalties,
6 contribution, indemnification and injunctive relief) arising out of, based on or resulting
7 from: (a) the presence, Release of, or exposure to, any Hazardous Materials; or (b) any
8 actual or alleged non-compliance with any Environmental Law or term or condition of
9 any Environmental Permit.

10 **“Environmental Law”** means any applicable Law, and any Governmental Order
11 or binding agreement with any Governmental Authority: (a) relating to pollution (or the
12 cleanup thereof) or the protection of natural resources, endangered or threatened species,
13 human health or safety, or the environment (including ambient air, soil, surface water or
14 groundwater, or subsurface strata); or (b) concerning the presence of, exposure to, or the
15 management, manufacture, use, containment, storage, recycling, reclamation, reuse,
16 treatment, generation, discharge, transportation, processing, production, disposal or
17 remediation of any Hazardous Materials. The term “Environmental Law” includes,
18 without limitation, the following (including their implementing regulations and any state
19 analogs): the Comprehensive Environmental Response, Compensation, and Liability Act
20 of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986,
21 42 U.S.C. §§ 9601 et seq.; the Solid Waste Disposal Act, as amended by the Resource
22 Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste
23 Amendments of 1984, 42 U.S.C. §§ 6901 et seq.; the Federal Water Pollution Control Act
24 of 1972, as amended by the Clean Water Act of 1977, 33 U.S.C. §§ 1251 et seq.; the
25 Toxic Substances Control Act of 1976, as amended, 15 U.S.C. §§ 2601 et seq.; the
26 Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. §§ 11001
27 et seq.; the Clean Air Act of 1966, as amended by the Clean Air Act Amendments of
28 1990, 42 U.S.C. §§ 7401 et seq.; and the Occupational Safety and Health Act of 1970, as
29 amended, 29 U.S.C. §§ 651 et seq.

30 **“Environmental Notice”** means any written directive, notice of violation or
31 infraction, or notice respecting any Environmental Claim relating to actual or alleged
32 non-compliance with any Environmental Law or any term or condition of any
33 Environmental Permit.

34 **“Environmental Permit”** means any Permit, letter, clearance, consent, waiver,
35 closure, exemption, decision or other action required under or issued, granted, given,
36 authorized by or made pursuant to Environmental Law.

37 **“ERISA”** means the Employee Retirement Income Security Act of 1974, as
38 amended, and the regulations promulgated thereunder.

39 **“ERISA Affiliate”** has the meaning set forth in **Section 4.14(a)**.

1 **“Excluded Assets”** has the meaning set forth in **Section 2.02**.

2 **“Excluded Claims”** has the meaning set forth in **Section 2.01(i)**.

3 **“Excluded Books and Records”** has the meaning set forth in **Section 2.02(j)**.

4 **“Excluded Liabilities”** has the meaning set forth in **Section 2.04**.

5 **“Family Member”** means with respect to any individual, such individual’s
6 spouse or domestic partner and such individual’s and such individual’s spouse’s or
7 domestic partner’s parents, aunts and uncles and all descendants and ancestors of such
8 parents, aunts and uncles (in each case, whether natural or adopted) and any trust or other
9 estate planning vehicle solely for the benefit of any of the foregoing individuals.

10 **“Financial Statements”** has the meaning set forth in **Section 4.04**.

11 **“Fundamental Representations”** has the meaning set forth in **Section 8.01**.

12 **“Governing Documents”** of a Person means: (a) the certificate of incorporation
13 or similar document(s) filed with a Governmental Authority, which filing forms or
14 organizes such Person,(b) such Person’s bylaws, limited liability company agreement,
15 operating agreement, partnership agreement, trust agreement or similar documents,
16 whether or not filed with a Governmental Authority, which organize or govern the
17 internal affairs of such Person, and (c) all amendments to the documents identified in
18 foregoing clauses (a) and (b), in each case as of the time in question.

19 **“Governmental Authority”** means any federal, state, local or foreign
20 government or political subdivision thereof, or any agency or instrumentality of such
21 government or political subdivision (including DHCF and the Superior Court), or any
22 self-regulated organization or other non-governmental regulatory authority or quasi-
23 governmental authority (to the extent that the rules, regulations or orders of such
24 organization or authority have the force of Law), or any arbitrator, court or tribunal of
25 competent jurisdiction.

26 **“Governmental Order”** means any order, writ, judgment, injunction, decree,
27 directive, decision, ruling, stipulation, determination or award (including any consent
28 decree or cease and desist order) of (or entered by or with) any Governmental Authority.

29 **“Hazardous Materials”** means: (a) any material, substance, chemical, waste,
30 product, derivative, compound, mixture, solid, liquid, mineral or gas, in each case,
31 whether naturally occurring or man-made, that is hazardous, acutely hazardous, toxic, or
32 words of similar import or regulatory effect under Environmental Laws; and (b) any
33 petroleum or petroleum-derived products, radon, radioactive materials or wastes, asbestos
34 in any form, lead or lead-containing materials, urea formaldehyde foam insulation and
35 polychlorinated biphenyls.

1 **“Hired Employees”** has the meaning set forth in **Section 6.04(a)**.

2 **“Indebtedness”** of any Person means: (a) all obligations of such Person for
3 borrowed money, loans or advances or evidenced by bonds, debentures, notes, letters of
4 credit or other instruments or debt securities for the payment of money, (b) obligations of
5 such Person as lessee under capital leases, (c) obligations of such Person to pay the
6 deferred purchase price of property or services (other than trade payables incurred in the
7 Ordinary Course of Business that are not past due), (d) all deferred rent of such Person,
8 (e) all obligations of Seller arising from deferred compensation arrangements, (f) all
9 obligations arising from cash/book overdrafts of such Person, (g) obligations of such
10 Person under conditional sale or other title retention agreements, (h) any obligations of
11 such Person under interest rate swap, currency swap, forward Contracts or other hedging
12 Contracts, (i) any amounts owed with respect to drawn letters of credit issued for the
13 account of such Person or drawn performance bonds issued for the account of such
14 Person, (j) all trade or other payables of such Person more than thirty (30) days past due,
15 (k) all debts or obligations of others secured by (or for which the holder of such
16 indebtedness has an existing right, contingent or otherwise, to be secured by) an
17 Encumbrance (other than a Permitted Encumbrance) on any of the assets, rights or
18 properties of such Person, (l) all debts or obligations of others (of the type set forth in
19 clauses (a) through (k) of this defined term) guaranteed or otherwise supported by such
20 Person (or having the economic effect of a guaranty by such Person), (m) any cost to
21 terminate any hedging Contract of such Person, and (n) any interest, principal,
22 prepayment or other penalty, fees, costs or expenses required or necessary to be paid in
23 order to fully satisfy and discharge those items listed in clauses (a) through (l) of this
24 defined term.

25 **“Indemnified Party”** has the meaning set forth in **Section 8.05**.

26 **“Indemnifying Party”** has the meaning set forth in **Section 8.05**.

27 **“Insurable Events”** has the meaning set forth in **Section 6.17**.

28 **“Insurance Proceeds”** means the proceeds (net of the reasonable and
29 documented out-of-pocket costs incurred by Seller in connection with such actions) that
30 Seller realizes with respect to any Insurable Events.

31 **“Intellectual Property”** means all intellectual property and proprietary rights
32 anywhere in the world, including (a) all patents and inventions (whether patentable or
33 unpatentable and whether or not reduced to practice); (b) all trademarks, service marks,
34 trade names, trade dress, domain names, logos, phone numbers or other source indicators,
35 and the goodwill of the business symbolized thereby (**“Trademarks”**); (c) all copyrights
36 and copyrightable works (including all website content, documentation, advertising copy,
37 marketing materials, specifications, translations, drawings, graphics, and computer
38 software); (d) all registrations, applications, provisionals, continuations, continuations-in-

1 part, divisional, re-examinations, re-issues, renewals, foreign counterparts and similar
2 rights with respect to any of the foregoing in (a) through (c); (e) all confidential
3 information and trade secrets (including ideas, source code, object code, invention
4 disclosure statements, operating systems, databases, research and development,
5 processes, know-how, technology, tools, methods, product road maps, technical data,
6 designs, specifications, customer and supplier lists, pricing and cost information and
7 business and marketing plans and proposals) (all of the foregoing in (e), “**Confidential**
8 **Information**”); (f) all causes of action (resulting from past and future infringement
9 thereof), damages, and remedies relating to any and all of the foregoing in (a)-(e); (g) all
10 documentation and media describing or relating to any and all of the foregoing in (a)-(e);
11 and (h) all copies and tangible embodiments of the foregoing in (a)-(e).

12 “**Intellectual Property Assets**” has the meaning set forth in **Section 2.01(d)**.

13 “**Intellectual Property Assignment**” has the meaning set forth in **Section**
14 **3.02(a)(v)**.

15 “**Intellectual Property Licenses**” means all licenses, sublicenses and other
16 agreements by or through which other Persons, including Seller’s Affiliates, grant Seller
17 exclusive or non-exclusive rights or interests in or to any Intellectual Property that is used
18 primarily in connection with the Business.

19 “**Intellectual Property Registrations**” means all Intellectual Property Assets that
20 are subject to any issuance, registration, application or other filing by, to or with any
21 Governmental Authority or authorized private registrar in any jurisdiction, including
22 registered trademarks, domain names, and copyrights, issued and reissued patents and
23 pending applications for any of the foregoing.

24 “**Interim Balance Sheet**” has the meaning set forth in **Section 4.04**.

25 “**Interim Balance Sheet Date**” has the meaning set forth in **Section 4.04**.

26 “**Interim Financial Statements**” has the meaning set forth in **Section 4.04**.

27 “**Knowledge of Seller or Seller’s Knowledge**” or any other similar knowledge
28 qualification, means the actual or constructive knowledge of Maynard McAlpin and
29 Francis Smith, *provided that* for purposes of this definition, “constructive knowledge”
30 means knowledge that Mr. McAlpin or Mr. Smith would have after due inquiry of
31 Employees who would reasonably be expected to have actual knowledge of the
32 applicable item.

33 “**Law**” means any statute, law, ordinance, regulation, administrative
34 interpretation, rule, code, ordinance, Governmental Order, Permit, constitution, treaty,
35 common law, judgment, decree, other requirement or rule of law of any Governmental
36 Authority, , including, but not limited to, the Health Insurance Portability and

1 Accountability Act (HIPAA) and other state and federal privacy and security laws and
2 regulations..

3 “**Leased Real Property**” has the meaning set forth in **Section 4.09(b)**.

4 “**Lease**” or “**Leases**” has the meaning set forth in **Section 4.09(b)**.

5 “**Letter Agreement**” has the meaning set forth in **Section 10.06**.

6 “**Liability**” means any liability, obligation or commitment of every kind, nature
7 and description (whether known or unknown, whether asserted or unasserted, whether
8 absolute or contingent, whether accrued or unaccrued, whether liquidated or unliquidated
9 and whether due or to become due), regardless of when arising, including any liability for
10 Taxes and any liability arising under any Contract.

11 “**Losses**” means losses, damages, Liabilities, debts, shortages, deficiencies,
12 Actions, judgments, interest, awards, Taxes, penalties, fines, costs or expenses of
13 whatever kind, including reasonable attorneys’ fees and accountants’ fees and the costs of
14 enforcing any right under this Agreement and the cost of pursuing any insurance
15 provider.

16 “**Material Adverse Effect**” means any event, occurrence, fact, condition or
17 change that is materially adverse to (a) the business, results of operations, financial
18 condition or assets of the Business, taken as a whole, or (b) the ability of Seller to
19 consummate the transactions contemplated hereby; *provided, however*, that with respect
20 to clause (a), “Material Adverse Effect” shall not include any event, occurrence, fact,
21 condition, or change, directly or indirectly, arising out of or attributable to: (i) any
22 changes, conditions or effects in the United States or foreign economies or securities or
23 financial markets in general; (ii) changes, conditions or effects that affect the industries in
24 which the Business operates; (iii) any change, effect or circumstance resulting from an
25 action required by this Agreement or consented to by Buyer pursuant to this Agreement;
26 (iv) any matter arising from or relating to a disclosure on the Disclosure Schedule;
27 (v) any change, effect or circumstance resulting solely from the announcement to the
28 general public of this Agreement; or (vi) conditions caused by acts of terrorism or war
29 (whether or not declared) or any man-made disaster or acts of God; *provided further,*
30 *however*, that any event, occurrence, fact, condition, or change referred to in foregoing
31 clauses (i), (ii) and (vi) shall be taken into account in determining whether a Material
32 Adverse Effect has occurred to the extent that such event, occurrence, fact, condition, or
33 change has a disproportionate effect on the Business compared to other participants in the
34 industries in which the Business operates.

35 “**Material Contracts**” has the meaning set forth in **Section 4.06(a)**.

36 “**NLRB**” has the meaning set forth in **Section 4.15(a)**.

1 **“Non-Assignable Assets”** has the meaning set forth in **Section 2.07(a)**.

2 **“Non-Provider Assigned Contract”** means any Assigned Contract that is not a
3 Provider Contract.

4 **“Ordinary Course of Business”** means (a) the usual, regular and ordinary course
5 of business of Seller, consistent with past practice, including with respect to quantity,
6 frequency and duration, or (b) in a commercially reasonable manner.

7 **“Owned Real Property”** has the meaning set forth in **Section 4.09(a)**.

8 **“Parties”** has the meaning set forth in the preamble.

9 **“Permits”** means all permits, licenses, franchises, approvals, authorizations,
10 registrations, certificates, variances, exemptions, consents, Orders and similar rights
11 obtained (or required to be obtained) from Governmental Authorities, including any
12 renewals thereof.

13 **“Permitted Encumbrances”** means (a) liens for Taxes not yet due and payable or
14 being contested in good faith by appropriate procedures; (b) mechanics’, carriers’,
15 workmen’s, repairmen’s or other like liens arising or incurred in the Ordinary Course of
16 Business (in each case, for amounts that are not yet due and payable or being contested in
17 good faith by appropriate procedures); (c) easements, covenants, rights of way and other
18 similar encumbrances restrictions and matters, if any, that are of record and do not
19 materially interfere, individually or in the aggregate, with the current conduct of the
20 Business; (d) zoning, entitlement, building and other similar restrictions or ordinances
21 which are not violated by the current conduct of the Business; (e) liens set forth on
22 **Section 1.1** of the Disclosure Schedules; (f) as to any Leased Real Property, the lien
23 created by any mortgage or deed of trust recorded against the Leased Real Property
24 (including all buildings thereon and fixtures attached thereto), but only to the extent that
25 the mortgagee or beneficiary thereof has agreed to execute a subordination, non-
26 disturbance and attornment agreement benefitting Buyer in connection therewith; and
27 (f) other imperfections of title or Encumbrances affecting Real Property, if any, that have
28 not, and would not, individually or in the aggregate, interfere in any material respect with
29 the Purchased Assets.

30 **“Person”** means an individual, corporation, partnership, joint venture, limited
31 liability company, Governmental Authority, unincorporated organization, trust,
32 association or other entity.

33 **“Pharmacy Benefit Claim”** has the meaning set forth in **Section 2.01(i)**.

34 **“Plan”** has the meaning set forth in Recital C.

1 **“Post-Effective Period”** means the period commencing on expiration of the Pre-
2 Effective Period.

3 **“Post-Effective Provider Service Payables”** means amounts due any health care
4 service and facility providers (including any Program Providers) for health care services
5 delivered to Program Enrollees after the Effective Date in the Current Program Year.
6 Where amounts due such providers are subject to capitation allowances, Liability for a
7 capitation allowance that relates to a Straddle Period (as defined below) shall be allocated
8 between Seller and Buyer based on a fraction expressed as a percentage, the numerator of
9 which is, for Seller, the number of days of the Straddle Period that are in the Pre-
10 Effective Period and, for Buyer, the number of days of the Straddle Period that are in the
11 Post-Effective Period, and the denominator of which is the total number of days included
12 in the Straddle Period for which the capitation payment is owed. **“Straddle Period”**
13 means a period beginning before and ending after the Effective Date. Where amounts
14 due such providers are not subject to capitation allowances, Liability for the amount
15 owed shall be based on date of service, with Seller being liable for dates of service in the
16 Pre-Effective Period and Buyer being liable for dates of service in the Post-Effective
17 Period. For continuous hospital stays, Liability for the amount owed shall be based on
18 date of admission with Seller being liable for admissions with a start date in the Pre-
19 Effective Period and Buyer being liable for admissions with a start date in the Post-
20 Effective Period.

21 **“Program Enrollees”** means those individual Medicaid or Alliance beneficiaries
22 who are enrolled in Seller’s Medicaid managed care or Alliance health benefits program
23 under and pursuant to the DHCF Contract for the Current Program Year.

24 **“Pre-Effective Period”** means the period preceding and ending on the Effective
25 Date.

26 **“Proceedings”** has the meaning set forth in Recital C.

27 **“Program Providers”** means the health care service and facility providers that
28 have entered into Provider Contracts with Seller.

29 **“Provider Contracts”** means, collectively, the agreements between Seller and the
30 Program Providers under which Seller has arranged to purchase and/or for the delivery of
31 health care services and facilities for the benefit of Program Enrollees under the DHCF
32 Contract in the Current Program Year.

33 **“Purchase Price”** has the meaning set forth in **Section 2.05**.

34 **“Purchased Assets”** has the meaning set forth in **Section 2.01**.

35 **“Purchased Books and Records”** has the meaning set forth in **Section 2.01(f)**.

1 **“Qualified Benefit Plan”** has the meaning set forth in **Section 4.14(c)**.

2 **“Real Property”** means, collectively, the Owned Real Property and the Leased
3 Real Property.

4 **“Related Party”** has the meaning set forth in **Section 4.19**.

5 **“Related to the Business”** means related to, or used or held for use (or is being
6 developed for use) in connection with the Business.

7 **“Release”** means any actual or threatened release, spilling, leaking, pumping,
8 pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping,
9 abandonment, disposing or allowing to escape or migrate into or through the environment
10 (including, without limitation, ambient air (indoor or outdoor), surface water,
11 groundwater, land surface or subsurface strata or within any building, structure, facility or
12 fixture).

13 **“Representative”** means, with respect to any Person, any and all directors,
14 officers, employees, consultants, financial advisors, counsel, accountants and other agents
15 of such Person.

16 **“Schedule Supplement”** has the meaning set forth in **Section 6.03**.

17 **“Seller”** has the meaning set forth in the preamble.

18 **“Seller Closing Certificate”** has the meaning set forth in **Section 7.02(e)**.

19 **“Seller Indemnitees”** has the meaning set forth in **Section 8.03**.

20 **“Seller Intellectual Property”** has the meaning set forth in **Section 4.10(a)**.

21 **“Seller Transition Services Agreement”** has the meaning set forth in **Section**
22 **3.02(b)(iii)**.

23 **“Solicitation Confidentiality Agreements”** means, collectively, each non-
24 disclosure or confidentiality agreement (other than the Confidentiality Agreement) under
25 which Seller has previously disclosed Confidential Information in connection with a
26 possible sale of the Business.

27 **“Subsidiary”** means, with respect to any Person, any corporation, limited
28 liability company, partnership, association or business entity of which (a) if a
29 corporation, a majority of the total voting power of shares of stock entitled (without
30 regard to the occurrence of any contingency) to vote in the election of directors,
31 managers or trustees thereof is at the time owned or controlled, directly or indirectly, by
32 that Person or one or more of the other Subsidiaries of that Person or a combination

1 thereof, or (b) if a limited liability company, partnership, association or other business
2 entity (other than a corporation), a majority of partnership or other similar ownership
3 interest thereof is at the time owned or controlled, directly or indirectly, by any Person
4 or one or more Subsidiaries of that Person or a combination thereof. For purposes
5 hereof, a Person or Persons shall be deemed to have a majority ownership interest in a
6 limited liability company, partnership, association or other business entity (other than a
7 corporation) if such Person or Persons shall be allocated a majority of limited liability
8 company, partnership, association or other business entity gains or losses or shall be or
9 control any managing director or general partner of such limited liability company,
10 partnership, association or other business entity.

11 **“Superior Court”** has the meaning set forth in Recital C.

12 **“Tangible Personal Property”** has the meaning set forth in **Section 2.01(e)**.

13 **“Taxes”** means all federal, state, local, foreign and other income, gross receipts,
14 sales, use, production, ad valorem, transfer, franchise, registration, profits, license, lease,
15 service, service use, withholding, payroll, employment, unemployment, estimated, excise,
16 severance, environmental, stamp, escheat, occupation, premium, property (real or
17 personal), real property gains, windfall profits, customs, duties or other taxes, fees,
18 assessments or charges of any kind whatsoever, together with any interest, additions or
19 penalties with respect thereto and any interest in respect of such additions or penalties
20 and including any liability for the payment of the foregoing obligations of another Person
21 pursuant to a Contract, as a transferee or successor, under Treasury Regulation Section
22 1.1502-6 or analogous Law or otherwise.

23 **“Tax Return”** means any return, declaration, report, claim for refund,
24 information return or statement or other document required to be filed with respect to
25 Taxes, including any schedule or attachment thereto, and including any amendment
26 thereof.

27 **“Third Party Claim”** has the meaning set forth in **Section 8.05(a)**.

28 **“Top Providers”** has the meaning set forth in **Section 4.21(a)**.

29 **“Trademarks”** has the meaning set forth in the definition of “Intellectual
30 Property”.

31 **“Transaction Documents”** means this Agreement, the Bill of Sale, the
32 Assignment and Assumption Agreement, Buyer Transition Services Agreement, Seller
33 Transition Services Agreement and the other agreements, instruments and documents
34 required to be delivered by any Party prior to or at the Closing pursuant to the terms
35 hereof and thereof.

1 thereof); data (including technical data and any data and files related to the Intellectual
2 Property Assets), general, financial and accounting records; internal financial statements;
3 machinery and equipment maintenance files; and any other books and records, in each
4 case (i) pertaining to the provision of goods and/or services under the Assumed Contracts
5 (including the provision of past or future services under the DHCF Contract), (ii) relating
6 to the Purchased Assets or (iii) relating to the Hired Employees, but excluding the books
7 and records set forth in **Section 2.01(f)** of the Disclosure Schedules (such items in this
8 clause (f) that are Purchased Assets, collectively, “**Purchased Books and Records**”);

9 (g) to the extent permitted by Law without a governmental consent, all
10 Permits that are Related to the Business (or are related to the Purchased Assets),
11 including Environmental Permits listed on **Section 4.13(b)** of the Disclosure Schedules
12 and all Permits set forth on **Section 2.01(g)(i)** of the Disclosure Schedules, but excluding
13 the health maintenance organization license of Seller and all Permits set forth set forth on
14 **Section 2.01(g)(ii)** of the Disclosure Schedules;

15 (h) all prepaid expenses, prepaid fees, prepaid sums, advance payments,
16 claims, refunds, security, deposits, charges, rights of recovery, rights of set-off and rights
17 of recoupment, in each case related to the Purchased Assets or Assumed Liabilities
18 (collectively, “**Credits**”); *provided, that*, the Purchased Assets shall not include any
19 Credit solely arising from or relating to the Assumed Contracts where such Credit relates
20 to or is allocable to the Pre-Effective Period;

21 (i) all of Seller’s rights to any Action or remedy, rights under warranties,
22 rights of recovery, rights of set-off and rights of recoupment, rights to indemnities and all
23 similar rights against third parties to the extent related to any Purchased Assets or
24 Assumed Liabilities; *provided, that*, the Purchased Assets shall not include a right to any
25 Action arising from or relating to (i) the Assumed Contracts or a business relationship of
26 Seller where such Action arises from or relates to acts or omissions that occurred prior to
27 the Effective Date or (ii) the Excluded Assets; *provided, further, that*, for the avoidance
28 of doubt, the Purchased Assets shall not include a right to (A) Seller’s claim pending
29 before the District of Columbia Contract Appeals Board (“**CAB**”), CAB No. D-14445,
30 against the District of Columbia for damages for breach of contract or equitable
31 adjustment for actuarially unsound capitation rates paid to Seller by the District of
32 Columbia for Medicaid enrollees to whom Seller provided services under the DHCF
33 Contract between August 1, 2010 and October 31, 2011 and between November 1, 2011
34 and April 30, 2012 (the “**Pharmacy Benefit Claim**”) or (B) Seller’s claim against the
35 District of Columbia for damages for breach of contract or equitable distribution for
36 actuarially unsound capitation rates paid to Seller by the District of Columbia for the
37 members of the D.C. Health Care Alliance Program to whom Seller provided services
38 under the Contract from July 2010 through July 2011 (the “**Alliance Claim**” and together
39 with the other claims described in this **Section 2.01(i)**, the “**Excluded Claims**”);

40 (j) all goodwill associated with any of the Purchased Assets described in the
41 foregoing clauses; and

1 (k) the assets, properties and rights specifically set forth on **Section 2.01(k)** of
2 the Disclosure Schedules.

3 **Section 2.02 Excluded Assets.** Other than the Purchased Assets, Buyer
4 expressly understands and agrees that Buyer is not purchasing or acquiring, and Seller is
5 not selling or assigning, any of the assets, rights or properties of Seller, and all such
6 assets, rights and properties shall be excluded from the Purchased Assets (the “Excluded
7 Assets”). For the avoidance of doubt, Excluded Assets include the following assets,
8 rights and properties of Seller:

9 (a) all cash and cash equivalents, bank accounts and securities of Seller;

10 (b) any capital stock or similar equity interest of Seller or any other Person;

11 (c) all Contracts that are not Assigned Contracts;

12 (d) any right, title and interest in to and under the Assigned Contracts, in each
13 case, to the extent such right, title and interest relates to the Pre-Effective Period,
14 including any Account Receivable (or any portion thereof) that relates to the Pre-
15 Effective Period;

16 (e) the corporate seals, organizational documents, minute books, stock books,
17 Tax Returns, books of account or other records having to do with the corporate
18 organization of Seller, and all employee-related or employee benefit-related files or
19 records, other than personnel files of Employees;

20 (f) all insurance policies of Seller and, subject to **Section 3.02(a)(x)**, **Section**
21 **6.17**, and **Section 6.19(c)**, all rights to applicable claims and proceeds thereunder;

22 (g) all Benefit Plans and trusts or other assets attributable thereto;

23 (h) all Tax assets (including duty and Tax refunds and prepayments) of Seller
24 or any of its Affiliates;

25 (i) all rights to any Excluded Claim available to or being pursued by Seller,
26 whether arising by way of counterclaim or otherwise, including the Pharmacy Benefit
27 Claim and the Alliance Claim;

28 (j) the records set forth on **Section 2.01(f)** of the Disclosure Schedule (the
29 “**Excluded Books and Records**” and, together with the Purchased Books and Records,
30 collectively, the “**Books and Records**”);

31 (k) the assets, properties and rights specifically set forth on **Section 2.02(k)** of
32 the Disclosure Schedules; and

33 (l) the rights that accrue or will accrue to Seller under the Transaction
34 Documents.

1 **Section 2.03 Assumed Liabilities.** Subject to the terms and conditions set forth
2 herein, Buyer shall assume and agree to pay, perform and discharge when due only the
3 following Liabilities of Seller (collectively, the “Assumed Liabilities”), and no other
4 Liabilities:

5 (a) all Liabilities arising under or relating to the Assigned Contracts that arise
6 on or after the Effective Date, but only to the extent that such Liabilities thereunder (i) are
7 required to be performed on or after the Effective Date and (ii) do not result from any
8 failure to perform, improper performance, breach of warranty, breach of covenant or any
9 other act of Seller, in each case where such failure to perform, improper performance,
10 breach or act of Seller constitutes (or constituted at the time of its occurrence) a breach or
11 other violation of any of the Assigned Contracts.

12 (b) Post-Effective Provider Service Payables;

13 (c) all Liabilities for Taxes relating to the Purchased Assets allocated to Buyer
14 under **Section 6.12**; and

15 (d) all Liabilities (other than Liabilities for Post-Effective Provider Service
16 Payables or Liabilities for Taxes) arising under or relating to Buyer’s ownership or
17 operation of Purchased Assets (other than Assigned Contracts) that arise on or after the
18 Effective Date, but only to the extent that such Liabilities (i) do not result from any
19 Excluded Assets and (ii) do not result from any failure to perform, improper performance,
20 breach of warranty, breach of covenant or any other act of Seller, in each case where such
21 failure to perform, improper performance, breach or act of Seller constitutes (or
22 constituted at the time of its occurrence) a breach or other violation of any pre-Closing
23 duty or obligation of Seller.

24 **Section 2.04 Excluded Liabilities.** Notwithstanding the provisions of **Section**
25 **2.03** or any other provision of this Agreement, Buyer shall not assume and shall not be
26 responsible to pay, perform or discharge any of Liabilities of Seller or of any of its
27 Affiliates of any kind or nature whatsoever, other than the Assumed Liabilities
28 (collectively, the “Excluded Liabilities”). Without limiting the generality of the
29 foregoing, Excluded Liabilities shall include:

30 (a) any Liabilities arising out of or relating to any ownership or operation of
31 the Business and the Purchased Assets during the Pre-Effective Period;

32 (b) any Liabilities relating to or arising out of the Excluded Assets or the
33 Excluded Claims;

34 (c) all Liabilities arising under or relating to the Assigned Contracts that relate
35 to any failure to perform, improper performance, breach of warranty, breach of covenant
36 or any other act of Seller, in each case where such failure to perform, improper
37 performance, breach or act of Seller constitutes (or constituted at the time of its
38 occurrence) a breach or other violation of any of the Assigned Contracts;

1 (d) any Indebtedness of Seller, other than any Indebtedness of Seller set forth
2 on **Section 2.04(d)** of the Disclosure Schedules;

3 (e) any liabilities or obligations for (i) Taxes relating to the Business, the
4 Purchased Assets or the Assumed Liabilities for any taxable period ending on or prior to
5 the Closing Date, (ii) Taxes relating to the Business, the Purchased Assets or the
6 Assumed Liabilities allocated to Seller under **Section 6.12**, (iii) any other Taxes of Seller
7 or any other Person (including Taxes allocated to Seller and for which Seller is liable
8 under **Section 6.11**) for any taxable period, and (iv) any Taxes or other Losses for which
9 Seller is liable under **Section 6.10**;

10 (f) any Liabilities relating to or arising out of (i) the employment or service
11 with Seller, or termination of employment or service with Seller, of any employee,
12 director, consultant, or advisor of the Seller, (ii) the Benefits Plans or (iii) workers'
13 compensation claims of any employee of Seller relating to employment with Seller;

14 (g) any Liabilities of Seller arising or incurred in connection with the
15 negotiation, preparation, investigation and performance of this Agreement, the other
16 Transaction Documents and the transactions contemplated hereby and thereby, including,
17 without limitation, fees and expenses of counsel, accountants, consultants, advisers and
18 others;

19 (h) any Liabilities arising out of obligations incurred by Seller after the
20 Effective Date;

21 (i) any Liabilities to indemnify, reimburse or advance amounts to any present
22 or former officer, director, employee or agent of Seller (including with respect to any
23 breach of fiduciary obligations by such Persons); and

24 (j) any Liabilities set forth on **Section 2.04(j)** of the Disclosure Schedules.

25 (k) any amounts due any health care service and facility providers (including
26 any Program Providers and any non-participating providers) which amounts are not Post-
27 Effective Provider Service Payables.

28 **Section 2.05 Purchase Price.** The aggregate purchase price for the Purchased
29 Assets shall be \$5,000,000 (the "Purchase Price"), plus the assumption of the Assumed
30 Liabilities, and the performance of the Buyer Transition Services (as defined in the Buyer
31 Transition Services Agreement). The Purchase Price shall be paid on the Closing Date by
32 wire transfer of immediately available funds to an account designated in writing by Seller
33 to Buyer no later than two (2) Business Days prior to the Closing Date.

34 **Section 2.06 Allocation of Purchase Price.** Within ninety (90) days after the
35 Closing Date, Seller shall deliver a schedule allocating the Purchase Price (including any
36 Assumed Liabilities treated as consideration for the Purchased Assets for Tax purposes)
37 (the "**Allocation Schedule**"). The Allocation Schedule shall be prepared in accordance
38 with Section 1060 of the Code. The Allocation Schedule shall be deemed final unless
39 Buyer notifies Seller in writing that Buyer objects to one or more items reflected in the

1 Allocation Schedule within ten (10) days after delivery of the Allocation Schedule to
2 Buyer. In the event of any such objection, Seller and Buyer shall negotiate in good faith
3 to resolve such dispute; *provided, however*, that if Seller and Buyer are unable to resolve
4 any dispute with respect to the Allocation Schedule within ten (10) days after the delivery
5 of the Allocation Schedule to Buyer, such dispute shall be resolved by an impartial
6 nationally recognized firm of independent certified public accountants mutually
7 appointed by Buyer and Seller. The fees and expenses of such accounting firm shall be
8 borne equally by Seller and Buyer. Seller and Buyer agree to file their respective IRS
9 Forms 8594 and all federal, state and local Tax Returns in accordance with the Allocation
10 Schedule. Neither Buyer nor Seller will voluntarily take any position inconsistent with
11 the final Purchase Price allocation determined under this **Section 2.06** upon examination
12 of their respective Tax Returns, in any claim, in any litigation or otherwise.

13 **Section 2.07 Non-assignable Assets.**

14 (a) Notwithstanding anything to the contrary in this Agreement, and subject to
15 the provisions of this **Section 2.07**, to the extent that the sale, assignment, transfer,
16 conveyance or delivery, or attempted sale, assignment, transfer, conveyance or delivery,
17 to Buyer of any Purchased Asset would result in a violation of applicable Law, or would
18 require the consent, authorization, approval or waiver of a Person who is not a party to
19 this Agreement (including any Governmental Authority), and such consent, authorization,
20 approval or waiver shall not have been obtained prior to the Closing, this Agreement shall
21 not constitute a sale, assignment, transfer, conveyance or delivery, or an attempted sale,
22 assignment, transfer, conveyance or delivery, thereof (such Purchased Assets that are so
23 not assigned, “**Non-Assignable Assets**”); *provided, however*, that, subject to the
24 satisfaction or waiver of the conditions contained in **ARTICLE VII**, the Closing shall
25 occur notwithstanding the foregoing without any adjustment to the Purchase Price on
26 account thereof.

27 (b) Following the Closing, Seller shall use commercially reasonable efforts to
28 obtain as soon as possible any third party consent, authorization, approval, waiver for (or
29 obtain any release, substitution, amendment or novation necessary for) the assignment of
30 all right, title and interest in, to and under the Non-Assignable Assets to Buyer, and
31 Buyer shall reasonably cooperate with such efforts by Seller. So long as Seller provides
32 Buyer with the benefit of such Non-Assignable Assets pursuant to **Section 2.07(c)**, Buyer
33 shall be solely responsible for the Assumed Liabilities arising under or relating to the
34 Non-Assignable Assets from and after the Closing Date. Seller shall be deemed to be
35 Buyer’s duly appointed agent for the purpose of completing, fulfilling and discharging all
36 of Buyer’s Liabilities arising after the Effective Date with respect to such Non-
37 Assignable Asset. Once such consent, authorization, approval, waiver, release,
38 substitution, amendment or novation is obtained, such applicable Non-Assignable Asset
39 shall be deemed automatically assigned, transferred, conveyed and delivered to Buyer.
40 Applicable sales, transfer and other similar Taxes, if any, in connection with such sale,
41 assignment, transfer, conveyance or license shall be paid in accordance with **Section**
42 **6.11.**

1 (c) Until a Non-Assignable Asset is transferred to Buyer pursuant to this
2 **Section 2.07**, Seller shall, to the maximum extent permitted by Law, provide Buyer with
3 the benefit of such Non-Assignable Asset in all respects, including (i) entering into such
4 arrangements (such as subleasing, sublicensing or subcontracting) to provide to Buyer the
5 economic and operational equivalent of the transfer of such Non-Assignable Asset to
6 Buyer as of the Effective Date, (ii) enforcing any rights with respect to such Non-
7 Assignable Asset (including the right to terminate in accordance with the terms thereof
8 upon the request of Buyer), (iii) permitting Buyer to enforce any rights as if such Non-
9 Assignable Asset had been transferred to Buyer, and (iv) at Buyer's expense, holding in
10 trust for and paying to Buyer promptly upon receipt thereof, such Non-Assignable Asset
11 and all income, proceeds and other monies received by Seller to the extent related to such
12 Non-Assignable Asset, *provided, however*, that Seller shall be permitted to set off against
13 such amounts all direct, documented costs associated with the retention and maintenance
14 of such Non-Assignable Assets.

15 (d) Notwithstanding anything herein to the contrary, the provisions of this
16 **Section 2.07** shall not apply to any consent or approval required under any antitrust,
17 competition or trade regulation Law, which consent or approval shall be governed by
18 **Section 6.06**. Notwithstanding any provision in this **Section 2.07** to the contrary, Buyer
19 shall not be deemed to have waived its rights under **Section 7.02(m)** unless and until
20 Buyer either provides written waivers thereof or elects to proceed to consummate the
21 transactions contemplated by this Agreement at Closing.

22 **ARTICLE III**
23 **CLOSING**

24 **Section 3.01 Closing.** Subject to the terms and conditions of this Agreement,
25 the consummation of the transactions contemplated by this Agreement (the "Closing")
26 shall take place at the offices of Morgan, Lewis & Bockius LLP, 1111, Pennsylvania
27 Avenue, N.W., Washington, D.C., at 10:00 a.m., Eastern Time, on the second Business
28 Day after all of the conditions to Closing set forth in **ARTICLE VII** are either satisfied
29 or waived (other than conditions which, by their nature, are to be satisfied on the Closing
30 Date), or at such other time, date or place as Seller and Buyer may mutually agree upon
31 in writing. The date on which the Closing is to occur is herein referred to as the "Closing
32 Date".

33 **Section 3.02 Closing Deliverables.**

34 (a) At the Closing, Seller shall deliver to Buyer the following:

35 (i) a bill of sale in the form of Exhibit A hereto (the "**Bill of Sale**")
36 and duly executed by Seller;

37 (ii) an assignment and assumption agreement in the form of Exhibit B
38 hereto (the "**Assignment and Assumption Agreement**") duly executed by Seller;

39 (iii) a transition services agreement, in form and substance reasonably
40 satisfactory to the Parties, under which (A) Seller shall provide Buyer with (1) access to,

1 and use of, Seller’s facilities, premises, equipment, information systems and other
2 infrastructure for servicing and support of the Business and the Purchased Assets and (2)
3 the benefit of Contracts to which Seller is a party relating to servicing and support of the
4 Business and the Purchased Assets (including the Master Services Agreement by and
5 between Seller and Infosys Public Services, Inc. dated July 27, 2012, provided that the
6 Parties shall apportion, in a commercially reasonable manner, the fees payable to Infosys
7 Public Services, Inc. based upon each Party's proportionate use of such services after the
8 Effective Date), in each case, for a period of time to be identified by Buyer in Buyer’s
9 sole discretion (provided, however, that such time period will be no longer than the
10 ninety (90) day period following the Closing Date) and (B) Buyer shall pay the out-of-
11 pocket costs associated with Seller's provision of such access, use and benefit (provided
12 that the Parties shall apportion, in a commercially reasonable manner, the fees payable to
13 Infosys Public Services, Inc. based upon each Party's proportionate use of such services
14 after the Effective Date) (such transition services agreement, the “**Seller Transition**
15 **Services Agreement**”), duly executed by Seller;

16 (iv) a transition services agreement, in form and substance reasonably
17 satisfactory to the Parties, under which Buyer will provide Seller, at no compensation to
18 Buyer, with personnel and management services to assist Seller in the management,
19 administration, servicing and run-off of Liabilities arising out of or relating to ownership
20 or operation of the Business in the Pre-Effective Period, including particularly, but
21 without limitation, claims of Program Providers for services rendered in the Pre-Effective
22 Period, *provided, however*, that (A) Buyer will not provide claims processing services to
23 Seller, (B) Seller will continue to receive claims processing services after the Closing
24 Date from the Master Services Agreement by and between Seller and Infosys Public
25 Services, Inc. dated July 27, 2012, and (B) Seller will be responsible for the payment of
26 the costs and fees, if any, which Seller incurs under such agreement in accordance with
27 **Section 3.02(a)(iii)** (such transition services agreement, the “**Buyer Transition Services**
28 **Agreement**”), duly executed by Seller;

29 (v) an assignment in the form of Exhibit C hereto (the “**Intellectual**
30 **Property Assignment**”) and duly executed by Seller, transferring all of Seller’s right,
31 title and interest in and to the Intellectual Property Assets to Buyer;

32 (vi) the Seller Closing Certificate;

33 (vii) the certificates of the Secretary or Assistant Secretary of Seller
34 required by **Section 7.02(f)** and **Section 7.02(g)**;

35 (viii) an acknowledgment of the receipt of the Purchase Price, in form
36 and substance satisfactory to Buyer;

37 (ix) such other customary instruments of transfer, assumption, filings
38 or documents, in form and substance reasonably satisfactory to Buyer, as may be required
39 to give effect to this Agreement; and

1 (x) Insurance Proceeds, to the extent such Insurance Proceeds are
2 realized prior to the Closing.

3 (b) At the Closing, Buyer shall deliver to Seller the following:

4 (i) the Purchase Price;

5 (ii) the Assignment and Assumption Agreement duly executed by
6 Buyer;

7 (iii) the Seller Transition Services Agreement duly executed by Buyer;

8 (iv) the Buyer Transition Services Agreement duly executed by Buyer;

9 (v) the Buyer Closing Certificate; and

10 (vi) the certificates of the Secretary or Assistant Secretary of Buyer
11 required by **Section 7.03(e)** and **Section 7.03(f)**.

12 **ARTICLE IV**
13 **REPRESENTATIONS AND WARRANTIES OF SELLER**

14 Except as set forth in the Disclosure Schedules, Seller represents and warrants to
15 Buyer that the statements contained in this **ARTICLE IV** are true and correct as of the
16 date hereof and as of the Closing.

17 **Section 4.01 Organization and Qualification of Seller.** Seller is a health
18 maintenance organization licensed under the Laws of the District of Columbia and has all
19 necessary corporate power and authority to own, operate or lease the properties and assets
20 now owned, operated or leased by it and to carry on the Business as currently conducted.
21 Seller is duly licensed or qualified to do business and is in good standing in each
22 jurisdiction in which the ownership of the Purchased Assets or the operation of the
23 Business as currently conducted makes such licensing or qualification necessary, except
24 where the failure to be so licensed, qualified or in good standing would not be reasonably
25 likely to have a Material Adverse Effect. Seller has provided to Buyer true, complete and
26 correct copies of the Governing Documents of Seller. Seller has no Subsidiaries and does
27 not directly or indirectly control or have any investment or other interest (including any
28 direct or indirect interest or any equity or similar interest (or any securities convertible
29 into or exchangeable or exercisable for any equity or similar interest)) in any corporation,
30 partnership, limited liability company, joint venture, business trust or other Person (or
31 have any obligation or express contractual right to acquire any such investment or other
32 interest) and Seller has not agreed, contingently or otherwise, (i) to share any of its profits
33 with any Person, (ii) to share any Losses, costs or Liabilities of any Person or (iii) to
34 guarantee the obligations of any Person.

35 **Section 4.02 Authority of Seller.** Subject to Plan approval by the Superior
36 Court, Seller has all necessary corporate power and authority to enter into this Agreement

1 and the other Transaction Documents to which Seller is a party, to carry out its
2 obligations hereunder and thereunder and to consummate the transactions contemplated
3 hereby and thereby. The execution and delivery by Seller of this Agreement and any
4 other Transaction Document to which Seller is a party, the performance by Seller of its
5 obligations hereunder and thereunder and the consummation by Seller of the transactions
6 contemplated hereby and thereby have been duly authorized by all requisite corporate
7 action on the part of Seller. This Agreement has been duly executed and delivered by
8 Seller, and (assuming due authorization, execution and delivery by Buyer) this
9 Agreement constitutes a legal, valid and binding obligation of Seller, enforceable against
10 Seller in accordance with its terms. When each other Transaction Document to which
11 Seller is or will be a party has been duly executed and delivered by Seller (assuming due
12 authorization, execution and delivery by each other party thereto), such Transaction
13 Document will constitute a legal and binding obligation of Seller enforceable against it in
14 accordance with its terms.

15 **Section 4.03 No Conflicts; Consents.** The execution, delivery and performance
16 by Seller of this Agreement and the other Transaction Documents to which it is a party,
17 and the consummation of the transactions contemplated hereby and thereby, do not and
18 will not: (a) result in a violation or breach of any provision of Governing Documents of
19 Seller; (b) conflict with or result in a violation or breach of, or default under, any
20 provision of any Law or Governmental Order applicable to Seller, the Business or the
21 Purchased Assets; or (c) except as set forth in **Section 4.03(i)** of the Disclosure
22 Schedules, require the consent, notice or other action by any Person under, conflict with,
23 result in a violation or breach of, constitute a default (or an event that, with or without
24 notice or lapse of time or both, would constitute a default) under, result in the
25 acceleration of or create in any party the right to payment under, or result in the
26 acceleration of or create in any party the right to accelerate, terminate, foreclose, modify
27 or cancel any right, benefit or obligation under any Non-Provider Assigned Contract, any
28 Top Provider Contract or any Permit to which Seller is a party or by which Seller or the
29 Business is bound or to which any of the Purchased Assets are subject (including any
30 Assigned Contract); or (d) result in the creation or imposition of any Encumbrance other
31 than Permitted Encumbrances on the Purchased Assets. All contracts listed on Section
32 4.03(i) of the Disclosure Schedules have been made available to Buyer in the Data Room
33 with all schedules, addenda, amendments, attachments and other supplements thereto. No
34 consent, approval, Permit, Governmental Order, declaration or filing with, or notice to,
35 any Governmental Authority is required by or with respect to Seller in connection with
36 the execution and delivery of this Agreement or any of the other Transaction Documents
37 and the consummation of the transactions contemplated hereby and thereby, except for
38 such filings as set forth in **Section 4.03(ii)** of the Disclosure Schedules.

39 **Section 4.04 Financial Statements.** Copies of the audited financial statements
40 consisting of the balance sheet of the Seller as at December 31st in 2011 and the related
41 statements of income and retained earnings and cash flow for the year then ended (the
42 “**Audited Financial Statements**”), and unaudited financial statements consisting of the
43 balance sheet of the Business as at September 30, 2012, and the related statements of
44 income and retained earnings, statutory surplus and cash flow for the nine (9)-month
45 period then ended (the “**Interim Financial Statements**” and together with the Audited

1 Financial Statements, the “**Financial Statements**”) are included in **Section 4.04** of the
2 Disclosure Schedules. Except as described in the Independent Auditors’ Report, the
3 Financial Statements have been prepared on the statutory basis of accounting, in
4 accordance with the accounting practices adopted by the National Association of
5 Insurance Commissioners codification project (Codification) as prescribed or permitted
6 by Department of Insurance, Securities and Banking of the District of Columbia. The
7 Financial Statements fairly present in all material respects the financial condition of
8 Seller as of the respective dates they were prepared and the results of the operations of
9 Seller for the periods indicated. The balance sheet of the Seller as of 2011 is referred to
10 herein as the “**Balance Sheet**” and the date thereof as the “**Balance Sheet Date**” and the
11 balance sheet of the Business as of September 30, 2012 is referred to herein as the
12 “**Interim Balance Sheet**” and the date thereof as the “**Interim Balance Sheet Date**”.

13 **Section 4.05 Absence of Certain Changes, Events and Conditions.** Except as
14 expressly contemplated by this Agreement or any other Transaction Documents or as set
15 forth on **Section 4.05** of the Disclosure Schedules, from the Interim Balance Sheet Date
16 until the date of this Agreement, Seller has operated in the Ordinary Course of Business,
17 Seller has satisfied all Liabilities of Seller Related to the Business as the same have
18 become due and payable, and there has not been, with respect to the Business, any:

19 (a) event, occurrence or development that has had, or could reasonably be
20 expected to have, individually or in the aggregate, a Material Adverse Effect;

21 (b) declaration or payment of any dividends or distributions on or in respect of
22 any of Seller’s capital stock or redemption, purchase or acquisition of Seller’s capital
23 stock;

24 (c) entry into, modification of or termination of, or any material default under,
25 any Contract that would constitute an Assumed Contract;

26 (d) incurrence of any Indebtedness in connection with the Business in an
27 aggregate amount exceeding \$100,000, except unsecured current Liabilities incurred in
28 the Ordinary Course of Business;

29 (e) entry into any arrangement related to off balance sheet financing by Seller,
30 including arrangements for the sale by Seller of receivables or any arrangement pursuant
31 to which Seller provides capital, surplus, balance sheet or any other form of economic or
32 financial support to another Person;

33 (f) loan, advance or capital contribution to or investment in any Person;

34 (g) transfer, assignment, sale or other disposition of any of the Purchased
35 Assets shown or reflected in the Balance Sheet, except for any Purchased Assets (other
36 than an Assigned Contract or Permit) having an aggregate value of less than \$100,000;

37 (h) cancellation, waiver or compromise of any Indebtedness or Claims;

- 1 (i) transfer, assignment, grant or abandonment of any license or sublicense of
2 any material rights under or with respect to any Intellectual Property Assets or
3 Intellectual Property Licenses;
- 4 (j) material damage, destruction or loss, or any material interruption in use, of
5 any assets that are (or would have been) Purchased Assets, whether or not covered by
6 insurance;
- 7 (k) transfer, assignment, amendment, termination, cancellation, acceleration,
8 or waiver of, or other modification of Seller's rights or obligations under or in connection
9 with, any Assigned Contract or Permit;
- 10 (l) capital expenditures in an aggregate amount exceeding \$100,000 that
11 would constitute an Assumed Liability;
- 12 (m) imposition of any Encumbrance upon any of the Purchased Assets, except
13 for Permitted Encumbrances;
- 14 (n) grant of any bonuses, whether monetary or otherwise, or increase in any
15 wages, salary, severance, pension or other compensation or benefits in respect of any
16 current or former employees, officers, directors, independent contractors or consultants of
17 Seller or the Business, other than as provided for in any written agreements in effect as of
18 the date of this Agreement;
- 19 (o) action that would constitute a "plant closing" or "mass layoff" or which
20 would otherwise trigger notice requirements under the WARN Act or any similar Law;
- 21 (p) acquisition or disposition of, or agreement to acquire or dispose by
22 merger, consolidation or otherwise, (i) any Person or (ii) a substantial portion of the
23 assets of or any business of any Person;
- 24 (q) adoption of any plan of merger, consolidation, reorganization, liquidation
25 or dissolution or filing of a petition in bankruptcy under any provisions of federal or state
26 bankruptcy Law or consent to the filing of any bankruptcy petition against it under any
27 similar Law;
- 28 (r) adoption, termination, amendment or modification of (i) any Benefit Plan
29 (other than as required to comply with applicable Law), or (ii) collective bargaining or
30 other agreement with a Union, in each case whether written or oral;
- 31 (s) cancellation, modification or amendment outside the Ordinary Course of
32 Business of any insurance policy owned or held by Seller;
- 33 (t) sale, purchase, lease, or other acquisition or disposition of any right to
34 own, use or lease any property or asset that constitutes (or would have constituted) a
35 Purchased Asset for an amount in excess of \$100,000, except for purchases of supplies in
36 the Ordinary Course of Business;

1 (u) cancellation, termination or expiration of any Permits required for the
2 conduct of the Business as currently conducted or the ownership and use of the Purchased
3 Assets;

4 (v) failure to maintain the Books and Records in accordance with past
5 practice;

6 (w) failure to maintain the properties and assets included in the Purchased
7 Assets in good operating condition, maintenance and report (with the exception of
8 ordinary wear and tear that is not material in nature or cost) so that they are adequate and
9 suitable for the uses to which they are being put;

10 (x) material violation of, or other failure to comply with, any Law,
11 Governmental Order or Permit Related to the Business or the ownership and use of the
12 Purchased Assets;

13 (y) commencement, discharge, settlement or compromise of any Action;

14 (z) Tax election, change in method of Tax accounting, or settlement of any
15 claim for Taxes; or

16 (aa) Contract to do any of the foregoing, or any action or omission that would
17 result in any of the foregoing.

18 **Section 4.06 Material Contracts.**

19 (a) **Section 4.06(a)** of the Disclosure Schedules lists each of the following
20 Contracts (all of which have been made available to Buyer in the Data Room with all
21 schedules, addenda, amendments, attachments and other supplements thereto) (x) by
22 which any of the Purchased Assets are bound or affected or (y) to which Seller is a party
23 or by which it is bound Related to the Business or related to the Purchased Assets
24 (together with all Leases listed in **Section 4.09(b)** of the Disclosure Schedules and all
25 Intellectual Property Licenses listed in **Section 4.10(a)** of the Disclosure Schedules,
26 collectively, the “**Material Contracts**”):

27 (i) all Contracts involving aggregate consideration to or from Seller in
28 excess of \$100,000;

29 (ii) all Contracts requiring performance by any party more than one
30 year from the date hereof, which, in each case, cannot be cancelled by Seller without
31 penalty on less than thirty (30) days’ notice;

32 (iii) all Contracts that relate to the sale of any of the Purchased Assets,
33 or that grant to any Person any option, right of first refusal, preferential right or other
34 similar right to purchase any of the Purchased Assets;

35 (iv) all Contracts providing for payments to or by any Person based on
36 sales, purchases or profits, other than direct payments for goods;

- 1 (v) all Contracts providing for “earn-outs” or other similar contingent
2 payments by Seller;
- 3 (vi) all Contracts that relate to the acquisition or disposition of any
4 business, capital stock or other equity or a material amount of assets of any other Person
5 or any real property (whether by merger, sale of stock, sale of assets or otherwise), except
6 for supply agreements entered into in the Ordinary Course of Business;
- 7 (vii) all Contracts relating to Indebtedness (including, without
8 limitation, guarantees) and all Contracts pursuant to which Seller provides capital,
9 surplus, balance sheet or any other form of economic or financial support to another
10 Person;
- 11 (viii) all Contracts between or among the Seller on the one hand and one
12 or more Related Parties, on the other hand;
- 13 (ix) all collective bargaining agreements or other Contracts with any
14 labor organization, union or association;
- 15 (x) all Contracts with any Governmental Authority;
- 16 (xi) all Contracts that limit or purport to limit the ability of Seller to
17 compete (A) in any line of business, (B) with any Person, (C) in any geographic area or
18 (D) during any time period (including all Contracts that obligate Seller to not solicit any
19 Person as a customer, supplier or agent or to not solicit or hire any Person as an
20 employee);
- 21 (xii) all joint venture, partnership, strategic alliance or similar Contracts
22 (including Contracts containing any franchise or royalty arrangements);
- 23 (xiii) all powers of attorney or similar Contract or grant of agency;
- 24 (xiv) all employment, severance, retention, change of control, consulting
25 agreements or similar Contracts;
- 26 (xv) all Contracts with independent contractors or consultants;
- 27 (xvi) all management service, sales agency, sales representative,
28 distributorship or any other similar type Contracts;
- 29 (xvii) all Contracts providing for profit sharing, stock option, stock
30 purchase, stock appreciation, deferred compensation or other similar plan or arrangement
31 for the benefit of current or former directors, officers, or employees of Seller;
- 32 (xviii) all Contracts that contains any severance, stock, stock option,
33 deferred compensation or change-of-control payment provisions or otherwise provides
34 for the payment of any cash or other compensation or benefits upon the consummation of

1 or in connection with the transactions contemplated by this Agreement or any other
2 Transaction Document;

3 (xix) all Contracts relating to loans or advances to, or investment in, any
4 Person and all Contracts relating to the making of any such loans, advances or
5 investments;

6 (xx) all Contracts that impose Encumbrances (other than Permitted
7 Encumbrances) on the Purchased Assets;

8 (xxi) all settlement, release or conciliation agreements and any similar
9 Contracts relating to any Action;

10 (xxii) all Contracts pursuant to which Seller provides warranties or
11 indemnification with respect to contractual performance;

12 (xxiii) all Contracts associated with off balance sheet financing by Seller,
13 including arrangements for the sale by Seller of receivables;

14 (xxiv) all contracts pursuant to which any Person other than Seller is
15 authorized to use any Intellectual Property Asset;

16 (xxv) all Contracts under which the consequences of a default or
17 termination by any party thereto would reasonably be expected to have a Material
18 Adverse Effect;

19 (xxvi) all Provider Contracts;

20 (xxvii) any other Contracts that are material to the operation or financial
21 condition of the Business; and

22 (xxviii) any Contract to enter into any of the foregoing.

23 (b) Except as set forth on **Section 4.06(b)** of the Disclosure Schedules,
24 (i) neither Seller nor, to Seller's Knowledge, any other party to any Material Contract (A)
25 is in breach of, or default under, any Material Contract in any material respect or (B) has
26 provided (or plans to provide) or received any notice of any intention to terminate, any
27 Material Contract. Each Material Contract is in full force and effect and constitutes the
28 valid and legally binding obligation of Seller and, to Seller's Knowledge, the
29 counterparty thereto, enforceable against Seller and, to Seller's Knowledge, the
30 counterparty thereto in accordance with its terms and conditions, subject to applicable
31 bankruptcy, insolvency, moratorium or other similar Laws relating to creditors' rights and
32 general principles of equity. Seller is not now in material violation of any of the terms or
33 conditions of any Material Contract to which it is a party, and, to Seller's Knowledge, all
34 of the material covenants to be performed by any other party thereto have been performed
35 in all material respects. No event or circumstance has occurred that, with notice or lapse
36 of time or both, would constitute an event of default under any Material Contract or result
37 in a termination thereof or would cause or permit the acceleration or other changes of any

1 right or obligation or the loss of any benefit thereunder. Complete and correct copies of
2 each Material Contract (including all modifications, amendments and supplements
3 thereto and waivers thereunder) have been made available to Buyer in the Data Room.
4 There are no material disputes pending or threatened under any Contract included in the
5 Purchased Assets.

6 **Section 4.07 Title to Purchased Assets.** Except as set forth in **Section 4.07** of
7 the Disclosure Schedules, Seller has good and valid title to, or a valid leasehold interest
8 in, all the Purchased Assets, free and clear of Encumbrances except for Permitted
9 Encumbrances.

10 **Section 4.08 Sufficiency of Assets.** Subject to Purchased Assets that cannot be
11 transferred pursuant to **Section 2.07**, (a) the Purchased Assets are sufficient for the
12 continued conduct of the Business after the Closing in substantially the same manner as
13 Seller conducts the Business as of the date hereof, and (b) the Purchased Assets constitute
14 all of the rights, property and assets necessary to conduct the Business as currently
15 conducted by Seller. The Purchased Assets are in good operating condition, maintenance
16 and report (with the exception of ordinary wear and tear that is not material in nature or
17 cost) and are adequate and suitable for the uses to which they are being put.

18 **Section 4.09 Real Property.**

19 (a) **Section 4.09(a)** of the Disclosure Schedules sets forth all material real
20 property owned by Seller and used in connection with the Business (collectively, the
21 “**Owned Real Property**”).

22 (b) **Section 4.09(b)** of the Disclosure Schedules sets forth all material real
23 property leased, licensed or occupied by Seller and used in connection with the Business
24 (collectively, the “**Leased Real Property**”), and an accurate and complete list, as of the
25 date of this Agreement, of all leases, licenses, use and occupancy and similar agreement
26 to which Seller is bound in connection with each Leased Real Property (collectively, the
27 “**Leases**”; each, a “**Lease**”) and showing the location, term, square footage, landlord,
28 monthly rental cost and estimated utility and operating expenses for each Lease.

29 (c) To Seller’s Knowledge:

30 (i) Each Lease is valid and binding on Seller and, also to Seller’s
31 Knowledge, binding on the other parties thereto, and is in full force and effect.

32 (ii) Except as set forth in **Section 4.09(b)** of the Disclosure Schedules,
33 none of the Leases have been amended, modified, supplemented, replaced, terminated or
34 canceled.

35 (iii) Except as set forth in **Section 4.09(b)** of the Disclosure Schedules,
36 Seller and, also to Seller’s Knowledge, each of the other parties thereto, is not in default
37 under any Lease, and there are no conditions, events or circumstances that, with the
38 giving or notice or passage of time, or both, would constitute a material breach or default
39 under any of Lease.

1 (d) Seller has not received any written notice of existing, pending or
2 threatened (i) condemnation proceedings affecting the Real Property, or (ii) zoning,
3 building code or other moratorium proceedings, or similar matters which would
4 reasonably be expected to materially and adversely affect the ability to operate the Real
5 Property as currently operated. Neither the whole nor any material portion of any Real
6 Property has been damaged or destroyed by fire or other casualty.

7 **Section 4.10 Intellectual Property.**

8 (a) **Section 4.10(a)** of the Disclosure Schedules lists (i) all Intellectual
9 Property Registrations (including the owner; application, registration, patent or other
10 identifying number under which such right is identified; application or registration/issue
11 date; and jurisdiction); (ii) all other Intellectual Property Assets that are material to the
12 operation of the Business; and (iii) Intellectual Property Licenses. Except as set forth in
13 **Section 4.10(a)** of the Disclosure Schedules, Seller solely owns all right, title, and
14 interest in and to the Intellectual Property Assets, free and clear of all Encumbrances
15 other than Permitted Encumbrances. The Intellectual Property Assets together with the
16 Intellectual Property Licenses (“**Seller Intellectual Property**”) constitute all material
17 Intellectual Property necessary to conduct the Business as currently conducted.

18 (b) Except as set forth in **Section 4.10(b)** of the Disclosure Schedules:
19 (i) neither the Intellectual Property Assets nor the Seller’s conduct of the Business as
20 currently conducted infringe, violate, dilute or misappropriate the Intellectual Property of
21 any Person; (ii) there are no claims pending or threatened in writing against the Seller
22 alleging that the Business is infringing on or violating the Intellectual Property of any
23 Person; and (iii) to Seller’s Knowledge, no Person is infringing, violating, diluting or
24 misappropriating any Intellectual Property Assets.

25 (c) Since November 10, 2012, Seller has taken commercially reasonable
26 measures, as appropriate, to maintain in confidence all Confidential Information relating
27 to Program Providers. Except as set forth on **Section 4.10(c)** of the Disclosure
28 Schedules, to Seller’s Knowledge, no such Confidential Information relating to Program
29 Providers has been disclosed or permitted to be disclosed to any Person other than Buyer
30 or the DHCF (except pursuant to clause (a) of the definition of “Ordinary Course of
31 Business” or under an obligation of confidence).

32 (d) The Seller Intellectual Property owned or used by the Seller immediately
33 prior to Closing will be owned or available for use (as applicable) by Buyer on identical
34 terms and conditions immediately after Closing. Except as set forth on **Section 4.10(d)**
35 of the Disclosure Schedules, no Intellectual Property Assets are subject to any agreement
36 or arrangement containing any covenant or other provision that in any way limits or
37 restricts the ability of Seller to use, exploit, assert, or enforce any Intellectual Property
38 Asset anywhere in the world.

39 (e) All computer software used internally by the Seller in the Business is
40 owned by the Seller or used pursuant to a valid license or other enforceable right and is
41 not a “bootleg” version or unauthorized copy. Except as set forth on **Section 4.10(e)** of

1 the Disclosure Schedules, the Seller possess such working copies of all of the computer
2 software, including, object and (to the extent owned or licensed) source codes, and all
3 related manuals, licenses and other documentation, as are necessary for the current
4 conduct of the Business. To Seller's Knowledge, the computer software used to operate
5 the Business (i) are in satisfactory working order and are scalable to meet current and
6 reasonably anticipated capacity; (ii) have appropriate security, back ups, disaster recovery
7 arrangements and hardware and software support and maintenance to minimize the risk
8 of material error, breakdown, failure or security breach occurring and to ensure if such
9 event does occur it does not cause a material disruption to the Business; (iii) are
10 configured and maintained to minimize the effects of viruses and do not contain trojan
11 horses, spyware, adware, malware or other malicious code; and (iv) have not suffered any
12 material error, breakdown, failure or security breach in the last twenty-four (24) months
13 which has caused disruption or damage to the Business.

14 (f) Except as set forth in **Section 4.10(f)** of the Disclosure Schedules, Seller
15 has at all times complied with all applicable Laws, as well as its own rules, policies and
16 procedures, relating to privacy, data protection, and the collection, use, storage and
17 disposal of personal information collected, used, or held for use by Seller in the conduct
18 of the Business. No claim, action or proceeding has been asserted or, to Seller's
19 Knowledge, threatened alleging a violation of any Person's rights of publicity or privacy
20 or personal information or data rights and the consummation of the transactions
21 contemplated hereby will not breach or otherwise cause any violation of any Laws or
22 rule, policy, or procedure related to rights of publicity, privacy, data protection,
23 information security, or the collection, use, storage or disposal of personal information
24 collected, used, or held for use by Seller in the conduct of the Business. In connection
25 with the Business, Seller (i) has complied with all local regulatory requirements relating
26 to the collection, use, storage or disposal of personal information, including registrations,
27 and (ii) taken reasonable measures, including, any measures required by any applicable
28 Laws, to ensure that such information is protected against unauthorized access, use,
29 modification, or other misuse.

30 **Section 4.11 Legal Proceedings; Governmental Orders.**

31 (a) Except as set forth in **Section 4.11(a)** of the Disclosure Schedules, there
32 are no Actions pending or, to Seller's Knowledge, threatened against or by Seller or any
33 of Seller's Affiliates (i) relating to or affecting the Business, the Purchased Assets or the
34 Assumed Liabilities or (ii) that challenge or seek to prevent, enjoin or otherwise delay the
35 transactions contemplated by the Transaction Documents. No event has occurred or
36 circumstance exists that may give rise to, or serve as a basis for, any such Action.

37 (b) Except as set forth in **Section 4.11(b)** of the Disclosure Schedules, there
38 are no outstanding Governmental Orders and no unsatisfied judgments, penalties or
39 awards against or affecting the Business or the Purchased Assets. No event has occurred
40 or circumstance exists that may constitute or result in (with or without notice or lapse of
41 time) a violation of any Governmental Order.

1 **Section 4.12 Compliance With Laws; Permits.**

2 (a) Except as set forth in **Section 4.12(a)** of the Disclosure Schedules, Seller
3 has during the past three (3) years complied, and is in compliance, in all material respects
4 with all Laws, Permits and Governmental Order applicable to the conduct of the Business
5 as currently conducted or the ownership and use of the Purchased Assets.

6 (b) All material Permits required for Seller to conduct the Business as
7 currently conducted or for the ownership and use of the Purchased Assets have been
8 obtained by Seller and are valid and in full force and effect. All fees and charges with
9 respect to such Permits as of the date hereof have been paid in full. **Section 4.12(b)** of
10 the Disclosure Schedules lists all current Permits issued to or held by Seller which are
11 related to the conduct of the Business as currently conducted or the ownership and use of
12 the Purchased Assets, including the names of each such Permit, the Governmental
13 Authority that issued each such Permit and the respective dates of issuance and expiration
14 of each such Permit.

15 (c) Other than as set forth in **Section 4.12(c)** of the Disclosure Schedules, no
16 event has occurred that, with or without notice or lapse of time or both, would reasonably
17 be expected to result in the revocation, suspension, lapse or limitation of any Permit
18 issued to or held by Seller. Other than relating to the health maintenance organization
19 license, Seller has not received any notice, Governmental Order or other communication
20 from any Governmental Entity alleging any actual or potential material violation of or
21 failure to comply with any Law, Permit or Governmental Order.

22 (d) None of Seller or, to Seller's Knowledge, any of Seller's officers,
23 directors, employees or agents (or members, distributors, representatives or other Persons
24 acting on the express authority of Seller), has paid, given or received or has offered or
25 promised to pay, give or receive, any bribe or other unlawful payment of money or other
26 unlawful thing of value, any unlawful discount, or any other unlawful inducement, to or
27 from any Person or Governmental Authority in the United States or elsewhere in
28 connection with or in furtherance of the Business, including any offer, payment or
29 promise to pay money or other thing of value (i) to any Government Entity (or official
30 thereof), political party (or official thereof) or candidate for political office of any
31 Government Entity for the purposes of influencing any act, decision or omission in order
32 to assist Seller in obtaining business for or with, or directing business to, any Person, or
33 (ii) to any Person, while knowing that all or a portion of such money or other thing of
34 value will be offered, given or promised to any such Government Authority, official or
35 party for such purposes. Seller has not otherwise taken any action that would cause
36 Seller to be in violation of the Foreign Corrupt Practices Act of 1977, as amended, the
37 Anti-Kickback Act of 1986, Laws restricting the payment of contingent fee arrangements,
38 or any applicable Laws of similar effect.

39 **Section 4.13 Environmental Matters.**

40 (a) Except as set forth in **Section 4.13(a)** of the Disclosure Schedules, or as
41 would not have a Material Adverse Effect, to Seller's Knowledge, the operations of Seller

1 with respect to the Business and the Purchased Assets are in compliance with all
2 Environmental Laws. Seller has not received from any Person, with respect to the
3 Business or the Purchased Assets, any: (i) Environmental Notice or Environmental
4 Claim; or (ii) written request for information pursuant to Environmental Law, which, in
5 each case, either remains pending or unresolved, or is the source of ongoing obligations
6 or requirements as of the Closing Date.

7 (b) Except as set forth in **Section 4.13(b)** of the Disclosure Schedules, or as
8 would not have a Material Adverse Effect, to Seller's Knowledge, Seller has obtained and
9 is in material compliance with all material Environmental Permits (each of which is
10 disclosed in **Section 4.13(b)** of the Disclosure Schedules) necessary for the conduct of
11 the Business as currently conducted or the ownership, lease, operation or use of the
12 Purchased Assets.

13 (c) None of the Real Property is listed on, or has been proposed for listing on,
14 the National Priorities List (or CERCLIS) under CERCLA, or any similar state list.

15 (d) Except as set forth in **Section 4.13(d)** of the Disclosure Schedules, or as
16 would not have a Material Adverse Effect, to Seller's Knowledge, there has been no
17 Release of Hazardous Materials in contravention of Environmental Law with respect to
18 the Business, the Purchased Assets or any Real Property, and Seller has not received any
19 Environmental Notice that the Business or any of the Purchased Assets or Real Property
20 has been contaminated with any Hazardous Material which would reasonably be expected
21 to result in an Environmental Claim against, or a violation of Environmental Law or term
22 of any Environmental Permit by, Seller.

23 (e) Seller has previously delivered to Buyer/made available to Buyer in the
24 Data Room any and all material environmental reports, studies, audits, records, sampling
25 data, site assessments and other similar documents with respect to the Business, the
26 Purchased Assets or any Real Property which are in the possession or control of Seller.

27 (f) The representations and warranties set forth in this **Section 4.13** are the
28 Seller's sole and exclusive representations and warranties regarding environmental
29 matters.

30 **Section 4.14 Employee Benefit Matters.**

31 (a) "**Benefit Plan**" means any employment, compensation, vacation, bonus,
32 deferred compensation, incentive compensation, stock purchase, stock option, stock
33 appreciation right or other stock-based incentive, severance, nonqualified deferred
34 compensation, change-in-control, or termination pay, hospitalization or other medical,
35 disability, life or other insurance, supplemental unemployment benefits, profit-sharing,
36 pension, retirement or fringe benefit plan, practice, program, agreement, arrangement, or
37 employee benefit plan or remuneration within the meaning of Section 3(3) of ERISA and
38 any related or separate contracts, plans, trusts, programs, policies and arrangements
39 (whether or not within the meaning of Section 3(3) or ERISA) that (i) is contributed to or
40 maintained or sponsored by the Seller or to which the Seller has or may have any

1 Liability, contingent or otherwise, either directly or as a result of an ERISA Affiliate (as
2 defined below), and (ii) provides benefits of economic value to any present or former
3 employee, advisor, consultant or director of Seller, or present or former beneficiary,
4 dependent or assignee of any such present or former employee, advisor, consultant or
5 director. “**ERISA Affiliate**” means any person, that together with the Seller, is or was at
6 any time treated as a single employer under the Section 414 of the Code or Section 4001
7 of ERISA and any general partnership of which the Seller is or has been a general
8 partner. For purposes of this **Section 4.14**, the term “Seller” includes any ERISA
9 Affiliate.

10 (b) **Section 4.14(b)** of the Disclosure Schedules contains a complete and
11 accurate list of each material Benefit Plan and the Seller has no Liability with respect to
12 any other material benefit plan or arrangement and has no commitment or obligation to
13 establish any other material benefit plan or arrangement. True, correct and complete
14 copies of all material documents relating to each material Benefit Plan have been made
15 available to Buyer.

16 (c) Except as set forth in **Section 4.14(c)** of the Disclosure Schedules, to
17 Seller’s Knowledge, each Benefit Plan (and each related trust, insurance contract and
18 funding arrangement) has been maintained and operated in accordance with its terms and
19 complies with all applicable Laws (including ERISA and the Code and the regulations
20 promulgated thereunder). Each Benefit Plan that is intended to be qualified under
21 Section 401(a) of the Code (a “**Qualified Benefit Plan**”) has received a favorable
22 determination letter from the Internal Revenue Service, or with respect to a prototype
23 plan, can rely on an opinion letter from the Internal Revenue Service to the prototype
24 plan sponsor, to the effect that such Qualified Benefit Plan is so qualified and that the
25 plan and the trust related thereto are exempt from federal income Taxes under Sections
26 401(a) and 501(a), respectively, of the Code, and, to Seller’s Knowledge, nothing has
27 occurred that could reasonably be expected to cause the revocation of such determination
28 letter from the Internal Revenue Service or the unavailability of reliance on such opinion
29 letter from the Internal Revenue Service, as applicable. No Benefit Plan is presently
30 under audit or examination (nor has notice been received of a potential audit or
31 examination) by any Governmental Authority, and no matters are pending with respect to
32 any Benefit Plan under any Internal Revenue Service program. With respect to any
33 Benefit Plan, to Seller’s Knowledge, no event has occurred or is reasonably expected to
34 occur that has resulted in or would subject Seller to a Tax under Section 4971 or 4975 of
35 the Code or the Purchased Assets to a lien under Section 430(k) of the Code. No
36 condition exists with respect to any Benefit Plan that could have an adverse effect on, or
37 result in Liability to, Buyer or the Purchased Assets.

38 (d) The Seller does not sponsor, maintain or contribute to, and has never
39 sponsored, maintained or contributed to, or had any Liability with respect to, any
40 employee benefit plan which: (i) is subject to the minimum funding standards of Section
41 302 of ERISA or Section 412 of the Code or Title IV of ERISA; or (ii) is a
42 “multiemployer plan” (as defined in Section 3(37) of ERISA). Seller has not:
43 (A) withdrawn from any pension plan under circumstances resulting (or expected to

1 result) in Liability; or (B) engaged in any transaction which would give rise to a Liability
2 under Section 4069 or Section 4212(c) of ERISA.

3 (e) Except as set forth in **Section 4.14(e)** of the Disclosure Schedules and
4 other than as required under Section 4980B of the Code or other applicable Law, no
5 Benefit Plan provides benefits or coverage in the nature of health, life or disability
6 insurance following retirement or other termination of employment (other than death
7 benefits when termination occurs upon death).

8 (f) Except as set forth in **Section 4.14(f)** of the Disclosure Schedules, no
9 Benefit Plan exists that could: (i) result in the payment to any Employee, director or
10 consultant of the Business of any money or other property; or (ii) accelerate the vesting of
11 or provide any additional rights or benefits (including funding of compensation or
12 benefits through a trust or otherwise) to any Employee, director or consultant of the
13 Business, in each case, as a result of the execution of this Agreement. Neither the
14 execution of this Agreement nor the consummation of the transactions contemplated
15 hereby will result in “excess parachute payments” within the meaning of Section 280G(b)
16 of the Code.

17 (g) As of the Closing Date, Buyer does not, and shall not, either directly or
18 indirectly, have any obligation or Liability, as a matter of Law or otherwise, with respect
19 to any Benefit Plan that was, or is, sponsored or maintained by the Seller or to which the
20 Seller contributes or for which the Seller had, or may have, any Liability, contingent or
21 otherwise, either directly or indirectly through an ERISA Affiliate.

22 **Section 4.15 Employment Matters.**

23 (a) Except as set forth in **Section 4.15(a)** of the Disclosure Schedules, Seller
24 is not a party to, bound by, or negotiating any collective bargaining agreement or other
25 similar Contract with a labor organization or other similar organization representing any
26 of the Employees. There are no labor organizations or other similar organizations
27 representing or purporting to represent any Employees, and there is no representation
28 claim or petition pending before the National Labor Relations Board (“NLRB”) or any
29 other Governmental Authority and no question concerning representation exists relating
30 to any Employees. Except as set forth in **Section 4.15(a)** of the Disclosure Schedules,
31 since January 1, 2012, there has not been, nor, to Seller’s Knowledge, has there been any
32 threat of, any strike, slowdown, work stoppage, lockout, concerted refusal to work
33 overtime or other similar labor activity or dispute affecting Seller or any of the
34 Employees.

35 (b) Seller is in compliance in all material respects with all applicable Laws
36 pertaining to employment, termination of employment and employment practices to the
37 extent they relate to current and former Employees, including without limitation, all such
38 Laws relating to labor relations, union organizing, equal employment, fair employment
39 practices, prohibited discrimination, harassment, immigration, occupational safety and
40 health, workers’ compensation, wages and hours, unemployment insurance, family and

1 medical leave and other leaves of absence, disability benefits, and plant closures and
2 layoffs.

3 (c) Seller has provided Buyer a true and complete list of all Employees,
4 including position, date of hire, hourly wage rate or base salary (whichever is applicable),
5 total compensation including any bonuses, commissions and deferred compensation
6 received during the past twelve (12) months, and whether full-time or part-time, active or
7 inactive, and exempt or non-exempt. Seller has provided a true and complete list of all
8 Employees on military, medical, disability, workers' compensation or other leave of
9 absence as of the date of this Agreement, including the type of leave, the date such leave
10 commenced, and the anticipated date of return. Seller has provided a true and complete
11 list of all independent contractors and consultants who provide services to Seller, if any,
12 including all agreements covering their compensation and other terms. Seller will update
13 all such lists as of the Closing Date.

14 (d) All Employees who are performing services for Seller or the Business in
15 the United States are legally able to work in the United States and will be able to continue
16 to work in the Business in the United States following the consummation of the
17 transactions contemplated by this Agreement (to the extent hired by Buyer).

18 (e) Except as set forth in **Section 4.15(e)** of the Disclosure Schedules, the
19 employment or services of all Employees are on an "at will" basis and may be terminated
20 at any time with or without cause and without any severance or other liability to Seller.
21 Each individual who is classified by Seller as (i) an independent contractor or other non-
22 employee status, or (ii) an exempt or non-exempt employee, is properly so classified for
23 all purposes, including (x) Taxes, (y) eligibility to participate in Business Benefit Plans
24 and (z) applicable Laws governing the payment of wages.

25 (f) Except as set forth in **Section 4.15(f)** of the Disclosure Schedules, Seller is
26 not a party to any Contract which restricts Seller from relocating, closing or terminating
27 any of its operations or facilities or any portion thereof. Seller has not effectuated a
28 "plant closing" or "mass layoff" (as defined in the WARN Act), in either case affecting
29 any site of employment or facility subject to this transaction, except in accordance with
30 the WARN Act. Except as set forth in **Section 4.15(f)** of the Disclosure Schedules, no
31 employee, contractor, consultant, or other individual employed by or who provides
32 services to the Business or to Seller in connection with the Business has or will have
33 experienced an "employment loss" (as defined in the WARN Act) on the Closing Date or
34 during the 90 calendar days preceding the Closing Date, and or any other change
35 potentially requiring advance notification under federal, state or local Laws. Seller shall
36 update such schedule as of the Closing Date. The consummation of the transactions
37 contemplated by this Agreement will not create liabilities for any act or omission by
38 Seller on or prior to the Closing under any Contract with any current or former Employee
39 or labor organization or similar organization representing any Employees, or under any
40 Law respecting employment terminations, layoffs, reductions in force, plant closings,
41 mass layoffs, sales of businesses or respecting bargaining concerning such actions or
42 events; under any other Contract; under any Benefit Plan; under the WARN Act; or under
43 any Laws other than the WARN Act.

1 **Section 4.16 Taxes.**

2 (a) Except as set forth in **Section 4.16** of the Disclosure Schedules, Seller has
3 filed all material Tax Returns, or (to the extent applicable) has been included in all
4 material Tax Returns filed on a consolidated, unitary or combined basis, required to be
5 filed with respect to the Purchased Assets and the Business and Seller has paid all Taxes
6 shown thereon as owing with respect to the Purchased Assets and the Business.

7 (b) Seller is not a “foreign person” as that term is used in Treasury
8 Regulations Section 1.1445-2.

9 (c) Seller has withheld and paid all Taxes required to have been withheld and
10 paid in connection with amounts paid or owing to any employee, independent contractor
11 or other third party.

12 (d) There is no audit or other administrative action, proceeding or claim
13 pending or, to the Knowledge of Seller, threatened with regard to any material Taxes or
14 material Tax Returns of Seller related to the Purchased Assets or the Business. Seller has
15 not waived (or is subject to a waiver of) any statute of limitations in respect of material
16 Taxes with respect to the Purchased Assets or the Business or has agreed to (or is subject
17 to) any extension of time with respect to a material Tax assessment or deficiency with
18 respect to the Purchased Assets or the Business.

19 (e) Except for certain representations related to Taxes in **Section 4.14**, the
20 representations and warranties set forth in this **Section 4.16** are Seller’s sole and
21 exclusive representations and warranties regarding Tax matters.

22 **Section 4.17 Accounts Receivable.** The Accounts Receivable reflected on the
23 Interim Balance Sheet and the Accounts Receivable arising after the date thereof (a) have
24 arisen from bona fide arms’ length transactions entered into by Seller involving the sale
25 of goods or the rendering of services in the Ordinary Course of Business; (b) constitute
26 only valid, undisputed claims of Seller not subject to claims of set-off or other defenses
27 or counterclaims that would permit any payor to reduce or satisfy any portion of any
28 obligation by return of goods or any means other than the payment of cash of the amount
29 thereof, other than reserves for allowances, returns or other items set forth on the Interim
30 Balance Sheet. No Person has any Encumbrance on such Accounts Receivable or any
31 party thereof, and no Contract for deduction, free goods or services, discount or other
32 deferred price or quantity adjustment has been made with respect to any such Accounts
33 Receivable or any part thereof. To Seller’s Knowledge, there is no pending contest or
34 dispute with respect to the amount or validity of any amount of such Accounts
35 Receivable.

36 **Section 4.18 Insurance.** **Section 4.18** of the Disclosure Schedules sets forth (a)
37 a true and complete list of all current policies or binders of insurance maintained by
38 Seller or its Affiliates that are Related to the Business, the Purchased Assets or the
39 Assumed Liabilities (including any self-insurance arrangement Related to the Business),
40 along with all amendments, modifications or waivers thereto (collectively, the

1 “**Insurance Policies**”), (b) the underwriter of such Insurance Policies, (c) the amount of
2 coverage under such Insurance Policies; and (d) with respect to the Business, the
3 Purchased Assets or the Assumed Liabilities, a list of all pending claims and the claims
4 history for the three (3) years prior to the date hereof. Neither Seller nor any of its
5 Affiliates has been denied insurance coverage with respect to the Business in the last
6 three (3) years. There are no claims related to the Business, the Purchased Assets or the
7 Assumed Liabilities pending under any such Insurance Policies as to which coverage has
8 been questioned, denied or disputed or in respect of which there is an outstanding
9 reservation of rights. Neither Seller nor any of its Affiliates has received any written
10 notice of cancellation of, premium increase with respect to, or alteration of coverage
11 under, any of such Insurance Policies. All premiums due on such Insurance Policies have
12 either been paid or, if not yet due, accrued. All such Insurance Policies (i) are in full
13 force and effect and enforceable in accordance with their terms; (ii) are provided by
14 carriers who are financially solvent; and (iii) have not been subject to any lapse in
15 coverage. None of Seller or any of its Affiliates is in default under, or has otherwise
16 failed to comply with, in any material respect, any provision contained in any such
17 Insurance Policy. The Insurance Policies are of the type and in the amounts customarily
18 carried by Persons conducting a business similar to the Business and are sufficient for
19 compliance with all applicable Laws and Contracts to which Seller is a party or by which
20 it is bound. True and complete copies of the Insurance Policies have been made available
21 to Buyer in the Data Room.

22 **Section 4.19 Related Party Transactions.** To the Knowledge of Seller and
23 except as set forth on **Section 4.19** of the Disclosure Schedules, with respect to the
24 Business, no Affiliate of Seller, current or former director, officer or employee of Seller
25 or of Seller’s Affiliates, or any Family Member of such Person (nor any trust, partnership,
26 corporation or other entity in which any of such Person directly or indirectly has an
27 economic interest in excess of five percent (5%) of the ownership interests therein) (each
28 such Person, a “**Related Party**”) (a) is (or in the last three (3) years was) a party to any
29 Contract or transaction with Seller relating to the Business, (b) has any interest in any
30 Purchased Asset, other than indirectly, as an equityholder of Seller, or (iii) is (or in the
31 last three (3) years was) provided any assets, loans, advances, services or facilities by
32 Seller, or provided any assets, loans, advances, services or facilities to Seller (other than
33 compensation provided to any individual in his or her capacity as a director, officer or
34 employee of Seller).

35 **Section 4.20 Brokers.** Except for Keefe, Bruyette & Woods, no broker, finder
36 or investment banker is entitled to any brokerage, finder’s or other fee or commission in
37 connection with the transactions contemplated by this Agreement or any other
38 Transaction Document based upon arrangements made by or on behalf of Seller. Seller
39 has not entered into any Contract to pay and fees or commissions of any broker, finder or
40 investment banker with respect to the transactions contemplated by the Transaction
41 Documents for which Buyer could become liable or obligated to pay.

1 by all requisite corporate action on the part of Buyer. This Agreement has been duly
2 executed and delivered by Buyer, and (assuming due authorization, execution and
3 delivery by Seller) this Agreement constitutes a legal, valid and binding obligation of
4 Buyer enforceable against Buyer in accordance with its terms, except as such
5 enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or
6 similar Laws affecting creditors' rights generally and by general principles of equity
7 (regardless of whether enforcement is sought in a proceeding at law or in equity). When
8 each other Transaction Document to which Buyer is or will be a party has been duly
9 executed and delivered by Buyer (assuming due authorization, execution and delivery by
10 each other party thereto), such Transaction Document will constitute a legal and binding
11 obligation of Buyer enforceable against it in accordance with its terms, except as such
12 enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or
13 similar Laws affecting creditors' rights generally and by general principles of equity
14 (regardless of whether enforcement is sought in a proceeding at law or in equity).

15 **Section 5.03 No Conflicts; Consents.** The execution, delivery and performance
16 by Buyer of this Agreement and the other Transaction Documents to which it is a party,
17 and the consummation of the transactions contemplated hereby and thereby, do not and
18 will not: (a) result in a violation or breach of any provision of the certificate of
19 incorporation or by-laws of Buyer; (b) result in a violation or breach of any provision of
20 any Law or Governmental Order applicable to Buyer; or (c) except as set forth in **Section**
21 **5.03** of the Disclosure Schedules, require the consent, notice or other action by any
22 Person under, conflict with, result in a violation or breach of, constitute a default under or
23 result in the acceleration of any agreement to which Buyer is a party, except in the cases
24 of clauses (b) and (c), where the violation, breach, conflict, default, acceleration or failure
25 to give notice would not have a material adverse effect on Buyer's ability to consummate
26 the transactions contemplated hereby. No consent, approval, Permit, Governmental
27 Order, declaration or filing with, or notice to, any Governmental Authority is required by
28 or with respect to Buyer in connection with the execution and delivery of this Agreement
29 and the other Transaction Documents and the consummation of the transactions
30 contemplated hereby and thereby, except for such consents, approvals, Permits,
31 Governmental Orders, declarations, filings or notices which would not have a material
32 adverse effect on Buyer's ability to consummate the transactions contemplated hereby
33 and thereby.

34 **Section 5.04 Brokers.** No broker, finder or investment banker is entitled to any
35 brokerage, finder's or other fee or commission in connection with the transactions
36 contemplated by this Agreement or any other Transaction Document based upon
37 arrangements made by or on behalf of Buyer.

38 **Section 5.05 Sufficiency of Funds.** Immediately prior to the consummation of
39 the Closing, Buyer will have sufficient cash on hand or other sources of immediately
40 available funds to enable it to make payment of the Purchase Price and consummate the
41 transactions contemplated by this Agreement.

42 **Section 5.06 Solvency.** Immediately after giving effect to the transactions
43 contemplated hereby, Buyer will be solvent and will: (a) be able to pay its debts relating

1 to the Assumed Liabilities as they become due and (b) have adequate capital to carry on
2 its business.

3 **Section 5.07 Legal Proceedings.** Except as set forth in **Section 5.07** of the
4 Disclosure Schedules, there are no Actions pending or, to Buyer's knowledge, threatened
5 against or by Buyer or any Affiliate of Buyer that challenge or seek to prevent, enjoin or
6 otherwise delay the transactions contemplated by this Agreement.

7 **Section 5.08 Independent Investigation.** Buyer acknowledges and agrees that
8 neither Seller nor any other Person has made any representation or warranty as to Seller,
9 the Business, the Purchased Assets or this Agreement, except as expressly set forth in
10 **ARTICLE IV** of this Agreement (including the related portions of the Disclosure
11 Schedules) or in any other Transaction Document.

12 **ARTICLE VI**
13 **COVENANTS**

14 **Section 6.01 Conduct of Business Prior to the Closing.** From the date hereof
15 until the Closing, except as otherwise provided in this Agreement or consented to in
16 writing by Buyer (which consent shall not be unreasonably withheld or delayed), Seller
17 shall (a) conduct the Business in the Ordinary Course of Business, (b) use commercially
18 reasonable efforts to maintain and preserve intact its current Business organization,
19 operations and franchise and to preserve the rights, franchises, goodwill and relationships
20 of its Employees, DHCF, the Program Enrollees, lenders, suppliers, regulators and others
21 having relationships with the Business, (c) with respect to the Real Property, not create,
22 permit or suffer to exist any Encumbrances and, with respect to the Leases, not amend,
23 modify or terminate any of the Leases or enter into any real property lease or similar
24 agreement, (d) with respect to any Employees, not adopt, enter into, terminate, amend,
25 extend or renew any employment, severance, retention, change of control, consulting
26 agreement or similar Contract, or any collective bargaining agreement or similar Contract
27 with a labor organization or similar organization, and (e) except as required by the
28 National Association of Insurance Commissions codification project (Codification), not
29 change any method of accounting or accounting practice of the Business. From the date
30 hereof until the Closing Date, except as consented to in writing by Buyer (which consent
31 shall not be unreasonably withheld or delayed), Seller shall not take any action that, if
32 taken after the Interim Balance Sheet Date but prior to the date hereof would be required
33 to be disclosed on **Section 4.05** of the Disclosure Schedule.

34 **Section 6.02 Access to Information.** From the date hereof until the Closing,
35 Seller shall (a) afford Buyer and its Representatives reasonable access to and the right to
36 inspect all of the Real Property, properties, assets, premises, Books and Records,
37 Assigned Contracts and other documents and data related to the Business; (b) furnish
38 Buyer and its Representatives with such financial, operating and other data and
39 information related to the Business as Buyer or any of its Representatives may reasonably
40 request; and (c) instruct the Representatives of Seller to cooperate with Buyer in its
41 investigation of the Business; *provided, however,* that any such investigation shall be
42 conducted during normal business hours upon reasonable advance notice to Seller, under

1 the supervision of Seller's personnel and in such a manner as not to unreasonably
2 interfere with the conduct of the Business or any other businesses of Seller; *provided,*
3 *further,* that Seller shall not be required to disclose such information to Buyer if such
4 disclosure would, in Seller's reasonable discretion: (x) jeopardize any attorney-client or
5 other privilege; or (y) contravene any applicable Law, fiduciary duty or binding
6 agreement entered into prior to the date of this Agreement; *provided, further,* that if
7 Seller withholds information from Buyer pursuant to foregoing clauses (x) and (y) of this
8 sentence, then Seller shall notify Buyer in writing of such withholding by describing in
9 general terms the type of information being so withheld and the reasonable basis (in
10 reasonable detail) for such withholding. All requests by Buyer for access pursuant to this
11 **Section 6.02** shall be submitted or directed exclusively to James Sheehy or such other
12 individuals as Seller may designate in writing from time to time. Notwithstanding
13 anything to the contrary in this Agreement, prior to the occurrence of the Closing, Buyer
14 shall not contact any health care providers to, or enrollees of, the Business in respect of
15 the Business without the prior written consent of Seller, not to be unreasonably withheld.
16 Buyer shall, and shall cause its Representatives to, abide by the terms of the
17 Confidentiality Agreement with respect to any access or information provided pursuant to
18 this **Section 6.02**.

19 **Section 6.03 Notice of Developments.** From time to time prior to the Closing
20 and as soon as reasonably practicable after Seller becomes aware of the applicable matter,
21 fact or circumstance, Seller shall have the obligation to: (a) supplement or amend the
22 Disclosure Schedules hereto with respect to any matter, fact or circumstance hereafter
23 arising or of which it becomes aware after the date hereof if such matter, fact or
24 circumstance would render any representation or warranty of Seller, if made on or as of
25 the date of such event or as of the Closing, untrue or inaccurate in any respect (each a
26 "**Schedule Supplement**"); provided, however, that each such Schedule Supplement shall
27 not be deemed to be incorporated into or to supplement or amend the Disclosure
28 Schedules as of the Closing Date or any other date; *provided, further,* that if such event,
29 development or occurrence which is the subject of the Schedule Supplement constitutes a
30 Material Adverse Effect, then Buyer shall have the right to terminate this Agreement for
31 failure to satisfy the closing condition set forth in **Section 7.02(a)**; (b) notify Buyer of
32 any breach, or failure to perform any covenant, agreement or obligation of Seller arising
33 pursuant to this Agreement or any other Transaction, (c) notify Buyer of any matter, fact
34 or circumstance that would cause any condition to Buyer's obligations to consummate the
35 transactions contemplated hereby to not be satisfied (including any matter, fact or
36 circumstance that has had a Material Adverse Effect), and (d) notify Buyer of any notice
37 or other communication from any Person alleging that consent of such Person is or may
38 be required in connection with the transactions contemplated by the Transaction
39 Documents. Seller's obligation to deliver any notice pursuant to this **Section 6.03** shall
40 be subject to applicable Laws and the preservation of Seller's attorney-client privilege
41 rights with respect to such subject matter in Seller's reasonable discretion; *provided,*
42 *however,* that if Seller withholds information from Buyer pursuant to this sentence, then
43 Seller shall notify Buyer in writing of such withholding by describing in general terms
44 the type of information being so withheld and the reasonable basis (in reasonable detail)
45 for such withholding. The delivery of any notice (including any Schedule Supplement)
46 pursuant to this **Section 6.03** shall not be deemed to amend or supplement this Agreement

1 or the Disclosure Schedules, and Buyer's receipt of information pursuant to this **Section**
2 **6.03** shall not operate as a waiver or otherwise affect any representation, warranty,
3 covenant or agreement given or made by Seller in this Agreement (including **Section**
4 **8.02** and **Section 9.01(b)**); *provided, however*, that if (i) Seller makes any representations
5 and warranties as of the Closing after previously providing a Schedule Supplement to
6 Buyer pursuant to this **Section 6.03**, (ii) any matter, fact or circumstance described in
7 such Schedule Supplement is true, correct and complete in all material respects and
8 (iii) Seller is not aware of such matter, fact or circumstance as of the date hereof, then
9 such Schedule Supplement may not be the basis for a claim by Buyer that Seller has
10 committed intentional fraud by making such representations and warranties as of the
11 Closing; *provided, further*, for the avoidance of doubt, such Schedule Supplement shall
12 not limit or otherwise impact the rights of any Buyer Indemnitee to be indemnified by
13 Seller by reason of **Section 8.02(a)** or otherwise pursuant to the terms of this Agreement
14 (including **ARTICLE VIII**).

15 **Section 6.04 Employees and Employee Benefits.**

16 (a) Buyer shall offer employment effective on the Closing Date to at least one
17 hundred (100) Employees on such terms and conditions as Buyer deems appropriate in its
18 sole discretion; provided, however, that such offers of employment shall contain terms
19 and conditions that ensure that no "plant closing" or "mass layoff" as defined under
20 WARN Act occurs on the Closing Date with respect to such Employees as a result of the
21 transaction. Seller shall use its commercially reasonable efforts to assist Buyer in
22 employing as new employees of Buyer, all persons to whom Buyer has offered
23 employment pursuant to this Section 6.04(a). Any Employee who receives Buyer's offer
24 of employment and actually commences employment with Buyer (the "Hired
25 Employees") shall be deemed an employee of Buyer (or an affiliate of Buyer) as of the
26 date the Hired Employee commences employment with the Buyer (or an affiliate of
27 Buyer). Buyer's obligation under this Section 6.04(a) to offer employment to not less
28 than one hundred Employees effective on the Closing Date (i) is an undertaking made by
29 Buyer solely for purposes of mitigating any potential statutory liability of the Parties
30 under the WARN Act, and (ii) any potential damages for noncompliance with such
31 undertaking shall consist solely and exclusively of any statutory penalties or statutory
32 liabilities that proximately result from such noncompliance. There are no third-party
33 beneficiaries of Buyer's undertaking under this Section 6.04(a), intended or otherwise.
34 The Parties also intend and understand that Buyer shall not have any Liability with
35 respect to any Employee who does not become a Hired Employee. Subject to Section
36 6.04(c), nothing herein shall interfere with or in any way limit the right of Buyer to
37 terminate any Hired Employee at any time and for any reason after the Closing Date, nor
38 confer upon any Hired Employee any right after the Closing Date to continued
39 employment with Buyer.

40 (b) Any and all Liability relating to or arising out of the employment, or
41 cessation of employment, of any Employee or former Employee (whether or not a Hired
42 Employee) on or prior to the Closing Date, including but not limited to wages earned
43 through the Closing Date, severance and other remuneration, and any Liability relating to
44 or arising out of any Contract, or cessation of such Contract, between Seller and any

1 Employee or former Employee (whether or not a Hired Employee) prior to, on or after
2 the Closing Date, shall be the sole responsibility of Seller.

3 (c) Within five (5) business days following the execution of this Agreement,
4 Seller shall be responsible for providing timely notice under the WARN Act (at least 60
5 days in advance of any “plant closing” or “mass layoff” as defined under the WARN Act)
6 and any other applicable state, local or other laws requiring notification in advance of
7 employee separations or similar actions to the extent required relative to any employment
8 losses or other similar actions which occur on or prior to the Closing Date. Prior to Seller
9 issuing any such notice required under the WARN Act, Seller and Buyer will mutually
10 agree on the language contained in such notice. Buyer shall be responsible for providing
11 timely notice under the WARN Act (at least 60 days in advance of any “plant closing” or
12 “mass layoff” as defined under the WARN Act) and any other applicable state, local or
13 other laws requiring notification in advance of employee separations or similar actions to
14 the extent required relative to any employment losses or other similar actions which take
15 place after the Closing Date solely with respect to the Hired Employees. Excluding
16 employment terminations caused by Seller which occur on the Closing Date and which
17 involve Employees who, pursuant to Section 6.04(a), are offered employment by Buyer
18 to become Hired Employees effective on the Closing Date, Seller agrees to refrain from
19 implementing any employment losses (as defined in the WARN Act) or other similar
20 actions (i) on the Closing Date, (ii) for a period of 90 calendar days preceding the Closing
21 Date, and (iii) after the Closing Date with respect to Employees not hired by the Buyer,
22 for as long as necessary to ensure that the Seller is in compliance with any and all
23 obligations under the WARN Act, including but not limited to providing timely notice
24 under the WARN Act (at least 60 days in advance of any “plant closing” or “mass layoff”
25 as defined under the WARN Act) and any other applicable state, local or other laws
26 requiring notification in advance of employee separations or similar actions relative to
27 any employment losses or other similar actions. With respect to Hired Employees,
28 Buyer agrees to refrain from implementing any employment losses (as defined in the
29 WARN Act) or other similar actions on or after the Closing Date, to the extent that such
30 employment losses or other similar actions, if considered in the aggregate with any
31 employment losses (as defined in the WARN Act) or other similar actions implemented
32 by the Seller on the Closing Date or within the 90-day period prior to the Closing Date,
33 would constitute a “plant closing” or “mass layoff” requiring advance notice under the
34 WARN Act or any other applicable state, local or other laws requiring notification in
35 advance of employee separations or similar actions relative to any employment losses or
36 other similar actions. Seller’s and Buyer’s obligations under this Section 6.04(c) (i) are
37 undertakings made solely for purposes of mitigating any potential statutory liability of the
38 Parties under the WARN Act, and (ii) any potential damages for noncompliance with
39 such undertaking shall consist solely and exclusively of any statutory penalties or
40 statutory liabilities that proximately result from such noncompliance. There are no third-
41 party beneficiaries of the Parties’ undertakings under this Section 6.04(c), intended or
42 otherwise.

43 (d) Buyer shall provide credit for service with Seller for any Hired Employee
44 with respect to Buyer’s employee benefit plans as Buyer deems appropriate in its sole
45 discretion and in accordance with such employee benefit plans.

1 (e) Seller shall offer continuation coverage pursuant to the Consolidated
2 Omnibus Budget Reconciliation Act (COBRA) to all employees of the Seller who are
3 "M&A qualified beneficiaries" (as such term is defined in Q&A 4 of Treas. Reg. section
4 54.4980B-9) as a result of the transaction contemplated by this Agreement and shall
5 continue offering such coverage for such individuals for as long as required by applicable
6 Law.

7 (f) This **Section 6.04** shall be binding upon and inure solely to the benefit of
8 each of the Parties, and nothing in this **Section 6.04**, express or implied, shall confer upon
9 any other Person any rights or remedies of any nature whatsoever under or by reason of
10 this **Section 6.04**. Nothing contained herein, express or implied, shall be construed to
11 establish, amend or modify any benefit plan, program, agreement or arrangement. The
12 Parties acknowledge and agree that the terms set forth in this **Section 6.04** shall not create
13 any right in any Hired Employee or any other Person to any continued employment with
14 Buyer or any of its Affiliates or compensation, benefits or other terms and conditions of
15 employment of any nature or kind whatsoever.

16 **Section 6.05 Confidentiality.**

17 (a) Buyer acknowledges and agrees that the Confidentiality Agreement
18 remains in full force and effect and, in addition, covenants and agrees to keep
19 confidential, in accordance with the provisions of the Confidentiality Agreement,
20 information provided to Buyer pursuant to this Agreement. If this Agreement is, for any
21 reason, terminated prior to the Closing, the Confidentiality Agreement and the provisions
22 of this **Section 6.05** shall nonetheless continue in full force and effect. Notwithstanding
23 the foregoing, the Confidentiality Agreement shall be automatically terminated in its
24 entirety and shall be of no further force or effect, in each case, as of the Closing, and
25 effective as of the Closing, each Party hereby waives all rights, obligations, claims, and
26 demands of any kind whatsoever that such Party ever had, now has or may have
27 hereafter, under the Confidentiality Agreement.

28 (b) From and after the Closing and except (i) as related to the wind-down of
29 the Business, (ii) for activities contemplated by the Plan, (iii) as expressly provided in
30 this Agreement, (iv) for the work and transactions contemplated hereby, or (v) disclosure
31 obligations under applicable Law, Seller shall, and shall cause its Affiliates to, hold, and
32 shall use its reasonable best efforts to cause its or their respective Representatives to hold,
33 in strict confidence any and all Confidential Information, whether written or oral,
34 concerning the Business or related to the Business, except to the extent that Seller can
35 show that such information (x) is generally available to and known by the public through
36 no fault of Seller, any of its Affiliates or their respective Representatives; or (y) is
37 lawfully acquired by Seller, any of its Affiliates or their respective Representatives from
38 and after the Closing from sources which are not prohibited from disclosing such
39 information by a legal, contractual or fiduciary obligation. If Seller or any of its
40 Affiliates or their respective Representatives are compelled to disclose any information
41 by judicial or administrative process or by other requirements of Law, Seller shall
42 promptly notify Buyer in writing and shall disclose only that portion of such information
43 which Seller is advised by its counsel in writing is legally required to be disclosed,

1 *provided that* Seller shall use reasonable best efforts to obtain an appropriate protective
2 order or other reasonable assurance that confidential treatment will be accorded such
3 information.

4 (c) Except to the extent required by applicable Law, Buyer shall maintain in
5 confidence any information relating to the negotiation of this Agreement and the
6 negotiation of the transactions contemplated hereby. Seller shall use commercially
7 reasonable efforts to assign to Buyer its rights under any such Solicitation Confidentiality
8 Agreements, subject to any limitation contained in such agreements. If any such
9 Solicitation Confidentiality Agreements cannot be assigned, Seller shall use
10 commercially reasonable efforts to enforce its rights under such Solicitation
11 Confidentiality Agreements at the request of and as directed by Buyer (and at Buyer's
12 sole expense).

13 **Section 6.06 Governmental Approvals and Consents; Cooperation.**

14 (a) Each Party shall, as promptly as possible, use its commercially reasonable
15 efforts to obtain, or cause to be obtained, all consents, authorizations, orders and
16 approvals from all Governmental Authorities that may be or become necessary for its
17 execution and delivery of this Agreement and the performance of its obligations pursuant
18 to this Agreement and the other Transaction Documents. Each Party shall cooperate fully
19 with the other Party and its Affiliates in promptly seeking to obtain all such consents,
20 authorizations, orders and approvals. The Parties shall not willfully take any action that
21 will have the effect of delaying, impairing or impeding the receipt of any required
22 consents, authorizations, orders and approvals.

23 (b) Without limiting the generality of the Parties' undertakings pursuant to
24 this **Section 6.06**, each of Seller and Buyer shall, at its sole expense, use its reasonable
25 best efforts to defend through litigation on the merits any claim asserted in court by any
26 party in order to avoid entry of, or to have vacated or terminated, any Governmental
27 Order (whether temporary, preliminary or permanent) that would prevent the
28 consummation of the Closing.

29 (c) Seller shall prepare in consultation with Buyer and to file with the
30 Superior Court for review and approval a Plan that shall provide for and approve the
31 transactions contemplated by this Agreement.

32 (d) All analyses, appearances, meetings, discussions, presentations,
33 memoranda, briefs, filings, arguments, and proposals made by or on behalf of either Party
34 before any Governmental Authority or the staff or regulators of any Governmental
35 Authority, in connection with the transactions contemplated hereunder (but, for the
36 avoidance of doubt, not including any interactions between such Parties and
37 Governmental Authorities in accordance with clause (a) of the definition of the Ordinary
38 Course of Business, any disclosure that is not permitted by Law or any disclosure
39 containing confidential information) shall be disclosed to the other Party in advance of
40 any filing, submission or attendance, it being the intent that the Parties will consult and
41 cooperate with one another, and consider in good faith the views of one another, in

1 connection with any such analyses, appearances, meetings, discussions, presentations,
2 memoranda, briefs, filings, arguments, and proposals. Each Party shall give notice to the
3 other Party with respect to any meeting, discussion, appearance or contact with any
4 Governmental Authority or the staff or regulators of any Governmental Authority, with
5 such notice being sufficient to provide the other Party with the opportunity to attend and
6 participate in such meeting, discussion, appearance or contact.

7 (e) Seller and Buyer shall use commercially reasonable efforts to give all
8 notices to, and obtain all consents from, all third parties that are described in **Section 4.03**
9 and **Section 5.03** of the Disclosure Schedules, respectively.

10 (f) Notwithstanding the foregoing, nothing in this **Section 6.08** shall require,
11 or be construed to require, Buyer or any of its Affiliates to agree to (i) sell, hold, divest,
12 discontinue or limit, before or after the Closing Date, any assets, businesses or interests of
13 Buyer or any of its Affiliates; (ii) any conditions relating to, or changes or restrictions in,
14 the operations of any such assets, businesses or interests which, in either case, could
15 reasonably be expected to result in a Material Adverse Effect or materially and adversely
16 impact the economic or business benefits to Buyer of the transactions contemplated by
17 this Agreement and the other Transaction Documents; or (iii) any material modification
18 or waiver of the terms and conditions of this Agreement.

19 **Section 6.07 Books and Records.**

20 (a) In order to facilitate the resolution of any claims made against or incurred
21 by Seller prior to the Closing, or for any other reasonable purpose, for a period of
22 seven (7) years after the Closing, Buyer shall:

23 (i) retain the Purchased Books and Records (including personnel files)
24 relating to periods prior to the Closing; and

25 (ii) upon reasonable notice, afford the Seller's Representatives
26 reasonable access (at Seller's expense) to such Books and Records during normal
27 business hours, under the supervision of Buyer's personnel and in such a manner as not to
28 unreasonably interfere with the conduct of the Business or any other businesses of Buyer;

29 *provided, however*, that Buyer may at anytime destroy such books and records if, prior to
30 such destruction, Buyer provides an advance written notice of at least thirty (30) days to
31 Seller of such anticipated destruction and allows Seller reasonable access during normal
32 business hours prior to such destruction to request and obtain copies of all or any portion
33 of such books and records to be so destroyed.

34 (b) In order to facilitate the resolution of any claims made by or against or
35 incurred by Buyer after the Closing, or for any other reasonable purpose, for a period of
36 seven (7) years after the Closing, Seller shall:

37 (i) retain the Excluded Books and Records and any other books and
38 records (including personnel files) of Seller which are Related the Business or related to
39 the Purchased Assets or Seller's operations for periods prior to the Closing; and

1 (ii) upon reasonable notice, afford Buyer's Representatives reasonable
2 access (at Buyer's expense) to such books and records during normal business hours,
3 under the supervision of Seller's personnel and in such a manner as not to unreasonably
4 interfere with the conduct of the business of Seller;

5 *provided, however*, that Seller may at anytime destroy such books and records if, prior to
6 such destruction, Seller provides an advance written notice of at least thirty (30) days to
7 Buyer of such anticipated destruction and allows Buyer reasonable access during normal
8 business hours prior to such destruction to request and obtain copies of all or any portion
9 of such books and records to be so destroyed.

10 (c) Each Party shall only be obligated to provide access to the other Party to
11 any information pursuant to this **Section 6.07** to the extent necessary (i) for the
12 preparation of financial statements, regulatory filings or Tax Returns, (ii) to comply with
13 requirements of any Governmental Authority or (iii) to determine any matter relating to
14 rights and obligations hereunder. Neither Buyer nor Seller shall be obligated to provide
15 the other Party with access to any information pursuant to this **Section 6.07** where such
16 access would violate any Law or result in a waiver or breach of any attorney/client
17 privilege.

18 **Section 6.08 Closing Conditions.** From the date hereof until the Closing,
19 subject to **Section 6.06**, each Party shall use its commercially reasonable efforts to take
20 such actions as are necessary to expeditiously satisfy the closing conditions set forth in
21 **ARTICLE VII** hereof and to do, or cause to be done, and to assist and cooperate with the
22 other Party in doing, all things necessary, proper or advisable to make effective, in the
23 most expeditious manner practicable, the closing conditions set forth in **ARTICLE VII**
24 hereof and thereafter to consummate the transactions contemplated hereby. Neither
25 Buyer nor Seller may rely on the failure of any condition to its obligation to consummate
26 the transactions contemplated hereby set forth in **Section 7.02** or **Section 7.03**, as the case
27 may be, to be satisfied if such failure was caused by (i) such Party's failure to use its
28 commercially reasonable efforts to satisfy the conditions to the consummation of the
29 transactions contemplated hereby or (ii) any other breach of a representation, warranty or
30 covenant hereunder.

31 **Section 6.09 Public Announcements.** Unless otherwise required by applicable
32 Law (based upon the reasonable advice of counsel, in which case, the disclosing Party
33 shall use its reasonable best efforts to advise the other Party prior to making the
34 disclosure to the extent practicable and permissible under applicable Law), no Party shall
35 make any public announcements in respect of this Agreement or the transactions
36 contemplated hereby or otherwise communicate with any news media without the prior
37 written consent of the other Party (which consent shall not be unreasonably withheld or
38 delayed), and the Parties shall cooperate as to the timing and contents of any such
39 announcement.

40 **Section 6.10 Bulk Sales Laws.** The parties shall use best efforts to comply with
41 the provisions of any bulk sales, bulk transfer or similar Laws of any jurisdiction that
42 may otherwise be applicable with respect to the sale of any or all of the Purchased Assets

1 to Buyer. In the event Buyer and Seller are unable to comply with such Laws in any
2 applicable jurisdiction in respect of the transactions contemplated by this Agreement,
3 Seller shall pay and discharge when due all claims of creditors asserted against Buyer or
4 the Purchased Assets by reason of such noncompliance and shall take promptly all
5 necessary actions required to remove any Lien which may be placed upon any of the
6 Purchased Assets by reason of such noncompliance.

7 **Section 6.11 Transfer Taxes.** All transfer, documentary, sales, use, stamp,
8 registration, value added and other such Taxes and fees (including any penalties and
9 interest) incurred in connection with this Agreement and the other Transaction
10 Documents (including any real property transfer Tax and any other similar Tax) shall be
11 borne fifty percent (50%) by Seller and borne fifty percent (50%) by Buyer. Buyer shall,
12 at its own expense, timely file any Tax Return or other document with respect to such
13 Taxes or fees (and Seller shall cooperate with respect thereto as necessary).

14 **Section 6.12 Allocation of Taxes.** All personal property taxes, ad valorem
15 obligations and similar recurring Taxes and fees on the Purchased Assets for taxable
16 periods beginning on or before, and ending after, the Closing Date, shall be prorated
17 between Seller and Buyer as of the close of business on the Closing Date on a daily basis.
18 Seller shall be responsible for all such Taxes and fees on the Purchased Assets accruing
19 under such daily proration methodology during any period up to and including the
20 Closing Date. Buyer shall be responsible for all such Taxes and fees with respect to the
21 Purchased Assets accruing under such daily proration methodology during any period
22 beginning the day after the Closing Date. With respect to Taxes described in this **Section**
23 **6.12**, Seller shall timely file all Tax Returns due before the Closing Date with respect to
24 such Taxes and Buyer shall prepare and timely file all Tax Returns due after the Closing
25 Date with respect to such Taxes.

26 **Section 6.13 Buyer Capitalization.** Within two (2) Business Days after all
27 other conditions to Closing have been met, Buyer shall cause itself to be capitalized in an
28 amount no less than the greater of (a) two hundred percent (200%) of its risk-based
29 capital requirements, or (b) the amount generally required of health maintenance
30 organizations of similar size and character by the District of Columbia's Department of
31 Insurance, Securities and Banking.

32 **Section 6.14 Health Maintenance Organization License.** Upon execution of
33 this Agreement, Buyer shall use its reasonable best efforts to obtain a health maintenance
34 organization license from the District of Columbia's Department of Insurance, Securities
35 and Banking.

36 **Section 6.15 No Solicitation of Other Bids.**

37 (a) For such period as this Agreement remains in effect, Seller shall not, and
38 shall not authorize or permit any of its Affiliates or any of its or their Representatives to,
39 directly or indirectly, (i) encourage, solicit, initiate, facilitate or continue inquiries
40 regarding an Acquisition Proposal; (ii) enter into discussions or negotiations with, or
41 provide any information to, any Person concerning a possible Acquisition Proposal; or

1 (iii) enter into any agreements or other instruments (whether or not binding) regarding an
2 Acquisition Proposal. Seller shall immediately cease and cause to be terminated, and
3 shall cause its Affiliates and all of its and their Representatives to immediately cease and
4 cause to be terminated, all existing discussions or negotiations with any Persons (other
5 than Buyer, its Affiliates and its and their Representatives) with respect to, or that could
6 lead to, an Acquisition Proposal.

7 (b) Seller agrees that the rights and remedies for noncompliance with this
8 **Section 6.15** shall include having such provision specifically enforced by any court
9 having equity jurisdiction, it being acknowledged and agreed that any such breach or
10 threatened breach shall cause irreparable injury to Buyer and that money damages would
11 not provide an adequate remedy to Buyer.

12 **Section 6.16 Non-Solicitation.** For a period of thirty-six (36) months following
13 the Closing Date, Seller shall not, and shall cause its Affiliates and their respective
14 representatives not to, solicit, recruit or hire any Hired Employee or encourage any such
15 Hired Employee to leave Buyer's employment without the prior written consent of
16 Buyer; *provided, however,* that this **Section 6.16** shall not apply to any hiring arising
17 from or prohibit: (i) solicitation in the form of a general advertisement or solicitation
18 program that is not specifically targeted at any Hired Employees; or (ii) the employment
19 of any person whose employment has been terminated by Buyer. Prior to the Closing
20 Date, Buyer shall not, and shall cause its Affiliates and their respective representatives
21 not to hire any Employee or encourage any Employee to leave Buyer's employment
22 except as contemplated hereunder without the prior written consent of Seller; *provided,*
23 *however,* that this **Section 6.16** shall not apply to any hiring arising from or prohibit: (A)
24 solicitation in the form of a general advertisement or solicitation program that is not
25 specifically targeted at any Employees; or (B) the employment of any person whose
26 employment has been terminated by Seller.

27 **Section 6.17 Insurance Matters.** Seller shall promptly notify Buyer in writing
28 of events or circumstances relating to the Purchased Assets or the Assumed Liabilities (a)
29 that occur on or after the date hereof and prior to the Closing Date, (b) that are covered by
30 Seller's or its Affiliates' third party liability insurance policies and programs, and (c) for
31 which claims under such policies and programs can be made (to the extent such coverage
32 and limits are available under such policies and programs) (such events or circumstances,
33 collectively, "Insurable Events"), Seller shall tender all claims relating to such Insurable
34 Events to the applicable insurers, and Seller shall pursue such claims in good faith.

35 **Section 6.18 Termination of Rights to the Intellectual Property Assets.** As
36 soon as practicable after the Closing Date (and in any even within thirty (30) days
37 thereafter), Seller shall (i) cease and discontinue all use of the Intellectual Property Assets
38 (except for the trade name "DC Chartered Health Plan, Inc." to the extent permitted
39 herein); (ii) cease and discontinue all use of the trade name "DC Chartered Health Plan,
40 Inc." or "DC Chartered" for any new business opportunity; (iii) use such trade name only
41 in connection with the run-off of the Excluded Liabilities, the work and transactions
42 contemplated by this Agreement and/or the work and transactions otherwise
43 contemplated by the Plan; and (iv) complete the removal of all Trademarks contained in

1 the Intellectual Property assets from all products, vehicles, signage, properties, technical
2 information, promotional materials and other property retained by the Seller. For the
3 avoidance of doubt, Seller will not be required to change its name, "DC Chartered Health
4 Plan, Inc.," following the Closing Date so long as Seller (a) does not (1) use publicly such
5 name for any new business opportunity or permit any third party to do the same or (2)
6 transfer such name to any third party and (b) thereafter limits the use of such name to the
7 run-off of the Excluded Liabilities, the work and transactions contemplated by this
8 Agreement and/or the work and transactions otherwise contemplated by the Plan.

9 **Section 6.19 Further Assurances.**

10 (a) Following the Closing, each of the Parties shall, and shall cause their
11 respective Affiliates to, execute and deliver such additional documents, instruments,
12 conveyances and assurances and take such further actions, including coordination with
13 Buyer, as may be reasonably required to carry out the provisions hereof and give effect to
14 the transactions contemplated by this Agreement and the other Transaction Documents.

15 (b) Following the Closing, without limiting the provisions of **Section 6.19(a)**,
16 to the extent that either Buyer or Seller discovers any additional assets or properties,
17 including any Intellectual Property, which should have been transferred or assigned to
18 Buyer as Purchased Assets but were not so transferred or assigned, Buyer and Seller shall
19 execute and deliver any instruments of transfer or assignment reasonably necessary to
20 transfer and assign such asset or property to Buyer and shall otherwise cooperate with
21 one another as necessary to effectuate the transfer and assignment of such asset or
22 property to Buyer.

23 (c) From and after the Closing, if Seller or any of its Affiliates receives or
24 collects (i) any funds that are property of Buyer as a result of the transactions
25 contemplated hereunder or (ii) any Insurance Proceeds, then Seller or its Affiliates shall
26 remit such funds or Insurance Proceeds to Buyer within five (5) Business Days after its
27 receipt thereof. From and after the Closing, if Buyer or its Affiliate receives or collects
28 any funds that are property of Seller as a result of the transactions contemplated
29 hereunder, then Buyer or its Affiliate shall remit any such funds to Seller within five (5)
30 Business Days after its receipt thereof.

31 (d) The Parties shall cooperate with each other, and shall use their
32 commercially reasonable efforts to cause their respective Representatives to cooperate
33 with each other, to provide an orderly transition of the Business from Seller to Buyer and
34 to minimize the disruption to the Business resulting from the transactions contemplated
35 hereby as requested by any Party.

36 **ARTICLE VII**
37 **CONDITIONS TO CLOSING**

38 **Section 7.01 Conditions to Obligations of All Parties.** The obligations of each
39 Party to consummate the transactions contemplated by this Agreement shall be subject to
40 the fulfillment, at or prior to the Closing, of each of the following conditions:

1 (a) No Governmental Authority shall have enacted, issued, promulgated,
2 enforced or entered any Law or Governmental Order which is in effect and has the effect
3 of making the transactions contemplated by this Agreement illegal, otherwise restraining
4 or prohibiting consummation of such transactions or causing any of the transactions
5 contemplated hereunder to be rescinded following completion thereof.

6 (b) No Action shall have been commenced against Buyer or Seller, which
7 would prevent the Closing. No injunction or restraining order shall have been issued by
8 any Governmental Authority, and be in effect, which restrains or prohibits any
9 transaction contemplated hereby.

10 (c) Seller shall have received all consents, authorizations, orders and
11 approvals from the Governmental Authorities referred to in **Section 4.03(i)** of the
12 Disclosure Schedules or **Section 4.03(ii)** of the Disclosure Schedules and Buyer shall
13 have received all consents, authorizations, orders and approvals from the Governmental
14 Authorities referred to in **Section 5.03** of the Disclosure Schedules, in each case, in form
15 and substance reasonably satisfactory to Buyer and Seller, and no such consent,
16 authorization, order and approval shall have been revoked.

17 (d) The Parties shall have agreed upon the final form of the Seller Transition
18 Services Agreement and the Buyer Transition Services Agreement.

19 **Section 7.02 Conditions to Obligations of Buyer.** The obligations of Buyer to
20 consummate the transactions contemplated by this Agreement shall be subject to the
21 fulfillment or Buyer's waiver, at or prior to the Closing, of each of the following
22 conditions:

23 (a) There shall not have occurred any Material Adverse Effect, nor shall any
24 event or events have occurred that, individually or in the aggregate, with or without the
25 lapse of time, could reasonably be expected to result in a Material Adverse Effect.

26 (b) The representations and warranties of Seller contained in **ARTICLE IV**
27 shall be true and shall be true and correct in all respects (in the case of any representation
28 or warranty qualified by materiality or Material Adverse Effect) or in all material respects
29 (in the case of any representation or warranty not qualified by materiality or Material
30 Adverse Effect) on and as of the date hereof and on and as of the Closing Date with the
31 same effect as though made at and as of such date (except those representations and
32 warranties that address matters only as of a specified date, the accuracy of which shall be
33 determined as of that specified date in all respects).

34 (c) Seller shall have duly performed and complied in all material respects with
35 all agreements, covenants and conditions required by this Agreement and each of the
36 other Transaction Documents to be performed or complied with by it prior to or on the
37 Closing Date.

38 (d) Seller shall have delivered to Buyer duly executed counterparts to the
39 Transaction Documents (other than this Agreement) and such other documents and
40 deliveries set forth in **Section 3.02(a)**.

1 (e) Buyer shall have received a certificate, dated the Closing Date and signed
2 by a duly authorized officer of Seller, that each of the conditions set forth in **Section**
3 **7.02(a)**, **Section 7.02(b)** and **Section 7.02(c)** have been satisfied (the “**Seller Closing**
4 **Certificate**”).

5 (f) Buyer shall have received a certificate of the Secretary or an Assistant
6 Secretary (or equivalent officer) of Seller certifying that attached thereto are true and
7 complete copies of all resolutions adopted by the board of directors of Seller authorizing
8 the execution, delivery and performance of this Agreement and the other Transaction
9 Documents and the consummation of the transactions contemplated hereby and thereby,
10 and that all such resolutions are in full force and effect and are all the resolutions adopted
11 in connection with the transactions contemplated hereby and thereby.

12 (g) Buyer shall have received a certificate of the Secretary or an Assistant
13 Secretary (or equivalent officer) of Seller certifying the names and signatures of the
14 officers of Seller authorized to sign this Agreement, the Transaction Documents and the
15 other documents to be delivered hereunder and thereunder.

16 (h) The District of Columbia’s Department of Health Care Finance (“**DHCF**”)
17 shall have approved the assignment to Buyer of certain of Seller’s rights and obligations
18 under the DHCF Contract for the Current Program Year effective as of the Effective
19 Date, including the assignment to Buyer of the Program Enrollees covered by Seller
20 under the DHCF Contract for the Current Program Year. The terms and conditions of
21 such approval and assignment shall be acceptable to both Buyer and Seller.

22 (i) (i) DHCF shall have notified Buyer in writing that Buyer has been
23 approved as a managed care provider under DHCF’s request for proposal dated
24 November 1, 2012 (soliciting proposals from managed care organizations that are
25 interested in coordinating the delivery of health care services provided to District of
26 Columbia residents through the Medicaid and Alliance programs); (ii) DHCF and Buyer
27 shall have entered into a written agreement pursuant to which Buyer will provide certain
28 services relating to such request for proposal, which written agreement shall be on terms
29 and conditions satisfactory to Buyer in Buyer’s sole discretion; and (iii) DHCF shall have
30 assigned to Buyer for the program year commencing May 1, 2013 the Program Enrollees
31 currently covered by Seller under its DHCF Contract. The terms and conditions of such
32 approval shall be acceptable to Buyer in Buyer’s sole discretion.

33 (j) Buyer shall have obtained (i) a health maintenance organization license
34 from the District of Columbia’s Department of Insurance, Securities and Banking
35 acceptable to Buyer in Buyer’s sole and absolute discretion and (ii) all Permits that, in
36 each case, are necessary for it to conduct the Business as conducted by Seller as of the
37 Closing Date, as determined by Buyer in Buyer’s sole and absolute discretion.

38 (k) Seller shall have prepared and filed with the Superior Court for review and
39 approval a Plan as required by **Section 6.06(c)**, which Plan shall be on terms and
40 conditions satisfactory to Buyer in Buyer’s sole discretion.

1 (l) The Superior Court shall have approved the Plan and shall have made such
2 other determinations and issued such other orders as are described at **Section 6.06(c)**, all
3 of which shall be (i) final and nonappealable and (ii) acceptable to Buyer in its sole
4 discretion as such Plan pertains to Buyer and the transactions contemplated hereby.

5 (m) All notices, approvals, consents, waivers and other actions that are listed
6 on **Section 7.02(m)** of the Disclosure Schedules shall have been received, and executed
7 counterparts thereof shall have been delivered to Buyer at or prior to the Closing, in each
8 case in form and substance reasonably acceptable to Buyer.

9 (n) All Encumbrances relating to the Purchased Assets shall have been
10 released in full, other than Permitted Encumbrances, and Seller shall have delivered to
11 Buyer written evidence, in form satisfactory to Buyer in its sole discretion, of the release
12 of such Encumbrances (including evidence of filed UCC-3 termination statements or
13 similar documents evidence of termination of all Encumbrances held by creditors that are
14 Related to the Business or related to the Purchased Assets).

15 (o) Arrangements acceptable to Buyer, in Buyer's sole discretion, shall be
16 implemented, effective as of the Closing Date, for the payment by a Person or Persons
17 other than Buyer of any amounts due any health care service and facility providers
18 (including any Program Providers and any non-participating providers) which amounts
19 are not Post-Effective Provider Service Payables.

20 (p) Employment Contracts, in form and substance acceptable to Buyer in
21 Buyer's sole discretion, by and between Buyer, on the one hand, and each of Maynard
22 McAlpin, James Christian, Karen Dale, Keith McCannon, Glenn Moorehead, Mark
23 Fracasso, M.D., Parminder Sethi, Sumeet Seth, Kenny Green and Francis Smith, on the
24 other hand, shall have been executed and delivered by all parties thereto.

25 **Section 7.03 Conditions to Obligations of Seller.** The obligations of Seller to
26 consummate the transactions contemplated by this Agreement shall be subject to the
27 fulfillment or Seller's waiver, at or prior to the Closing, of each of the following
28 conditions:

29 (a) The representations and warranties of Buyer contained in **ARTICLE V**
30 shall be true and correct in all respects as of the Closing Date with the same effect as
31 though made at and as of such date (except those representations and warranties that
32 address matters only as of a specified date, which shall be true and correct in all respects
33 as of that specified date), except where the failure of such representations and warranties
34 to be true and correct would not have a material adverse effect on Buyer's ability to
35 consummate the transactions contemplated hereby.

36 (b) Buyer shall have duly performed and complied in all material respects
37 with all agreements, covenants and conditions required by this Agreement and each of the
38 other Transaction Documents to be performed or complied with by it prior to or on the
39 Closing Date.

1 (c) Buyer shall have delivered to Seller the Purchase Price, duly executed
2 counterparts to the Transaction Documents (other than this Agreement) and such other
3 documents and deliveries set forth in **Section 3.02(b)**.

4 (d) Seller shall have received a certificate, dated the Closing Date and signed
5 by a duly authorized officer of Buyer, that each of the conditions set forth in **Section**
6 **7.03(a)** and **Section 7.03(b)** have been satisfied (the “**Buyer Closing Certificate**”).

7 (e) Seller shall have received a certificate of the Secretary or an Assistant
8 Secretary (or equivalent officer) of Buyer certifying that attached thereto are true and
9 complete copies of all resolutions adopted by the board of directors of Buyer authorizing
10 the execution, delivery and performance of this Agreement and the other Transaction
11 Documents and the consummation of the transactions contemplated hereby and thereby,
12 and that all such resolutions are in full force and effect and are all the resolutions adopted
13 in connection with the transactions contemplated hereby and thereby.

14 (f) Seller shall have received a certificate of the Secretary or an Assistant
15 Secretary (or equivalent officer) of Buyer certifying the names and signatures of the
16 officers of Buyer authorized to sign this Agreement, the Transaction Documents and the
17 other documents to be delivered hereunder and thereunder.

18 (g) The Superior Court shall have approved the Plan, this Agreement and the
19 transactions contemplated by this Agreement.

20 (h) Buyer shall have capitalized itself as set forth in **Section 5.03**.

21 (i) The District of Columbia’s Department of Health Care Finance (“**DHCF**”)
22 shall have approved the assignment to Buyer of certain of Seller’s rights and obligations
23 under the DHCF Contract for the Current Program Year effective as of the Effective
24 Date, including the assignment to Buyer of the Program Enrollees covered by Seller
25 under the DHCF Contract for the Current Program Year. The terms and conditions of
26 such approval and assignment shall be acceptable to both Buyer and Seller.

27 **ARTICLE VIII**
28 **INDEMNIFICATION**

29 **Section 8.01 Survival.** Subject to the limitations and other provisions of this
30 Agreement, the representations and warranties contained herein shall survive the Closing
31 and shall remain in full force and effect until the date that is eighteen (18) months from
32 the Closing Date; *provided* that the representations and warranties set forth in **Section**
33 **4.01** (Organization and Qualification of Seller), **Section 4.02** (Authority of Seller),
34 **Section 4.07** (Title to Purchased Assets), **Section 4.16** (Taxes), and **Section 4.20**
35 (Brokers) (collectively, the “**Fundamental Representations**”) shall survive for the full
36 period of all applicable statutes of limitations (giving effect to any waiver, mitigation or
37 extension thereof) plus sixty (60) days. All of the covenants or other agreements
38 contained in this Agreement shall survive indefinitely or for the period contemplated by
39 its terms. However, any claims asserted in good faith with reasonable specificity (to the
40 extent known at such time) and in writing by notice from the non-breaching party to the

1 breaching party prior to the expiration date of the applicable survival period shall not
2 thereafter be barred by the expiration of such survival period and such claims shall
3 survive until finally resolved.

4 **Section 8.02 Indemnification By Seller.** Subject to the other terms and
5 conditions of this **ARTICLE VIII**, Seller shall indemnify and defend each of Buyer,
6 Buyer's Affiliates and its and their Representatives (other than Representatives who are
7 only employees of such Persons) (such indemnified Persons, collectively, the "**Buyer**
8 **Indemnitees**") against, and shall hold each Buyer Indemnatee harmless from and against,
9 and shall pay and reimburse each of them for, any and all Losses incurred or sustained
10 by, or imposed upon, Buyer based upon, arising out of, with respect to or by reason of:

11 (a) any inaccuracy in or breach of any of the representations or warranties of
12 Seller contained in any Transaction Document, without regard to any qualification as to
13 materiality or Material Adverse Effect included therein;

14 (b) any breach or non-fulfillment of any covenant, agreement or obligation to
15 be performed by Seller pursuant to any Transaction Document; or

16 (c) any Excluded Asset or any Excluded Liability.

17 **Section 8.03 Indemnification By Buyer.** Subject to the other terms and
18 conditions of this **ARTICLE VIII**, Buyer shall indemnify and defend each of Seller and
19 its officers (collectively the "**Seller Indemnitees**") against, and shall hold each Seller
20 Indemnatee harmless from and against, any and all Losses incurred or sustained by, or
21 imposed upon, Seller based upon, arising out of, with respect to or by reason of:

22 (a) any inaccuracy in or breach of any of the representations or warranties of
23 Buyer contained in this Agreement;

24 (b) any breach or non-fulfillment of any covenant, agreement or obligation to
25 be performed by Buyer pursuant to this Agreement; or

26 (c) any Assumed Liability.

27 **Section 8.04 Certain Limitations.** Any Seller Indemnatee or Buyer Indemnatee
28 making a claim under this **ARTICLE VIII** is referred to as the "**Indemnified Party**",
29 and the Party against whom such claims are asserted under this **ARTICLE VIII** is
30 referred to as the "**Indemnifying Party**". The indemnification provided for in **Section**
31 **8.02** and **Section 8.03** shall be subject to the following limitations:

32 (a) The Indemnifying Party shall not be liable to the Indemnified Party for
33 indemnification under **Section 8.02(a)** or **Section 8.03(a)**, as the case may be, until the
34 aggregate amount of all Losses in respect of indemnification under **Section 8.02(a)** or
35 **Section 8.03(a)** exceeds \$100,000 (the "**Deductible**"), in which event the Indemnifying
36 Party shall only be required to pay or be liable for Losses in excess of the Deductible,
37 except for breaches of representations and warranties set forth in **Section 4.16** (Taxes).

1 (b) The aggregate amount of all Losses for which an Indemnifying Party shall
2 be liable pursuant to **Section 8.02(a)** or **Section 8.03(a)**, as the case may be, shall not
3 exceed \$2,000,000, except for breaches of the Fundamental Representations or
4 representations and warranties set forth in **Section 5.01** or **Section 5.02**, for which the
5 aggregate amount of all Losses for which an Indemnifying Party shall be liable shall not
6 exceed \$4,000,000.

7 (c) Payments by an Indemnifying Party pursuant to **Section 8.02** or **Section**
8 **8.03** in respect of any Loss shall be limited to the amount of any Loss that remains after
9 deducting therefrom any insurance proceeds and any indemnity, contribution or other
10 similar payment actually received (net of any collection costs (including attorneys' fees)
11 thereof and any increase in insurance premiums resulting therefrom) by the Indemnified
12 Party in respect of any such claim.

13 (d) An Indemnifying Party may be liable for the following damages or
14 diminution of value to an Indemnified Party only to the extent such damages or
15 diminution of value are payable pursuant to a third party claim: (i) any punitive damages,
16 (ii) any incidental, consequential, special or indirect damages (other than lost profits), or
17 (iii) any diminution of value or any damages based on any type of multiple.

18 (e) Each Indemnified Party shall take all commercially reasonable steps to
19 mitigate any Loss that is indemnifiable pursuant to this **ARTICLE VIII** upon becoming
20 aware of any event or circumstance that would be reasonably expected to, or does, give
21 rise thereto; *provided that* any Losses incurred by an Indemnified Party in connection
22 with the use of its commercially reasonable efforts to mitigate any Loss pursuant to this
23 **Section 8.04(e)** shall be deemed Losses incurred by such Indemnified Party and shall be
24 indemnifiable pursuant to this **ARTICLE VIII**.

25 **Section 8.05 Indemnification Procedures.**

26 (a) **Third Party Claims.**

27 (i) If any Indemnified Party receives notice of the assertion or
28 commencement of any Action made or brought by any Person who is not a party to this
29 Agreement or an Affiliate of a party to this Agreement or a Representative of the
30 foregoing (a "**Third Party Claim**") against such Indemnified Party with respect to which
31 the Indemnifying Party is obligated to provide indemnification under this Agreement, the
32 Indemnified Party shall give the Indemnifying Party prompt written notice thereof. The
33 failure to give such prompt written notice shall not, however, relieve the Indemnifying
34 Party of its indemnification obligations, except and only to the extent that the
35 Indemnifying Party forfeits rights or defenses by reason of such failure. Such notice by
36 the Indemnified Party shall describe the Third Party Claim in reasonable detail, shall
37 include copies of all material written evidence thereof and shall indicate the estimated
38 amount, if reasonably practicable, of the Loss that has been or may be sustained by the
39 Indemnified Party. The Indemnifying Party shall have the right to participate in, or by
40 giving prompt written notice thereof (but in any event not later than thirty (30) calendar
41 days after receipt of such notice of such Third Party Claim) to the Indemnified Party, to

1 assume the defense of any Third Party Claim at the Indemnifying Party's expense and by
2 the Indemnifying Party's own counsel, and the Indemnified Party shall cooperate in good
3 faith in such defense; *provided that* the Indemnifying Party does not have the right to
4 defend or direct the defense of such Third Party Claim if (A) the Indemnifying Party is
5 also a Person against whom the Third Party Claim is made and the Indemnified Party
6 determines in good faith that joint representation would be inappropriate, (B) such Third
7 Party Claim involves alleged criminal conduct or seeks an injunction or other equitable
8 relief against the Indemnified Party or (C) the Indemnifying Party fails to provide
9 reasonable assurance to the Indemnified Party of its ability to defend the Third Party
10 Claim and provide indemnification with respect to the Third Party Claim. The
11 Indemnified Party's initial election to assume the defense of any Third Party Claim shall
12 constitute: (x) an irrevocable admission by the Indemnifying Party that any Losses
13 resulting therefrom are indemnifiable Losses for which the Indemnified Party is entitled
14 to indemnification under **ARTICLE VIII** and (y) an agreement by the Indemnifying
15 Party to post any bond or other security to the extent required in connection with the
16 defense of such Third Party Claim. In the event that the Indemnifying Party assumes the
17 defense of any Third Party Claim, subject to **Section 8.05(b)**, it shall have the right to
18 take such action as it deems necessary to avoid, dispute, defend, appeal or make
19 counterclaims pertaining to any such Third Party Claim in the name and on behalf of the
20 Indemnified Party. The Indemnified Party shall have the right, at its own cost and
21 expense, to participate in the defense of any Third Party Claim with counsel selected by it
22 subject to the Indemnifying Party's right to control the defense thereof.

23 (ii) If the Indemnifying Party elects not to compromise or defend such
24 Third Party Claim or otherwise fails to promptly notify the Indemnified Party in writing
25 of its election to defend as provided in this Agreement within thirty (30) calendar days
26 after receipt of notice of such Third Party Claim, then (A) the Indemnified Party may,
27 subject to **Section 8.05(b)**, pay, compromise, defend such Third Party Claim and seek
28 indemnification for any and all Losses based upon, arising from or relating to such Third
29 Party Claim, (B) the Indemnifying Party will reimburse the Indemnified Party promptly
30 and periodically for the costs of defending against the Third Party Claim (including
31 reasonable attorneys' fees and expenses) to the extent such costs are Losses for which the
32 Indemnified Party is actually entitled to indemnification hereunder; and (C) the
33 Indemnifying Party will remain responsible for any Losses the Indemnified Party may
34 incur resulting from the Third Party Claim to the extent such Losses are Losses for which
35 the Indemnified Party is actually entitled to indemnification hereunder.

36 (iii) Seller and Buyer shall cooperate with each other in all reasonable
37 respects in connection with the defense of any Third Party Claim, including making
38 available (subject to the provisions of **Section 6.05**) records relating to such Third Party
39 Claim and furnishing, without expense (other than reimbursement of actual out-of-pocket
40 expenses) to the defending party, management employees of the non-defending party as
41 may be reasonably necessary for the preparation of the defense of such Third Party
42 Claim.

43 (b) **Settlement of Third Party Claims.** Notwithstanding any other provision
44 of this Agreement, the Indemnifying Party shall not enter into settlement of any Third

1 Party Claim without the prior written consent of the Indemnified Party (which consent
2 shall not be unreasonably withheld or delayed), except as provided in this **Section**
3 **8.05(b)**. If a firm offer is made to settle a Third Party Claim without leading to Liability
4 or the creation of a financial or other obligation on the part of the Indemnified Party and
5 provides, in customary form, for the unconditional release of each Indemnified Party
6 from all Liabilities in connection with such Third Party Claim and the Indemnifying Party
7 desires to accept and agree to such offer, then the Indemnifying Party shall give written
8 notice to that effect to the Indemnified Party. If (i) the Indemnifying Party has
9 acknowledged full responsibility for such Third Party Claim and has provided reasonable
10 assurance and evidence to the Indemnified Party of its financial capacity to pay any
11 amounts contemplated in such settlement and (ii) the Indemnified Party fails to consent to
12 such firm offer within ten (10) days after its receipt of such notice, then the Indemnified
13 Party may continue to contest or defend such Third Party Claim and in such event, the
14 maximum liability of the Indemnifying Party as to such Third Party Claim shall not
15 exceed the amount of such settlement offer. If the Indemnified Party has assumed the
16 defense pursuant to **Section 8.05(a)**, it shall not agree to any settlement without the
17 written consent of the Indemnifying Party (which consent shall not be unreasonably
18 withheld or delayed).

19 (c) **Direct Claims.** Any claim by an Indemnified Party on account of a Loss
20 that does not result from a Third Party Claim (a “**Direct Claim**”) shall be asserted by the
21 Indemnified Party giving the Indemnifying Party prompt written notice thereof. The
22 failure to give such prompt written notice shall not, however, relieve the Indemnifying
23 Party of its indemnification obligations, except and only to the extent that the
24 Indemnifying Party forfeits rights or defenses by reason of such failure. Such notice by
25 the Indemnified Party shall describe the Direct Claim in reasonable detail, shall include
26 copies of all material written evidence thereof and shall indicate the estimated amount, if
27 reasonably practicable, of the Loss that has been or may be sustained by the Indemnified
28 Party. The Indemnifying Party shall have thirty (30) days after its receipt of such notice
29 to respond in writing to such Direct Claim. During such thirty (30)-day period, the
30 Indemnified Party shall allow the Indemnifying Party and its professional advisors to
31 investigate the matter or circumstance alleged to give rise to the Direct Claim, and
32 whether and to what extent any amount is payable in respect of the Direct Claim and the
33 Indemnified Party shall assist the Indemnifying Party’s investigation by giving such
34 information and assistance (including access to the Indemnified Party’s premises and
35 personnel and the right to examine and copy any accounts, documents or records) as the
36 Indemnifying Party or any of its professional advisors may reasonably request. If the
37 Indemnifying Party does not so respond within such thirty (30)-day period, the
38 Indemnifying Party shall be deemed to have conceded to such claim, in which case the
39 Indemnified Party shall be free to pursue such remedies as may be available to the
40 Indemnified Party on the terms and subject to the provisions of this Agreement. If the
41 Indemnifying Party does respond within such time period, the Indemnified Party and the
42 Indemnifying Party shall negotiate the resolution of such Direct Claim for a period of not
43 less than thirty (30) days commencing on the date such response is provided; *provided*
44 *that* if the Indemnifying Party and the Indemnified Party are unable to resolve such Direct
45 Claim within such time period, then the Indemnifying Party and Indemnified Party may

1 thereafter pursue any remedies available to such Person pursuant to the terms of this
2 Agreement.

3 (d) On each occasion a Loss is agreed to by the Indemnifying Party or finally
4 adjudicated to be payable pursuant to this **ARTICLE VIII**, the Indemnifying Party shall
5 satisfy its obligations with respect to such Loss within fifteen (15) Business Days of such
6 final, non-appealable adjudication by wire transfer of immediately available funds.

7 **Section 8.06 Tax Treatment of Indemnification Payments.** All
8 indemnification payments made under this Agreement shall be treated by the Parties as an
9 adjustment to the Purchase Price for Tax purposes, unless otherwise required by Law.

10 **Section 8.07 Exclusive Remedies.** Subject to **Section 10.11**, the Parties
11 acknowledge and agree that their sole and exclusive remedy with respect to any and all
12 claims (other than claims arising from intentional fraud) for any breach of any
13 representation, warranty, covenant, agreement or obligation set forth herein or otherwise
14 relating to the subject matter of this Agreement, shall be pursuant to the indemnification
15 provisions set forth in this **ARTICLE VIII**. In furtherance of the foregoing, each Party
16 hereby waives, to the fullest extent permitted under Law, any and all rights, claims and
17 causes of action for any breach of any representation, warranty, covenant, agreement or
18 obligation set forth herein or otherwise relating to the subject matter of this Agreement it
19 may have against the other Parties and their Affiliates and each of their respective
20 Representatives arising under or based upon any Law, except pursuant to the
21 indemnification provisions set forth in this **ARTICLE VIII** or pursuant to **Section 10.11**
22 or for claims of intentional fraud. Subject to third party Indemnitees hereunder, the
23 Parties expressly acknowledge that each Party's rights and remedies relating to the subject
24 matter of this Agreement are solely with respect to one another, and in no event shall any
25 Party or Indemnitee have any rights against the Rehabilitator or its Representatives
26 arising from or relating to this Agreement or the transactions contemplated hereby
27 (except, as to the Representatives of the Rehabilitator, for claims of intentional fraud).

28 **ARTICLE IX**
29 **TERMINATION**

30 **Section 9.01 Termination.** This Agreement may be terminated at any time
31 prior to the Closing:

32 (a) by the mutual written consent of Seller and Buyer;

33 (b) by Buyer by written notice to Seller if:

34 (i) Buyer is not then in material breach of any representation,
35 warranty, covenant or agreement of this Agreement and there has been a material breach,
36 inaccuracy in or failure to perform any representation, warranty, covenant or agreement
37 made by Seller pursuant to this Agreement that would give rise to the failure of any of the
38 conditions specified in **ARTICLE VII** and such breach, inaccuracy or failure cannot be
39 cured by Seller by the Drop Dead Date; or

1 (ii) any of the conditions set forth in **Section 7.01** or **Section 7.02** shall
2 not have been fulfilled by the Drop Dead Date, unless such failure shall be due to the
3 failure of Buyer to perform or comply with any of the covenants, agreements or
4 conditions hereof to be performed or complied with by it prior to the Closing;

5 (c) by Seller by written notice to Buyer if:

6 (i) Seller is not then in material breach of any representation,
7 warranty, covenant or agreement of this Agreement and there has been a material breach,
8 inaccuracy in or failure to perform any representation, warranty, covenant or agreement
9 made by Buyer pursuant to this Agreement that would give rise to the failure of any of
10 the conditions specified in **ARTICLE VII** and such breach, inaccuracy or failure cannot
11 be cured by Buyer by the Drop Dead Date; or

12 (ii) any of the conditions set forth in **Section 7.01** or **Section 7.03** shall
13 not have been fulfilled by the Drop Dead Date, unless such failure shall be due to the
14 failure of Seller to perform or comply with any of the covenants, agreements or
15 conditions hereof to be performed or complied with by it prior to the Closing; or

16 (d) by Buyer or Seller in the event that:

17 (i) there shall be any Law that makes consummation of the
18 transactions contemplated by this Agreement illegal or otherwise prohibited; or

19 (ii) any Governmental Authority shall have issued a Governmental
20 Order restraining or enjoining the transactions contemplated by this Agreement, and such
21 Governmental Order shall have become final and non-appealable.

22 **Section 9.02 Effect of Termination.** In the event of the termination of this
23 Agreement in accordance with this **ARTICLE IX**, this Agreement shall forthwith
24 become void and there shall be no Liability on the part of any Party except:

25 (a) as set forth in this **ARTICLE IX**, **Section 6.05** and **ARTICLE X** hereof;
26 and

27 (b) that nothing herein shall relieve any Party from Liability for any
28 intentional breach of any provision hereof.

29 **ARTICLE X**
30 **MISCELLANEOUS**

31 **Section 10.01 Expenses.** Except as otherwise expressly provided herein
32 (including **Section 6.11** hereof), all costs and expenses, including, without limitation, fees
33 and disbursements of counsel, financial advisors and accountants, incurred in connection
34 with this Agreement and the transactions contemplated hereby shall be paid by the Party
35 incurring such costs and expenses, whether or not the Closing shall have occurred.

1701 Market Street

Philadelphia, PA 19103

Facsimile No.: 877-432-9652

Attention: David L. Harbaugh

1 **Section 10.03 Interpretation.** For purposes of this Agreement, (a) the words
2 “include,” “includes” and “including” shall be deemed to be followed by the words
3 “without limitation”; (b) the word “or” is not exclusive; (c) the words “herein,” “hereof,”
4 “hereby,” “hereto” and “hereunder” refer to this Agreement as a whole; (d) the
5 definitions contained in this Agreement are applicable to the singular as well as the plural
6 forms of such terms; (e) whenever the context may require, any pronouns used herein
7 shall include the corresponding masculine, feminine or neuter forms, and the singular
8 form of names and pronouns shall include the plural and vice versa; (f) any reference
9 herein to Law or to a legal requirement (or, with respect to any statute, ordinance, code,
10 rule or regulation, any provision thereof) shall be deemed to include reference to all Laws
11 or to such legal requirement and any legal requirement promulgated thereunder (or
12 provision thereof, as applicable), including any successor thereto, respectively, in each
13 case, as may be amended; (g) references herein to a Person are also to its permitted
14 successors and assigns; (h) any reference herein to a Governmental Authority shall be
15 deemed to include reference to any successor thereto. Unless the context otherwise
16 requires, references herein: (x) to Articles, Sections, Disclosure Schedules and Exhibits
17 mean the Articles and Sections of, and Disclosure Schedules and Exhibits attached to,
18 this Agreement and (y) to a statute means such statute as amended from time to time and
19 includes any successor legislation thereto and any regulations promulgated thereunder.
20 This Agreement shall be construed without regard to any presumption or rule requiring
21 construction or interpretation against the Party drafting an instrument or causing any
22 instrument to be drafted. The Disclosure Schedules and Exhibits referred to herein shall
23 be construed with, and as an integral part of, this Agreement to the same extent as if they
24 were set forth verbatim herein.

25 **Section 10.04 Headings.** The headings and table of contents in this Agreement
26 are for reference only and shall not affect the interpretation of this Agreement.

27 **Section 10.05 Severability.** If any term or provision of this Agreement is
28 invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or
29 unenforceability shall not affect any other term or provision of this Agreement or
30 invalidate or render unenforceable such term or provision in any other jurisdiction. Upon
31 such determination that any term or other provision is invalid, illegal or unenforceable,
32 the Parties shall negotiate in good faith to modify this Agreement so as to effect the
33 original intent of the Parties as closely as possible in a mutually acceptable manner in
34 order that the transactions contemplated hereby be consummated as originally
35 contemplated to the greatest extent possible.

1 **Section 10.06 Entire Agreement.** Other than (a) the Confidentiality Agreement
2 and (b) the Letter Agreement dated as of November 30, 2012 by and between
3 AmeriHealth Mercy Health Plan and Seller (the “**Letter Agreement**”), this Agreement
4 and the other Transaction Documents constitute the sole and entire agreement of the
5 Parties to this Agreement with respect to the subject matter contained herein and therein,
6 and supersede all prior and contemporaneous representations, warranties, understandings
7 and agreements, both written and oral, with respect to such subject matter. In the event of
8 any inconsistency between the statements in the body of this Agreement and those in the
9 other Transaction Documents, the Exhibits and Disclosure Schedules (other than an
10 exception expressly set forth as such in the Disclosure Schedules), the statements in the
11 body of this Agreement will control. Notwithstanding the foregoing, in the event of the
12 occurrence of the Closing: (i) AmeriHealth Mercy Health Plan shall not have any
13 obligation to make any payment to Seller or any other Person pursuant to the Letter
14 Agreement, (ii) the Letter Agreement shall be automatically terminated in its entirety and
15 shall be of no further force or effect, in each case, as of the Closing, and (iii) effective as
16 of the Closing, each Party hereby waives all rights, obligations, claims, and demands of
17 any kind whatsoever that such Party ever had, now has or may have hereafter, under the
18 Letter Agreement.

19 **Section 10.07 Successors and Assigns.** This Agreement shall be binding upon
20 and shall inure to the benefit of the Parties and their respective successors and permitted
21 assigns. Neither Party may assign its rights or obligations hereunder without the prior
22 written consent of the other Party, which consent shall not be unreasonably withheld or
23 delayed; *provided, however*, that Buyer may assign this Agreement (i) to any of its
24 Affiliates, (ii) to its lenders for collateral security purposes, or (iii) to a subsequent
25 purchaser of all or a substantial portion of Buyer or the assets of Buyer. No assignment
26 shall relieve the assigning Party of any of its obligations hereunder.

27 **Section 10.08 No Third Party Beneficiaries.** This Agreement is for the sole
28 benefit of the Parties and their respective successors and permitted assigns and nothing
29 herein, express or implied, is intended to or shall confer upon any other Person or entity
30 any legal or equitable right, benefit or remedy of any nature whatsoever under or by
31 reason of this Agreement, except that **(a)** Seller Indemnitees and Buyer Indemnitees are
32 third party beneficiaries of this Agreement with respect to **ARTICLE VIII** and **(b)**
33 AmeriHealth Mercy Health Plan is a third party beneficiary of this Agreement with
34 respect to Section 10.06.

35 **Section 10.09 Amendment and Modification; Waiver.** This Agreement may
36 only be amended, modified or supplemented by an agreement in writing signed by each
37 Party. No waiver by any Party of any of the provisions hereof shall be effective unless
38 explicitly set forth in writing and signed by the Party so waiving. No waiver by any Party
39 shall operate or be construed as a waiver in respect of any failure, breach or default not
40 expressly identified by such written waiver, whether of a similar or different character,
41 and whether occurring before or after that waiver. No failure to exercise, or delay in
42 exercising, any right, remedy, power or privilege arising from this Agreement shall
43 operate or be construed as a waiver thereof; nor shall any single or partial exercise of any

1 right, remedy, power or privilege hereunder preclude any other or further exercise thereof
2 or the exercise of any other right, remedy, power or privilege.

3 **Section 10.10 Governing Law; Submission to Jurisdiction; Waiver of Jury**
4 **Trial.**

5 (a) This Agreement shall be governed by and construed in accordance with
6 the internal laws of the State of Delaware without giving effect to any choice or conflict
7 of law provision or rule (whether of the State of Delaware or any other jurisdiction) that
8 would cause the application of Laws of any jurisdiction other than those of the State of
9 Delaware.

10 (b) ANY LEGAL SUIT, ACTION OR PROCEEDING ARISING OUT OF
11 OR BASED UPON THIS AGREEMENT, THE OTHER TRANSACTION
12 DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR
13 THEREBY MAY BE INSTITUTED IN THE COURTS OF THE DISTRICT OF
14 COLUMBIA AND EACH PARTY IRREVOCABLY SUBMITS TO THE EXCLUSIVE
15 JURISDICTION OF SUCH COURTS IN ANY SUCH SUIT, ACTION OR
16 PROCEEDING. SERVICE OF PROCESS, SUMMONS, NOTICE OR OTHER
17 DOCUMENT BY MAIL TO SUCH PARTY'S ADDRESS SET FORTH HEREIN
18 SHALL BE EFFECTIVE SERVICE OF PROCESS FOR ANY SUIT, ACTION OR
19 OTHER PROCEEDING BROUGHT IN ANY SUCH COURT. THE PARTIES
20 IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY OBJECTION TO THE
21 LAYING OF VENUE OF ANY SUIT, ACTION OR ANY PROCEEDING IN SUCH
22 COURTS AND IRREVOCABLY WAIVE AND AGREE NOT TO PLEAD OR CLAIM
23 IN ANY SUCH COURT THAT ANY SUCH SUIT, ACTION OR PROCEEDING
24 BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN
25 INCONVENIENT FORUM.

26 (c) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY
27 CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT OR THE
28 OTHER TRANSACTION DOCUMENTS IS LIKELY TO INVOLVE COMPLICATED
29 AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY
30 IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY
31 HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING
32 OUT OF OR RELATING TO THIS AGREEMENT, THE OTHER TRANSACTION
33 DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR
34 THEREBY. EACH PARTY TO THIS AGREEMENT CERTIFIES AND
35 ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY
36 HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER
37 PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE
38 EVENT OF A LEGAL ACTION, (B) SUCH PARTY HAS CONSIDERED THE
39 IMPLICATIONS OF THIS WAIVER, (C) SUCH PARTY MAKES THIS WAIVER
40 VOLUNTARILY, AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO
41 THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS
42 AND CERTIFICATIONS IN THIS SECTION 10.10(c).

1 **Section 10.11 Specific Performance.** The Parties agree that irreparable damage
2 would occur if any provision of this Agreement were not performed in accordance with
3 the terms hereof and that the Parties shall be entitled to specific performance of the terms
4 hereof, in addition to any other remedy to which they are entitled at law or in equity. In
5 particular, the Parties acknowledge that in the event any Party breaches this Agreement,
6 money damages may be inadequate and the other Party may have no adequate remedy at
7 law, so that any such Party shall have the right, in addition to any other rights and
8 remedies existing in its favor, to enforce its rights and the other Party's obligations
9 hereunder not only by action for damages but also action for specific performance,
10 injunctive and/or other equitable relief (without posting a bond).

11 **Section 10.12 Counterparts.** This Agreement may be executed in counterparts,
12 each of which shall be deemed an original, but all of which together shall be deemed to
13 be one and the same agreement. A signed copy of this Agreement delivered by facsimile,
14 e-mail or other means of electronic transmission shall be deemed to have the same legal
15 effect as delivery of an original signed copy of this Agreement.

16
17

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date first written above.

DC Chartered Health Plan, Inc.

By *Daniel L. Watkins*

Name: Daniel L. Watkins

Title: Special Deputy Rehabilitator

AmeriHealth District of Columbia,
Inc.

By _____

Name: _____

Title: _____

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date first written above.

DC Chartered Health Plan, Inc.

By _____
Name: Daniel L. Watkins
Title: Special Deputy Rehabilitator

AmeriHealth District of Columbia,
Inc.

By 
Name: Jay Feldstein
Title: President

[Signature Page to Asset Purchase Agreement]

BILL OF SALE

This Bill of Sale (this “Bill of Sale”), dated as of [], 2013, is made and entered into by and between DC CHARTERED HEALTH PLAN, INC. (In Rehabilitation), a health maintenance organization organized, existing and licensed under the laws of the District of Columbia (“Assignor”) and AMERIHEALTH DISTRICT OF COLUMBIA, INC., a health maintenance organization organized, existing and licensed under the laws of the District of Columbia (“Assignee,” and together with Assignor, the “Parties”).

RECITALS

WHEREAS, Assignee and Assignor are parties to that certain Asset Purchase Agreement, dated as of February 8, 2013 (the “Purchase Agreement”), pursuant to which Assignor has agreed to sell, and Assignee has agreed to purchase, the Purchased Assets; and

WHEREAS, pursuant to the terms of the Purchase Agreement and by this Bill of Sale, Assignor is selling, assigning, transferring and conveying all of Assignor’s right, title and interest in, to and under the Purchased Assets.

NOW, THEREFORE, in consideration of the foregoing and of the consideration set forth in the Purchase Agreement, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Definitions. Capitalized terms used herein and not defined shall have the meanings assigned to them in the Purchase Agreement.
2. Transfer of Purchased Assets. Assignor hereby sells, assigns, transfers, grants and conveys to Assignee only Purchased Assets, free and clear of all Encumbrances other than Permitted Encumbrances, on the terms and subject to the conditions set forth in the Purchase Agreement, including, without limitation, the operation of Section 2.07 thereof. Assignor shall retain, and shall not assign or transfer to Assignee any right, title or interest in and to the Excluded Assets.
3. Successor and Assigns. This Bill of Sale shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns, except that no assignment by Assignor shall relieve the Assignor of any of its obligations hereunder.
4. Relationship to Purchase and Sale Agreement. This Bill of Sale is in all respects subject to the provisions of the Purchase Agreement, and is not intended in any way to supersede, limit or qualify any provision thereof. To the extent any term, condition or provision of this Bill of Sale is in any way inconsistent with or in conflict with any term, condition or provision of the Purchase Agreement, the Purchase Agreement shall govern and control. Assignee acknowledges that Assignor makes no representation or warranty with respect to the assets being conveyed hereby except as specifically set forth in the Purchase Agreement.

5. Further Assurances. Assignor shall from time to time after the Closing Date at the request of Assignee, and without further consideration, perform all such further acts and execute and deliver to Assignee all such further agreements, instruments and other documents as necessary or desirable to evidence fully, consummate and make effective the transfer by Assignor to Assignee of the Purchased Assets contemplated by this Bill of Sale.

6. No Third Party Beneficiaries. This Bill of Sale is for the sole benefit of the Parties and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Bill of Sale.

7. Amendment and Modification. This Bill of Sale may only be amended, modified or supplemented by an agreement in writing signed by each Party. No waiver by any Party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the Party so waiving. No course of dealing between or among any persons having any interest in this Bill of Sale will be deemed effective to modify or amend any part of this Bill of Sale or any rights or obligations of any person under or by reason of this Bill of Sale. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Bill of Sale shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

8. Counterparts. This Bill of Sale may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same instrument. A signed copy of this Bill of Sale delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Bill of Sale.

9. Governing Law. This Bill of Sale shall be governed by and construed in accordance with the internal laws of the State of Delaware without giving effect to any choice or conflict of law provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of Laws of any jurisdiction other than those of the State of Delaware.

10. Headings. The headings used in this Bill of Sale have been inserted for convenience of reference only and do not define or limit the provisions hereof.

11. Effectiveness. This Bill of Sale shall be effective as of the Effective Date.

12. Severability. If any term or provision of this Bill of Sale is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Bill of Sale or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the Parties shall negotiate in good faith to modify this Bill of Sale so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

13. Specific Performance. The Parties agree that irreparable damage would occur if any provision of this Bill of Sale were not performed in accordance with the terms hereof and that the Parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy to which they are entitled at law or in equity. In particular, the Parties acknowledge that in the event any Party breaches this Bill of Sale, money damages may be inadequate and the other Party may have no adequate remedy at law, so that any such Party shall have the right, in addition to any other rights and remedies existing in its favor, to enforce its rights and the other Party's obligations hereunder not only by action for damages but also action for specific performance, injunctive and/or other equitable relief (without posting a bond).

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the undersigned has executed this Bill of Sale effective as of the Effective Date.

ASSIGNOR:

DC Chartered Health Plan, Inc.

By _____

Name: Daniel L. Watkins

Title: Special Deputy Rehabilitator

Acknowledged and Accepted:

ASSIGNEE:

AmeriHealth District of Columbia, Inc.

By _____

Name: _____

Title: _____

ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption Agreement (this "Agreement"), dated as of [], 2013, is made and entered into by and between DC CHARTERED HEALTH PLAN, INC. (In Rehabilitation), a health maintenance organization organized, existing and licensed under the laws of the District of Columbia ("Assignor") and AMERIHEALTH DISTRICT OF COLUMBIA, INC., a health maintenance organization organized, existing and licensed under the laws of the District of Columbia ("Assignee").

RECITALS

WHEREAS, Assignor and Assignee are parties to that certain Asset Purchase Agreement, dated as of February 8, 2013 (the "Purchase Agreement"), pursuant to which Assignor has agreed to sell, and Assignee has agreed to purchase the Purchased Assets; and

WHEREAS, pursuant to the Purchase Agreement, Assignor has agreed to assign to Assignee all of Assignor's right, title and interest in, to and under the Purchased Assets and Assignee has agreed to assume and timely perform, pay and discharge in accordance with their respective terms, only the Assumed Liabilities and no other Liabilities.

NOW, THEREFORE, in consideration of the foregoing and of the consideration set forth herein and in the Purchase Agreement, the parties hereto agree as follows:

1. Definitions. Capitalized terms used herein and not defined shall have the meanings assigned to them in the Purchase Agreement.
2. Transfer of Purchased Assets. Assignor hereby irrevocably assigns, transfers, conveys and delivers to Assignee (a) the Purchased Assets and (b) all of its right, title and interest in and to those Purchased Assets that are not subject to any other assignment and assumption agreement, any bill of sale, any deed or any other conveyance or similar transfer document, entered into as of the date hereof between any of Seller and Buyer, in each case, free and clear of all Encumbrances other than Permitted Encumbrances, on the terms and subject to the conditions set forth in the Purchase Agreement, including, without limitation, the operation of Section 2.07 thereof. Assignor shall retain, and shall not assign or transfer to Assignee any right, title or interest in and to the Excluded Assets.
3. Assumption. Assignee hereby accepts such assignment, transfer, conveyance and delivery and assumes and agrees to satisfy or perform, as appropriate, when due all of the Assumed Liabilities. Assignee does not accept, assume or agree to satisfy or perform any of the Excluded Liabilities, which shall remain the sole responsibility of Seller.
4. Successor and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns, except that no assignment by Assignor shall relieve the Assignor of any of its obligations hereunder.

5. Relationship to Purchase and Sale Agreement. This Agreement is in all respects subject to the provisions of the Purchase Agreement, and is not intended in any way to supersede, limit or qualify any provision thereof. To the extent any term, condition or provision of this Agreement is in any way inconsistent with or in conflict with any term, condition or provision of the Purchase Agreement, the Purchase Agreement shall govern and control.

6. Further Assurances. Assignor shall from time to time after the Closing Date at the request of Assignee, and without further consideration, perform all such further acts and execute and deliver to Assignee all such further agreements, instruments and other documents as necessary or desirable to evidence fully, consummate and make effective the transfer by Assignor to Assignee of the Purchased Assets contemplated by this Agreement.

7. No Third Party Beneficiaries. This Agreement is for the sole benefit of the Parties and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

8. Amendment and Modification. This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each Party. No waiver by any Party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the Party so waiving. No course of dealing between or among any persons having any interest in this Agreement will be deemed effective to modify or amend any part of this Agreement or any rights or obligations of any person under or by reason of this Agreement. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

9. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same instrument. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

10. Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Delaware without giving effect to any choice or conflict of law provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of Laws of any jurisdiction other than those of the State of Delaware.

11. Headings. The headings used in this Agreement have been inserted for convenience of reference only and do not define or limit the provisions hereof.

12. Effectiveness. This Agreement shall be effective as of the Effective Date.

13. Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or

provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

14. Specific Performance. The Parties agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and that the Parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy to which they are entitled at law or in equity. In particular, the Parties acknowledge that in the event any Party breaches this Agreement, money damages may be inadequate and the other Party may have no adequate remedy at law, so that any such Party shall have the right, in addition to any other rights and remedies existing in its favor, to enforce its rights and the other Party's obligations hereunder not only by action for damages but also action for specific performance, injunctive and/or other equitable relief (without posting a bond).

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Assignment and Assumption Agreement effective as of the Effective Date.

ASSIGNOR:

DC Chartered Health Plan, Inc.

By _____

Name: Daniel L. Watkins

Title: Special Deputy Rehabilitator

ASSIGNEE:

AmeriHealth District of Columbia, Inc.

By _____

Name: _____

Title: _____

INTELLECTUAL PROPERTY ASSIGNMENT

This Intellectual Property Assignment ("Assignment") is entered into this [] day of [], 2013 ("Assignment Effective Date"), by and between DC Chartered Health Plan, Inc. (In Rehabilitation), a health maintenance organization organized, existing and licensed under the laws of the District of Columbia ("Assignor"), and AmeriHealth District of Columbia, Inc., a health maintenance organization organized, existing, and licensed under the laws of the District of Columbia ("Assignee").

WHEREAS, the Assignor and Assignee have entered into that certain Asset Purchase Agreement dated as of February 8, 2013 (the "Purchase Agreement"); and

WHEREAS, pursuant to the terms of the Purchase Agreement, the Assignor has agreed to, among other things, sell, assign, transfer, convey and deliver to the Assignee all of Assignor's right, title, and interest in, to and under all Intellectual Property Assets, including those Intellectual Property Assets set forth on Exhibit A.

NOW, THEREFORE, for good and valuable consideration set forth in the Purchase Agreement, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Definitions. Capitalized terms used herein and not defined shall have the meanings assigned to them in the Purchase Agreement.
2. Transfer of Intellectual Property Assets. Assignor hereby irrevocably sells, assigns, transfers, conveys and delivers to Assignee and its successors and assigns, free and clear of all Encumbrances, all of Assignor's right, title, and interest in, to and under the Intellectual Property Assets, including any and all copyright rights, together with all of the goodwill associated with any and all of the foregoing, including any and all legal actions and rights and remedies at law or in equity for past, current and future infringements, dilution, misappropriation and any other violations of the Intellectual Property Assets, the right to sue for, collect, recover and receive all damages, profits, costs, fees, proceeds and other remedies associated therewith, any and all income, royalties, damages and payments now or hereafter due or payable with respect to the Intellectual Property Assets, and all rights to file for and maintain registrations for the Intellectual Property Assets, the same to be held and enjoyed by Assignee, its successors, assigns, and other legal representatives.
3. Further Assurances. Assignor shall, for no additional consideration, execute and deliver any and all instruments and documents and take such further actions as may be necessary or reasonably requested by Assignee to document and record with the appropriate authorities the aforesaid assignment and transfer, provided that Assignee shall be solely responsible for filing and recording such documents.

4. No Third Party Beneficiaries. This Assignment is for the sole benefit of the Parties and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Assignment.

5. Terms of the Purchase Agreement. The terms of the Purchase Agreement, including, but not limited to, the representations, warranties, covenants, agreements and indemnities relating to the Intellectual Property Assets are incorporated herein by this reference. The parties hereto acknowledge and agree that the representations, warranties, covenants, agreements and indemnities contained in the Purchase Agreement shall not be superseded hereby but shall remain in full force and effect to the full extent provided therein. In the event of any conflict or inconsistency between the terms of the Purchase Agreement and the terms hereof, the terms of the Purchase Agreement shall govern.

6. Amendment and Modification. This Assignment may only be amended, modified or supplemented by an agreement in writing signed by each Party. No waiver by any Party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the Party so waiving. No course of dealing between or among any persons having any interest in this Assignment will be deemed effective to modify or amend any part of this Assignment or any rights or obligations of any person under or by reason of this Assignment. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Assignment shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

7. Counterparts. This Assignment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same instrument. A signed copy of this Assignment delivered by facsimile, e-mail, PDF or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Assignment.

8. Governing Law. This Assignment shall be governed by and construed in accordance with the internal laws of the State of Delaware without giving effect to any choice or conflict of law provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of Laws of any jurisdiction other than those of the State of Delaware.

9. Headings. The headings used in this Assignment have been inserted for convenience of reference only and do not define or limit the provisions hereof.

10. Effectiveness. This Assignment shall be effective as of the Assignment Effective Date.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the Parties hereto have executed this Intellectual Property Assignment effective as of the Effective Date.

ASSIGNOR:

DC Chartered Health Plan, Inc.

By _____

Name: Daniel L. Watkins

Title: Special Deputy Rehabilitator

[JURISDICTION]

COUNTY

The foregoing instrument was acknowledged before me
this ___ day of [], 2013, by

Notary Public

ASSIGNEE:

AmeriHealth District of Columbia, Inc.

By _____

Name: _____

Title: _____

Exhibit A

- Assignor's rights in the following phone numbers:

Service	Phone/Fax
Customer Service (Member Services)	202-408-4720 or 800-408-7511
Utilization and Care Management Phone	202-408-4823 or 800-408-7510
Utilization and Care Management Fax	202-408-1031
Provider Relations Phone	202-408-2237
Provider Relations Fax	202-408-1277
TTY Line	202-216-9885 or 800-570-1190
Claims Customer Service	202-408-3988 or 800-556-3997
Alliance Customer Service	202-842-2810 or 866-842-2810

- The trade name "DC Chartered Health Plan, Inc.," the trademarks DC CHARTERED and DC CHARTERED HEALTH PLAN, and Assignor's rights in any variation of or formative of any of the foregoing
- All Intellectual Property rights of the Assignor in and to the Purchased Books and Records
- All Intellectual Property rights of the Assignor in and to the Assigned Contracts

DISCLOSURE SCHEDULES

DISCLOSURE SCHEDULES

These Disclosure Schedules ("Schedules") are provided pursuant to that certain Asset Purchase Agreement (the "Agreement"), dated as of February 8, 2013, by and among: **DC Chartered Health Plan, Inc.**, (In Rehabilitation), a health maintenance organization organized, existing and licensed under the laws of the District of Columbia ("Seller") and **AmeriHealth District of Columbia, Inc.**, a corporation organized and existing under the laws of the District of Columbia ("Buyer"). Unless otherwise defined in the Schedules, all capitalized terms used in the Schedules will have the meanings ascribed to such terms in the Agreement.

The information in these Schedules is being provided solely for the purpose of making disclosure to Buyer under the Agreement and is subject to the terms of the Confidentiality Agreement, so long as the Confidentiality Agreement remains in effect pursuant to the Agreement. Sections 4.03(i) through 4.21(b) of these Schedules and the information and disclosures contained therein are intended only to qualify and limit the representations, warranties and covenants of Seller, as the case may be, contained in Article IV of the Agreement and shall not be deemed to expand in any way the scope or effect of any such representations, warranties or covenants. The information contained herein was not prepared or disclosed with a view to its potential disclosure to any such Person other than Buyer. In disclosing the information in these Schedules, Seller does not waive any attorney-client privilege associated with such information or any protection afforded by the work-product doctrine with respect to any of the matters disclosed or discussed herein.

Certain information set forth in these Schedules is included solely for informational purposes and may not be required to be disclosed pursuant to the Agreement. The disclosure of any information herein shall not be deemed to constitute an acknowledgment that such information is required to be disclosed in connection with the representations and warranties made by Seller in Article IV of the Agreement or that such information is material, nor shall such information be deemed to establish a standard of materiality, nor shall it be deemed an admission of any liability of, or concession as to any defense available to Seller. The section number headings in these Schedules correspond to the section numbers in the Agreement and any information disclosed in any section of these Schedules shall be deemed to be disclosed and incorporated into any other section of these Schedules where such disclosure would be appropriate and readily apparent on the face of such disclosure to a reader of such disclosure.

TABLE OF CONTENTS

	Page
Section 1.1 Liens.....	1
REDACTED Section 2.01(c) Assigned Contracts.....	2
Section 2.01(d) Phone Numbers	3
Section 2.01(e) Tangible Personal Property	4
REDACTED Section 2.01(f) Excluded Books and Records	5
Section 2.01(g)(i) Purchased Permits	6
Section 2.01(g)(ii) Excluded Permits.....	7
Section 2.01(k) Assets, Properties and Rights.....	8
REDACTED Section 2.02(k) Excluded Assets	9
REDACTED Section 2.04(d) Indebtedness	10
REDACTED Section 2.04(j) Excluded Liabilities	11
REDACTED Section 4.03(i) Conflicts; Consents	12
Section 4.03(ii) Required Filings.....	23
Section 4.04 Financial Statements	24
REDACTED Section 4.05 Absence of Certain Changes, Events and Conditions.....	25
REDACTED Section 4.06(a) Material Contracts	26
REDACTED Section 4.06(b) Material Contracts.....	31
Section 4.07 Encumbrances	32
Section 4.09(a) Owned Real Property	33
REDACTED Section 4.09(b) Leased Real Property	34
REDACTED Section 4.10(a) Intellectual Property	35
Section 4.10(b) Infringement	37
Section 4.10(c) Confidential Information	38
Section 4.10(d) Intellectual Property – Restrictive Covenants.....	39
REDACTED Section 4.10(e) Software Exceptions.....	40
Section 4.10(f) Privacy and Data Protection.....	41
REDACTED Section 4.11(a) Legal Proceedings	42
REDACTED Section 4.11(b) Governmental Orders	46
REDACTED Section 4.12(a) Compliance with Laws	48
Section 4.12(b) Permits.....	49

Section 4.12(c) Permit Exceptions.....	50
Section 4.13(a) Environmental Exceptions.....	51
Section 4.13(b) Environmental Permits.....	52
Section 4.13(d) Hazardous Materials.....	53
REDACTED Section 4.14(b) Employee Benefit Plans	54
REDACTED Section 4.14(c) Employee Benefit Plan Exceptions	56
REDACTED Section 4.14(e) Post-Retirement Benefits.....	57
REDACTED Section 4.14(f) Transaction-Triggered Benefits	58
Section 4.15(a) Collective Bargaining.....	59
Section 4.15(e) Employment Agreements	60
Section 4.15(f) Operations and Facilities Restrictions	61
REDACTED Section 4.16 Tax Matters	62
REDACTED Section 4.18 Insurance	63
REDACTED Section 4.19 Related Party Transactions	64
REDACTED Section 4.21(a) Top Providers	65
REDACTED Section 4.21(b) Top Provider Exceptions.....	66
Section 5.03 No Conflicts; Consents	67
Section 5.07 Legal Proceedings.....	68
REDACTED Section 7.02(m) Required Consents for Closing	69

Attachments:

PARTIALLY REDACTED 4.04 – Financial Statements

REDACTED 4.06 – Provider Contracts

REDACTED 4.18(1) – Schedule of Insurance

REDACTED 4.18(2) – Letter dated August 23, 2012, from [REDACTED]

Section 1.1

Liens

None.

Section 2.01(d)

Phone Numbers

Service	Phone/Fax
Customer Service (Member Services)	202-408-4720 or 800-408-7511
Utilization and Care Management Phone	202-408-4823 or 800-408-7510
Utilization and Care Management Fax	202-408-1031
Provider Relations Phone	202-408-2237
Provider Relations Fax	202-408-1277
TTY Line	202-216-9885 or 800-570-1190
Claims Customer Service	202-408-3988 or 800-556-3997
Alliance Customer Service	202-842-2810 or 866-842-2810

Section 2.01(e)

Tangible Personal Property

None.

Section 2.01(g)(i)

Purchased Permits

None.

Section 2.01(g)(ii)

Excluded Permits

1. Certificate of Occupancy for 1025 15th Street NW, dated April 12, 2007, from the Department of Consumer and Regulatory Affairs, Building and Land Regulation Administration.
2. Elevator Permits, issued by the Department of Consumer and Regulatory Affairs, Business Licensing Division, for 1025 15th Street NW. These include license numbers: 68001859, 68001860, and 68001861, each effective through March 31, 2014.

Section 2.01(k)

Assets, Properties and Rights

None.

Section 4.03(ii)

Required Filings

1. Seller shall be obligated under Section 6.06 of the Agreement to prepare in consultation with Buyer and to file with the Superior Court for review and approval a Plan that shall (i) provide for and approve the transactions contemplated by this Agreement and (ii) include such other provisions, determinations and orders as Buyer may require, in Buyer's sole discretion, in order (1) to give effect to the transactions contemplated by this Agreement, (2) to make the Plan and the transactions contemplated by this Agreement final, binding and enforceable against all parties to, and against all other persons having an interest in, the Rehabilitation Proceedings, and (3) to enable Buyer to continue to provide uninterrupted service to Program Enrollees under and in accordance with, and as contemplated by, this Agreement and the DHCF Contract.
2. The District of Columbia's Department of Health Care Finance ("DHCF") shall have approved the assignment to Buyer of Seller's rights and obligations under the DHCF Contract for the Current Program Year effective as of the Effective Date, including the assignment to Buyer of the Program Enrollees covered by Seller under the DHCF Contract for the Current Program Year.

Section 4.04

Financial Statements

Attachment 4.04 to these Schedules is incorporated herein.

Section 4.07

Encumbrances

None.

Section 4.09(a)

Owned Real Property

None.

Section 4.10(b)

Infringement

None.

Section 4.10(c)

Confidential Information

None.

Section 4.10(d)

Intellectual Property – Restrictive Covenants

None.

Section 4.10(f)

Privacy and Data Protection

1. Items 2 and 3 in Section 4.12(a) of these Schedules are incorporated herein.

Section 4.12(b)

Permits

1. Certificate of Authority for Seller to transact business within the District of Columbia as a Health Maintenance Organization, issued April 25, 2012, by the Department of Insurance, Securities and Banking (“HMO License”). This HMO License expires April 30, 2013.
2. The permits listed on Section 2.01(g)(ii) of these Schedules are incorporated herein.

Section 4.12(c)

Permit Exceptions

1. Seller is subject to Rehabilitation Proceedings pending at *District of Columbia, Department of Insurance, Securities and Banking v. DC Chartered Health Plan, Inc.*, Civil Action No. 2012 CA 8227.

Section 4.13(a)

Environmental Exceptions

None.

Section 4.13(b)

Environmental Permits

None.

Section 4.13(d)
Hazardous Materials

None.

Section 4.15(a)
Collective Bargaining

None.

Section 4.15(e)

Employment Agreements

1. The agreements listed as items 15, 18–20 and 23–25 on Section 4.14(b) of these Schedules are incorporated herein.

Section 4.15(f)

Operations and Facilities Restrictions

None.

Section 5.03

No Conflicts; Consents

1. None.

Section 5.07

Legal Proceedings

1. Seller is subject to Rehabilitation Proceedings pending at *District of Columbia, Department of Insurance, Securities and Banking v. DC Chartered Health Plan, Inc.*, Civil Action No. 2012 CA 8227.

Attachment 4.04

Financial Statements

See attached.

D.C. CHARTERED HEALTH PLAN, INC.
IN RECEIVERSHIP
(A WHOLLY OWNED SUBSIDIARY OF D.C. HEALTHCARE
SYSTEMS, INC.)

STATUTORY FINANCIAL STATEMENTS

DECEMBER 31, 2011

(WITH INDEPENDENT AUDITORS'
REPORT THEREON)

Table of Contents

	Page
Independent Auditors' Report	1
Statutory Statements of Admitted Assets, Liabilities and Capital and Surplus	3
Statutory Statement of Income - UNAUDITED	4
Statutory Statement of Capital and Surplus - UNAUDITED	5
Statutory Statement of Cash Flows - UNAUDITED	6
Notes to Statutory Financial Statements	7
Schedule	
I Supplementary Summary Investment Schedule	24
II Supplemental Schedule of Investment Risk Interrogatories	25



Independent Auditors' Report

Commissioner as Rehabilitator
D.C. Chartered Health Plan, Inc. in Receivership
Washington, D.C.

We have audited the accompanying statutory statement of admitted assets, liabilities, and capital and surplus of D.C. Chartered Health Plan, Inc. in Receivership ("Chartered"), a wholly owned subsidiary of D.C. Healthcare Systems, Inc. (the "Parent"), as of December 31, 2011 and the related notes. This statutory financial statement is the responsibility of Chartered's management and the Commissioner as Rehabilitator. Our responsibility is to express an opinion on the statutory financial statement based on our audit.

Except as discussed below, we conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of Chartered's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the statutory financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall statement of admitted assets, liabilities, and capital and surplus presentation. We believe that our audit provides a reasonable basis for our opinion.

As described more fully in Note 2 to the statutory financial statement, Chartered prepared these statutory financial statements using accounting practices prescribed or permitted by the Department of Insurance, Securities and Banking Regulation of the District of Columbia, which practices differ materially from accounting principles generally accepted in the United States of America.

As discussed in Note 5 to the statutory financial statements, Chartered recognized a change in accounting principle to account for Chartered's contract with the Department of Health Care Finance for the District of Columbia as a retrospectively rated contract. Management has recorded a retrospective premium receivable as of December 31, 2011, based on their best estimate of collectability. This claim is currently under appeal with the Contract Appeals Board of the District of Columbia. The actual amount ultimately received could vary significantly from the recorded amounts as of December 31, 2011.

Because of inadequacies in Chartered's accounting records and the inability to support certain transactions with related parties, we were not able to form an opinion regarding related party transactions and balances.

We were unable to obtain a discussion or evaluation from Chartered's outside legal counsel of pending or threatened litigation described in Note 8(b). We were unable to obtain sufficient appropriate audit evidence by performing other auditing procedures.

As discussed in Note 8(c) to the statutory financial statements, Chartered has pledged \$13,953,879, of investments as of December 31, 2011, as collateral to satisfy a long-term bank loan agreement for its Parent company.

It is our understanding that the Parent has not filed consolidated Federal Income Tax returns that include Chartered for any periods subsequent to April 30, 2010, the Parent company's fiscal year end.

The accompanying financial statements have been prepared assuming that Chartered will continue as a going concern. As discussed in Note 18 to the financial statements, on October 19, 2012, Chartered was placed into Rehabilitation by the Superior Court for the District of Columbia. This condition raises substantial doubt about Chartered's ability to continue as a going concern. The financial statements do not include any adjustments that might result from the outcome of this uncertainty.

In our opinion, except for the effects of such adjustments, if any, as might have been determined to be necessary regarding the above matters, the statutory statement of admitted assets, liabilities, and capital and surplus referred to above presents fairly, in all material respects, the admitted assets, liabilities, and capital and surplus of D.C. Chartered Health Plan, Inc. as of December 31, 2011, on the basis of accounting described in Note 2.

Our audit was conducted for the purpose of forming an opinion on the statutory basis financial statement taken as a whole. The accompanying Supplemental Summary Investment Schedule and Investment Risk Interrogatories (collectively referred to as "Supplemental Schedules") of Chartered as of December 31, 2011 are presented for purpose of additional analysis and are not a required part of the statutory basis financial statement. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the statutory financial statements. The information has been subjected to the auditing procedures applied in the audit of the statutory basis financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the statutory basis financial statements or to the statutory basis financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the information is fairly stated in all material respects in relation to the statutory basis financial statement as a whole.

This report is intended solely for the information and use of the Commissioner as Rehabilitator and management of D.C. Chartered Health Plan, Inc. in Receivership and for filing with the District of Columbia's Department of Insurance, Securities and Banking and should not be used for any other purpose.

Brown-Smith Wallace, L.L.C.

St. Louis, Missouri
December 20, 2012

**D.C. CHARTERED HEALTH PLAN, INC., in Receivership
(A Wholly Owned Subsidiary of D.C. Healthcare Systems, Inc.)**

**Statutory Statement of Admitted Assets, Liabilities and
Capital and Surplus**

December 31, 2011

(See Independent Auditors' Report)

ADMITTED ASSETS

Cash and Invested Assets

Bonds, at cost which approximates fair value	\$ 15,025,957
Cash and cash equivalents	<u>16,975,318</u>

Total Cash and Invested Assets 32,001,275

Accrued investment income	122,683
Uncollected premiums	5,299,409
Accrued retrospective premiums (See Note 5 regarding collectibility)	20,000,000
Reinsurance recoverable	277,703
Health care receivables	<u>143,721</u>

TOTAL ADMITTED ASSETS \$ 57,844,791

LIABILITIES AND CAPITAL AND SURPLUS

Current Liabilities

Claims unpaid	\$ 43,000,000
Unpaid claims adjustment expenses	1,275,722
Other liabilities and accrued expenses	<u>7,619,624</u>

Total Current Liabilities 51,895,346

Capital and Surplus

Class A common stock - \$0.10 par value, 1,000 shares authorized, issued and outstanding	100
Gross paid-in and contributed surplus	4,690,419
Unassigned surplus	<u>1,258,926</u>

Total Capital and Surplus 5,949,445

TOTAL LIABILITIES AND CAPITAL AND SURPLUS \$ 57,844,791

The accompanying notes are an integral part of these statutory financial statements.

D.C. CHARTERED HEALTH PLAN, INC., in Receivership
(A Wholly Owned Subsidiary of D.C. Healthcare Systems, Inc.)

Statutory Statement of Income - UNAUDITED

Year ended December 31, 2011

(See Independent Auditors' Report)

UNDERWRITING INCOME

Net premium income	<u>\$ 383,743,178</u>
Total Underwriting Income	383,743,178

UNDERWRITING EXPENSES

Claims incurred, net of reinsurance	346,596,401
Claims adjustment expenses	12,344,020
General administrative expenses	<u>26,915,784</u>
Total Underwriting Expenses	<u>385,856,205</u>

Net Underwriting Loss (2,113,027)

Net investment income	271,136
Allowance on accrued retrospective premiums	(10,000,000)
Related party bad debt expense	(3,855,522)
Other income	<u>6,343,198</u>

Net loss before federal taxes (9,354,215)

Federal income tax expense -

NET LOSS \$ (9,354,215)

The accompanying notes are an integral part of these statutory financial statements.

**D.C. CHARTERED HEALTH PLAN, INC., in Receivership
(A Wholly Owned Subsidiary of D.C. Healthcare Systems, Inc.)**

Statutory Statement of Capital and Surplus - UNAUDITED

Year ended December 31, 2011

(See Independent Auditors' Report)

	Common Stock	Additional Paid in Surplus	Unassigned Surplus	Total
Balance at December 31, 2010	\$ 100	\$ 4,690,419	\$ 12,754,128	\$ 17,444,647
Net loss	-	-	(9,354,215)	(9,354,215)
Deferred income tax	-	-	(3,319,807)	(3,319,807)
Change in nonadmitted assets	-	-	1,611,527	1,611,527
Prior period adjustment	-	-	(432,707)	(432,707)
Balance at December 31, 2011	\$ 100	\$ 4,690,419	\$ 1,258,926	\$ 5,949,445

The accompanying notes are an integral part of these statutory financial statements.

**D.C. CHARTERED HEALTH PLAN, INC., in Receivership
(A Wholly Owned Subsidiary of D.C. Healthcare Systems, Inc.)**

Statutory Statement of Cash Flows - UNAUDITED

Year ended December 31, 2011

(See Independent Auditors' Report)

Cash flows from operating activities:	
Premiums collected, net of reinsurance	\$ 366,303,385
Benefit payments	(335,116,989)
General and administrative expenses paid	(45,073,426)
Net investment income	315,648
Federal income taxes	3,368,587
Net cash used in operating activities	(10,202,795)
Cash flows from investing activities:	
Proceeds from investments	4,451,743
Costs of investments acquired	(7,299,630)
Net cash used in investing activities	(2,847,887)
Cash flows from financing activities:	
Other cash provided, net	1,220,718
Net cash provided by financing activities	1,220,718
NET DECREASE IN CASH AND CASH EQUIVALENTS	(11,829,964)
Cash and cash equivalents, beginning of year	28,805,282
Cash and cash equivalents, end of year	\$ 16,975,318

The accompanying notes are an integral part of these statutory financial statements.

D.C. CHARTERED HEALTH PLAN, INC., in Receivership (A Wholly Owned Subsidiary of D.C. Healthcare Systems, Inc.)

Statutory Financial Statements

December 31, 2011

(See Independent Auditors' Report)

(1) Description of Business

D.C. Chartered Health Plan, Inc. in Receivership (Chartered) was established on December 31, 1986 under the laws of the District of Columbia. Chartered's primary purpose is to provide quality health care within a managed care framework. Chartered accomplishes this primarily through a contract with the District of Columbia Government Department of Health Care Finance (the DHCF), which requires Chartered to provide health care services to the residents of the District of Columbia (the District) who qualify under the Medicaid, Temporary Aid to Needy Families (TANF), and Alliance programs through a Health Maintenance Organization (HMO). Alliance enrollees represent the population not eligible for Medicaid but whose income falls below 200% of the poverty level. Chartered currently provides health care services to approximately 110,000 beneficiaries receiving assistance under Medicaid, Alliance, and TANF. All of Chartered's revenue was earned from its contracts with the DHCF for the year ended December 31, 2011. Chartered previously provided the services of a health center to members through a contract with an affiliated entity, Chartered Family Health Center, P.C. (CFHC). The Chartered Family Health Center ceased operations effective February 2011.

Chartered's business strategy lies in its fundamental commitment to promoting access and emphasizing prevention and health maintenance, as well as treatment. Each member enrolled in Chartered is assigned a primary care physician. Chartered has approximately 3,000 physicians under contract, including 500 primary care physicians. Chartered's members receive prescriptions, health education, nutrition counseling, and when necessary, referrals to specialists and hospital services. Chartered focuses on increasing access to its services by (i) improving knowledge and awareness of benefits and (ii) providing extensive wellness and preventative health care services.

Medicaid beneficiaries in the District are required to enroll in an approved managed care plan, one of which is Chartered. Those beneficiaries who do not voluntarily select a managed care plan are assigned to a default plan. Chartered entered into a contract with the DHCF, under which Chartered is designated as the default plan for one-half of the Medicaid beneficiaries who do not voluntarily select a plan. The current contract extends through April 30, 2013. Chartered received a rate adjustment effective May 1, 2012 from the DHCF. As discussed further in Note 18 Chartered chose not to bid on the subsequent contract that commences May 1, 2013.

Alliance beneficiaries in the District are required to enroll in an approved managed care plan, one of which is Chartered. Those beneficiaries who do not voluntarily select a managed care plan are assigned to a default plan. Chartered entered into a contract with the DHCF, under which Chartered is designated as the default plan for one-half of the Alliance beneficiaries who do not voluntarily select a plan. Chartered's contract with DHCF to cover Alliance beneficiaries extends through April 30, 2013. Chartered also received a rate adjustment for the Alliance program effective May 1, 2012. As discussed further in Note 18 Chartered chose not to bid on the subsequent contract that commences May 1, 2013.

D.C. CHARTERED HEALTH PLAN, INC., in Receivership (A Wholly Owned Subsidiary of D.C. Healthcare Systems, Inc.)

Statutory Financial Statements - Continued

December 31, 2011

(See Independent Auditors' Report)

Until May 17, 2000, Chartered was owned by PHP Corporation. As a result of the bankruptcy proceedings of PHP Corporation, the stock of Chartered was held in a trust (the Collateral Trust), and Bank of America, N.A. (BOA) was designated and appointed as the Collateral Trustee, obtaining full legal title to the collateral and full legal power and authority to transfer, sell, assign, or dispose of the collateral, including the stock of Chartered.

The Collateral Trust entered into a stock sale and transfer agreement pursuant to which the stock of Chartered was sold to D.C. Healthcare Systems, Inc. ("DCHSI") on May 17, 2000. DCHSI financed the purchase through a \$3,500,000 bank loan at a floating prime rate of interest. Payments of principal and interest on the loan were scheduled to continue monthly through September 12, 2011. The outstanding principal balance on the loan was \$425,863 at December 31, 2011. Chartered and the owner of DCHSI are guarantors on the loan. This loan is collateralized by a certificate of deposit from DCHSI that will be held for the entire term of the loan. The balance of the certificate of deposit held by DCHSI, including accrued interest, was \$486,223 at December 31, 2011. Additionally, Chartered granted the lender a first security interest in certain collateral held by Chartered; however, in the event the lender exercises its rights under the guaranty, the owner of DCHSI has agreed in writing to irrevocably and unconditionally hold Chartered harmless and indemnify Chartered for any monies that Chartered may be obligated to pay under the guaranty. Although, statutory accounting pronouncements require that Chartered record a liability for the amount of the guarantee at December 31, 2011, management determined not to record such a liability as the underlying loan was paid off on February 2, 2012.

As discussed further in Note 18, Chartered was placed into Rehabilitation on October 19, 2012. This raises uncertainty about whether Chartered will be able to continue as a going concern. The Rehabilitator is working to sell Chartered and currently there is a non-binding Letter of Intent in place to sell certain assets to a third-party.

(2) Basis of Presentation and Summary of Significant Accounting Policies and Practices

(a) Basis of Presentation

The accompanying statutory financial statements of Chartered have been prepared on the statutory basis of accounting, in accordance with the accounting practices adopted by the National Association of Insurance Commissioners (NAIC) codification project (Codification) as prescribed or permitted by Department of Insurance, Securities and Banking Regulation of the District of Columbia (the Department). The Codification was adopted by the Department without significant modification. The Department has determined that certain of Chartered's pledged investments should be classified as admitted assets, and are included in bonds, pledged in the accompanying statements of admitted assets, liabilities, and capital and surplus, see note 8(c). Chartered has no material statutory accounting practices that differ from those of the Department or the Codification.

These statutory financial statements differ materially from financial statements prepared in accordance with principles generally accepted in the United States of America ("GAAP").

**D.C. CHARTERED HEALTH PLAN, INC., in Receivership
(A Wholly Owned Subsidiary of D.C. Healthcare Systems, Inc.)**

Statutory Financial Statements - Continued

December 31, 2011

(See Independent Auditors' Report)

The principal differences are:

- a) Deferred tax assets are limited to (1) the amount of federal income taxes paid in prior years that can be recovered through loss carrybacks for existing temporary differences that reverse by the end of the subsequent calendar year, plus (2) the lesser of the remaining gross deferred tax assets expected to be realized within one year of the balance sheet date or 10% of capital and surplus, excluding any net deferred tax assets, Electronic Data Processing (EDP) equipment and operating software, and any net positive goodwill, plus (3) the amount of remaining gross deferred tax assets that can be offset against existing gross deferred tax liabilities. The remaining deferred tax assets are non-admitted. Deferred taxes do not include amounts for state taxes. Under GAAP, state taxes are included in the computation of deferred taxes, a deferred tax asset is recorded for the amount of gross deferred tax assets expected to be realized in future years and a valuation allowance is established for deferred tax assets not realizable.
- b) Certain assets such as uncollected premiums and other receivables over 90 days past due, prepaid expenses, provider advances, provider overpayments, pharmacy rebate receivable, leasehold improvements, certain furniture and equipment, computer software, and amounts due from affiliates are designated as non-admitted for statutory accounting purposes if they fail to meet certain tests and are excluded from the statutory statements of admitted assets, liabilities, and capital and surplus by a direct charge to capital and surplus. For GAAP, these amounts are carried as assets, net of a valuation allowance, if necessary.
- c) Intangible assets, including goodwill, are non-admitted and, therefore, are not reflected in Chartered's statutory statements of admitted assets, liabilities, and capital and surplus.
- d) Cash and cash equivalents in the statements of cash flows represent cash balances and investments with remaining maturities of one year or less. Under GAAP, the corresponding caption of cash and cash equivalents includes cash balances and investments with initial maturities of three months or less. Also, the statutory statements of cash flows do not include classifications consistent with GAAP and a reconciliation of net income to net cash provided by operating activities is not provided.

(b) Bonds

Bonds are comprised of certificates of deposits with original maturities greater than one year. The certificates are held by financial institutions and are carried at cost, which approximates fair value. Bonds totaled \$15,025,957 as of December 31, 2011.

(c) Cash and Cash Equivalents

Cash and cash equivalents generally comprise of cash, money market accounts and certificates of deposits with original maturities of twelve months or less at the date of purchase. The certificates are held by financial institutions and are carried at cost, which approximates fair value. Cash and cash equivalents were \$16,975,318 as of December 31, 2011.

**D.C. CHARTERED HEALTH PLAN, INC., in Receivership
(A Wholly Owned Subsidiary of D.C. Healthcare Systems, Inc.)**

Statutory Financial Statements - Continued

December 31, 2011

(See Independent Auditors' Report)

(d) Property and Equipment

Property and equipment are stated at cost and are depreciated using the straight-line method over a period not to exceed three years. Equipment under capital leases is stated at the present value of minimum lease payments and is amortized using the straight-line method over the term of the lease.

(e) Health Care Receivables

Health care receivables consist primarily of pharmaceutical rebate receivables, provider recoveries and provider advances. Pharmacy rebate receivables are estimated based on the most currently available data from Chartered's claims processing systems and from data provided by Chartered's pharmaceutical benefit manager. Provider recoveries consist of claim overpayments to providers, which are due back to Chartered. At December 31, 2011, admitted health care receivables of \$143,721 consisted solely of pharmaceutical rebate receivables.

(f) Premium Revenue

Chartered recognizes premiums received for members enrolled in the Medicaid and Alliance programs as revenue in the period to which health care coverage relates. Member premiums are paid on a fixed monthly fee per capita basis. During 2011 the DHCF withheld one percent of Chartered's premium revenue. The amount withheld is payable under DHCF's incentive program if certain criteria are met by Chartered during the contract period. In 2011, \$5,488,000 was withheld from Chartered. Chartered recorded no premium revenue or receivable for amounts expected to be received in accordance with DHCF's incentive program.

(g) Health Care Costs and Unpaid Claims Adjustment Expenses

Chartered has entered into hospital service contracts to provide the necessary inpatient and outpatient hospital services to its enrollees. Under the contracts, Chartered pays the participating hospitals at the fee-for-service rates in effect at the time the services were provided to its enrollees. Chartered has also entered into several agreements with network physicians and suppliers to provide medical services and supplies to Chartered's enrollees at agreed-upon fee-for-service rates or at fixed fees per member per month (capitation).

Monthly capitation payments to primary care physicians and other health care providers are expensed as paid. Health care costs and health care costs payable include amounts for known services rendered and an estimate of incurred but not reported services rendered by hospitals, physicians, and other health care providers. The estimated incurred but not reported health care costs payable have been actuarially determined based on relevant industry data and Chartered's historical trends. Management believes that the methodologies employed to estimate the health care costs payable are reasonable and that the amount accrued is appropriate.

As part of the process to estimate the cost of all claims reported but unpaid and claims incurred but not reported, Chartered accrued \$1,275,722 at December 31, 2011, as an estimate of the expense to settle these claims.

D.C. CHARTERED HEALTH PLAN, INC., in Receivership
(A Wholly Owned Subsidiary of D.C. Healthcare Systems, Inc.)

Statutory Financial Statements - Continued

December 31, 2011

(See Independent Auditors' Report)

(h) Income Taxes

In accordance with the tax allocation agreement with DCHSI, Chartered is included in a consolidated federal and state income tax return with DCHSI, using an April 30 fiscal year-end. Deferred tax assets, deferred tax liabilities, and income tax expense or benefit associated with Chartered have been provided for on a separate company basis. In addition, Chartered determines its deferred income taxes on a separate company basis and remits its estimated tax payment to DCHSI. DCHSI, including Chartered has filed Federal income tax returns through April 30, 2010. It is management's understanding that tax returns for fiscal years ended April 30, 2011, and 2012, have not been filed with the Internal Revenue Service, as of the date of this report.

Income taxes are accounted for under the asset and liability method. Deferred tax assets (DTAs) and liabilities (DTLs) are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases and operating loss and tax credit carryforwards. DTAs and DTLs are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on DTAs and DTLs from a change in tax rates is recognized in the period that includes the enactment date.

Pursuant to Statements of Statutory Accounting Principles (SSAP) No. 10R, *Income Taxes*, gross DTAs are first reduced by a statutory valuation allowance adjustment to an amount that is more likely than not to be realized (adjusted gross DTAs). Adjusted gross DTAs are then admitted in an amount equal to the sum of (1) previously paid federal income taxes, which are expected to be recovered through loss carrybacks or existing temporary differences, which reverse within a year and (2) the lesser of the amount of gross DTAs expected to be realized within one year of the balance sheet date after the application of (1) or 10% of statutory capital and surplus and (3) the amount of gross DTAs, after the application of (1) and (2) that can be offset against existing gross DTLs. Also pursuant to SSAP No. 10R, for reporting entities which are subject to risk-based capital (RBC) requirements or which are required to file a RBC report with its domiciliary state, when certain RBC thresholds are exceeded, the reporting entities have the option of calculating the admitted portion of adjusted gross DTAs in accordance with paragraph 10 of SSAP No. 10R, which would result in a higher admitted portion. Chartered did not qualify for such election for the year ended December 31, 2011.

(i) Premium Deficiency Reserve

Premium deficiency reserves and the related expense are recognized when it is probable that expected future health care and maintenance costs under a group of existing contracts will exceed anticipated future premiums and reinsurance recoveries over the remaining lives of the contracts. The methods for making such estimates and for establishing the resulting reserves are continually reviewed and updated, and any adjustments resulting therefrom are reflected in current operations. Given the inherent variability of such estimates, the actual liability could differ significantly from the amounts provided. As discussed further in Note 5, management has identified additional premiums due under terms within Chartered's contract with DHCF (retrospective premiums). At December 31, 2011 the need for a premium deficiency reserve was assessed and management is of the opinion that no premium deficiency reserve was required, after considering the affect of retrospective premiums.

**D.C. CHARTERED HEALTH PLAN, INC., in Receivership
(A Wholly Owned Subsidiary of D.C. Healthcare Systems, Inc.)**

Statutory Financial Statements - Continued

December 31, 2011

(See Independent Auditors' Report)

(j) Use of Estimates

Management of Chartered has made a number of estimates and assumptions relating to the reporting of admitted assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period to prepare these statutory financial statements in conformity with statutory accounting principles. Actual results could differ from those estimates.

(3) Investments

(a) Bonds

The cost, which approximates fair value, of bonds, comprised solely of certificates of deposit, at December 31, 2011 by contractual maturity, are shown below.

Maturing in one year or less	\$ 4,689,260
Maturing after one year through five years	<u>10,336,697</u>
	\$ 15,025,957

(b) Net Investment Income

The following table reflects net investment income by type of investment:

Bonds	\$ 164,844
Cash and cash equivalents	188,536
Other	<u>13,809</u>
Gross investment income	367,189
Less investment expenses	<u>96,053</u>
	\$ 271,136

(c) Regulatory Deposits

At December 31, 2011 investments with a carrying value of \$317,000 were on deposit with the Department of Insurance, Securities and Banking of the District of Columbia.

(4) Property and Equipment

At December 31, 2011, Chartered's property and equipment was non-admitted based upon the requirements of SSAP No. 16R.

Depreciation and amortization expense related to property and equipment and software, including non-admitted assets, was \$442,849 for the year ended December 31, 2011.

**D.C. CHARTERED HEALTH PLAN, INC., in Receivership
(A Wholly Owned Subsidiary of D.C. Healthcare Systems, Inc.)**

Statutory Financial Statements - Continued

December 31, 2011

(See Independent Auditors' Report)

(5) Retrospective Premiums – Change in Accounting Principle

During 2012, management determined that contracts in force with DHCF should be treated as retrospectively rated contracts in accordance with SSAP 66 – *Retrospectively Rated Contracts*. This represents a change in accounting principle which management determined to apply as of December 31, 2011.

As of December 31, 2011 Chartered recorded an Accrued Retrospective Premium Receivable net amount of \$20 million for the period of August 2010 – December 31, 2011 related to the Medicaid contract, after consideration of a \$10,000,000 allowance as reflected in the Statutory Statement of Income – UNAUDITED, based on management's assessment of collectability. The gross retrospective premium represents 7.8% of premiums earned during 2011.

On April 10, 2012, Chartered filed a claim with the District's Contracts Appeals Board in the amount of \$25.8 million for the 2010 – 2011 Contract for pharmacy losses incurred from August 1, 2010 – April 30, 2012 under the Medicaid contract, following denial of the claim by DHCF. Chartered had requested that the District review the Contract's pharmacy rates and make a rate adjustment for the 2010 – 2011 contract year, based on management's assumption that current rates were actuarially unsound. During 2012, Chartered has revised this calculation based on a limited scope examination performed by the DISB. Chartered calculated the amount of retrospective premium by comparing premiums earned under the contract to total claims paid and certain additional expenses during the period from August 1, 2010 – April 30, 2012 based on data provided to Chartered as part of the annual rate setting process. Chartered's claim with the District's Contracts Appeals Board is currently being revised as of the date of this report.

Amounts recorded represent management's best estimate of the receivable after considering all potential outcomes of this litigation under the District's Contracts Appeals Board. Resolution of this claim and ultimate collectability of the receivable recorded as of December 31, 2011, could significantly differ from management's estimate.

In addition, Chartered has drafted and intends to submit a claim with the District in connection with their contract with DHCF related to the Alliance program. Management is currently unable to estimate the amount of retrospective premium due to Chartered under the Alliance contract and has not recorded the impact of any potential recovery as of December 31, 2011.

(6) Risk-Based Capital

The National Association of Insurance Commissioners developed the Managed Care Organization Risk-Based Capital Report and required all HMOs to complete the report beginning with the year ended December 31, 1998. Risk-based capital (RBC) was developed as a method of measuring the minimum amount of capital appropriate for a managed care organization to support its overall business operations in consideration of its size and risk profile. A company's RBC target is calculated by applying certain factors to various asset, premium and reserve items. Four action levels of RBC have been defined to set industry standards for regulatory intervention. The specific capital levels, in declining order are as follows: 1) Company Action Level (CAL), 2) Regulatory Action Level (RAL), 3) Authorized Control Level (ACL), and 4) Mandatory Control Level (MCL). Companies at the

D.C. CHARTERED HEALTH PLAN, INC., in Receivership (A Wholly Owned Subsidiary of D.C. Healthcare Systems, Inc.)

Statutory Financial Statements - Continued

December 31, 2011

(See Independent Auditors' Report)

Company Action Level must submit a comprehensive financial plan to the insurance commissioner of the state of domicile. Companies at the Regulatory Action Level are subject to a mandatory examination or analysis by the commissioner and possibly required corrective actions. At the Authorized Control Level, a company is subject to, among other things, the commissioner placing it under regulatory control. At the Mandatory Control Level, the insurance commissioner is required to place a company under regulatory control. All HMOs licensed in the District of Columbia are subject to the RBC provisions. Chartered's RBC ratio was approximately 42% as of December 31, 2011.

In May 2012, Chartered submitted a comprehensive financial plan with the Department of Insurance, Securities and Banking Regulation of the District of Columbia (the Department) outlining its plan for attaining all of the required levels of RBC. Chartered failed to make satisfactory progress in achieving the capital requirements to exit the MCL status and with the approval of Chartered's Board of Directors and its owner, on October 19, 2012 the Department placed Chartered into court receivership.

(7) Minimum Net Worth and Regulatory and Contractual Requirements

As required by the District of Columbia's Health Maintenance Organization Act of 1996 (the Act), Chartered entered into a Health Maintenance Organization Custodial Agreement dated February 27, 1998. Chartered maintains a certificate of deposit of \$317,000 which is included in certificates of deposit, pledged on the statutory statements of admitted assets, liabilities, and capital and surplus at December 31, 2011, for the sole benefit of Chartered's members in the event of Chartered's insolvency. Under the laws of the Act, Chartered is also required to maintain a minimum net worth equal to the greater of (1) \$1,000,000; (2) the sum of all uncovered health care expenditures for the latest three-month period ending December 31, March 31, June 30, or September 30; (3) 2% of its annual revenues; or (4) a prescribed percentage of annual health care expenditures. At December 31, 2011, Chartered's statutory net worth was \$5,949,445. Chartered was in compliance with its minimum statutory net worth requirements.

Under the terms of its Medicaid contract with the DHCF, Chartered is also required to meet certain financial requirements. As such, Chartered is required to maintain a positive net worth, and insolvency reserves or deposits that equal or exceed the minimum requirements established by the Department as a condition for maintaining a certificate of authority to operate an HMO in the District. Chartered met or exceeded the minimum net worth, insolvency reserve, and deposit balance requirements as of December 31, 2011.

**D.C. CHARTERED HEALTH PLAN, INC., in Receivership
(A Wholly Owned Subsidiary of D.C. Healthcare Systems, Inc.)**

Statutory Financial Statements - Continued

December 31, 2011

(See Independent Auditors' Report)

(8) Commitments and Contingencies

(a) Leases

Chartered is obligated under several non-cancelable leases for office space, office equipment and vehicles. Future amounts due under these leases are as follows:

2012	\$ 1,580,842
2013	1,251,284
2014	761,189
2015	258,878
2016	177,330

Total rent expense was \$1,242,692 for the year ended December 31, 2011.

(b) Litigation

Chartered is from time to time subject to claims and suits arising in the ordinary course of business. In the opinion of management, the ultimate resolution of pending legal proceedings will not have a material effect on the statutory financial statements, except for litigation brought against the DHCF by Chartered. See Note 5 for further information on this litigation.

(c) Risk-Based Contract Dispute Settlement

In the third quarter of 2008, Chartered executed a co-guarantor agreement with its parent company, DCHSI, wherein Chartered guaranteed a \$13,333,567 long term Bank Loan Payable (Loan). Chartered, DCHSI, and Cardinal Bank, an operating unit of Cardinal Financial Corporation, (NASDAQ; CFNL) executed an agreement under which Chartered serves as a co-guarantor on the loan and to collateralize the loan with specific securities currently held by Chartered.

The Loan originated from the settlement and dispute resolution agreement for contractual disputes with the Office of the Attorney General for the District of Columbia, which required DCHSI to pay \$13,333,567. DCHSI financed the settlement payment through a \$13,138,558 long term Bank Loan Payable. Payments of interest only on the outstanding principal balance are due monthly through November 12, 2012, thereafter payments of principle and interest will continue monthly through November 10, 2018, based on a 25 year amortization schedule. Interest is calculated at an annual fixed rate of 5.65% for the first five years, thereafter adjusting to a rate equal to the Federal Home Loan Bank 5 year Rate plus 1.50%. Chartered and the owner of DCHSI are co-guarantors of the loan.

Pursuant to the Loan, Chartered is required to pledge investments in the amount of \$13,333,567 as collateral for the Loan. In the event that DCHSI defaults on or is not able to meet its obligations under the provisions of the Loan, the owner of DCHSI has executed an Indemnification Agreement to irrevocably and unconditionally hold Chartered harmless and indemnify Chartered for any monies that Chartered is or may be obligated to pay under the guaranty agreement and pledge and security agreement, including but not limited to any liquidation of the pledged collateral.

D.C. CHARTERED HEALTH PLAN, INC., in Receivership (A Wholly Owned Subsidiary of D.C. Healthcare Systems, Inc.)

Statutory Financial Statements - Continued

December 31, 2011

(See Independent Auditors' Report)

Management concluded that the pledged investments are an admitted asset under Statement of Statutory Accounting Principle 91R, *Accounting for Servicing of Financial Assets and Extinguishment of Liabilities* (SSAP No. 91R), paragraph No. 14, *Secured Borrowings and Collateral*, and Interpretation 01-31, *Assets Pledged as Collateral* (INT-01-31). Management communicated with the Department of Insurance, Securities and Banking of the District of Columbia which determined that the pledged investments, referred to above, should be classified as admitted assets. Accordingly, \$13,953,879 of pledged investments is included as certificates of deposit, pledged in the accompanying statements of admitted assets, liabilities and capital and surplus at December 31, 2011.

Effective April 12, 2012, Cardinal Bank, executed a Modification Agreement to a certain "Pledge, Assignment and Security Agreement" dated October 10, 2008. The Modification Agreement is between D.C. Healthcare Systems, Inc., Jeffrey E. Thompson and D.C. Chartered Health Plan, Inc., wherein on the effective date, the Lender, Cardinal Bank, "releases and discharges D.C. Chartered Health from its obligation under the Guaranty".

The Modification Agreement releases Chartered as a guarantor on a loan between Cardinal Bank and the parent holding company DCHSI. This issue relates directly to new accounting guidance that requires a reporting entity to book a liability for any guarantees made on behalf of a parent entity. As this release was granted prior to the filing of the Statutory Statement it is treated as a Type I Subsequent Event and no liability was reported on Chartered's Statutory Statement in accordance with SSAP No. 9 – *Subsequent Events*. The Modification Agreement did not affect assets Chartered has pledged related to DCHSI's loan.

(d) *Contingent Contributions*

In addition to the Settlement Agreement, DCHSI, Chartered, and the owner of DCHSI entered into a Letter Agreement (Agreement) with the District that requires DCHSI, Chartered, and the owner of DCHSI to make contributions to the District of Columbia Department of Health's Immunization Program and several other not-for-profit organizations, including the District of Columbia Public Education Fund, of approximately \$1,050,000 each year for a period of five years beginning January 1, 2009. Under the Agreement, these contributions will be made subject to the following conditions being met: (1) the funds received by the various organizations from the previous year were used for the purposes outlined in the Agreement, (2) the submission of a report that demonstrates that the funds were expended in compliance with the Agreement, and (3) Chartered and DCHSI are able to maintain "normal operations" during that year. Therefore, if the District fails to use the funds provided as required, the District is unable to account for related expenditures, or either Chartered or DCHSI suffer adverse financial circumstances, the commitments become void or are subject to renegotiation. Management believes that there is more than a remote likelihood that the above mentioned conditions were not be met as of December 31, 2011, and accordingly has not accrued a liability. Chartered will record the expense in the period in which the payments are made. Chartered did not record any contributions expense for the year ended December 31, 2011.

D.C. CHARTERED HEALTH PLAN, INC., in Receivership
(A Wholly Owned Subsidiary of D.C. Healthcare Systems, Inc.)

Statutory Financial Statements - Continued

December 31, 2011

(See Independent Auditors' Report)

(e) Employment Contracts

Chartered has entered into employment agreements with its key executives, establishing minimum compensation levels, performance requirements, severance and certain other benefits.

(9) Reinsurance Coverage

Chartered is financially responsible for the cost of each enrollee's medical services. Annual inpatient hospital services per enrollee were reinsured by a third-party insurance carrier as follows:

<u>Effective dates</u>	<u>Limits of coverage</u>
October 1, 2010 through September 30, 2011	\$300,000 plus 50% of paid services in excess of the \$300,000 deductible amount
October 1, 2011 through September 30, 2012	\$300,000 plus 50% of paid services in excess of the \$300,000 deductible amount

The insurance company provides coverage above these deductible amounts. The maximum reimbursement per enrollee is limited to \$1,000,000 and \$2,000,000, in the aggregate, for contract years ending September 30, 2011 and 2012, respectively.

For the year ended December 31, 2011, Chartered incurred reinsurance premium expense of \$1,399,379, which is included as a reduction to premium revenue in the accompanying statutory statements of revenues and expenses. For the year ended December 31, 2011, Chartered had reinsurance recoveries of \$702,156, which are included as a reduction to health care costs in the accompanying statutory statements of revenues and expenses.

(10) Federal Income Taxes

The components of the net deferred tax asset in the accompanying statutory statements of admitted assets, liabilities and policyholders' surplus at December 31, 2011 are as follows:

	2011		
	<u>Ordinary</u>	<u>Capital</u>	<u>Total</u>
Gross deferred tax assets	\$ 6,695,441	\$ -	\$ 6,695,441
Statutory valuation allowance adjustment	<u>6,695,441</u>	<u>-</u>	<u>6,695,441</u>
Adjusted gross deferred tax assets	-	-	-
Gross deferred tax liability	<u>-</u>	<u>-</u>	<u>-</u>
Net deferred tax assets	-	-	-
Nonadmitted deferred tax assets	<u>-</u>	<u>-</u>	<u>-</u>
Net admitted adjusted deferred tax assets	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
Increase (decrease) in nonadmitted deferred tax assets	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>

**D.C. CHARTERED HEALTH PLAN, INC., in Receivership
(A Wholly Owned Subsidiary of D.C. Healthcare Systems, Inc.)**

Statutory Financial Statements - Continued

December 31, 2011

(See Independent Auditors' Report)

The components of the admissibility calculation, by tax character, as of December 31, 2011 are as follows:

	Ordinary	2011 Capital	Total
SSAP No. 10R, paragraph 10.a.	\$ -	\$ -	\$ -
SSAP No. 10R, paragraph 10.b	-	-	-
The lesser of SSAP No. 10R, paragraph 10.b.i. and 10.b.ii.:			
SSAP No. 10R, paragraph 10.b.i.	-	-	-
SSAP No. 10R, paragraph 10.b.ii.	-	-	-
SSAP No. 10R, paragraph 10.c.	-	-	-
SSAP No. 10R, paragraph 10.e.	\$ -	\$ -	\$ -
SSAP No. 10R, paragraph 10.e.ii.	-	-	-
The lesser of SSAP No. 10R, paragraph 10.e.ii.a. and 10.e.ii.b.:			
SSAP No. 10R, paragraph 10.e.ii.a.	-	-	-
SSAP No. 10R, paragraph 10.e.ii.b.	-	-	-
SSAP No. 10R, paragraph 10.e.iii.	-	-	-
Used in SSAP No. 10R, paragraph 10.d.	<u>2011</u>		
Total adjusted capital	\$ 5,949,445		
Authorized control level	-		

The components of Chartered's provision for federal income taxes for the year ended December 31, 2011 are as follows:

Current year income tax	\$ <u>2011</u> -
Tax on capital gains	-
Prior year tax over accrual	-
Federal income tax provision	\$ <u> </u>

The tax effects of temporary differences that give rise to significant portions of the deferred tax assets and liabilities at December 31, 2011 are as follows:

	Ordinary	2011 Capital
Deferred tax assets:		
Discounting of unpaid losses	\$ 287,026	\$ -
Unearned premium reserve	-	-
Depreciation	828,892	-
Investments	-	-
Accrued expenses	91,697	-
Nonadmitted assets	2,121,899	-

D.C. CHARTERED HEALTH PLAN, INC., in Receivership
(A Wholly Owned Subsidiary of D.C. Healthcare Systems, Inc.)

Statutory Financial Statements - Continued

December 31, 2011

(See Independent Auditors' Report)

Net operating loss carryforward	1,764,126	-
Charitable contributions	210,939	-
Tax credit carryforward	-	-
Other	<u>1,390,862</u>	<u>-</u>
Subtotal	6,695,441	-
Nonadmitted	<u>6,695,441</u>	<u>-</u>
Admitted deferred tax assets	<u>\$ -</u>	<u>\$ -</u>
Deferred tax liability:		
Investments	\$ -	\$ -
Depreciation	-	-
Deferred and uncollected premium	-	-
Unrealized gains	<u>-</u>	<u>-</u>
Deferred tax liability	<u>-</u>	<u>-</u>
Net admitted deferred tax assets	<u>\$ -</u>	<u>\$ -</u>

The change in net deferred income taxes as reported in the accompanying statements of changes in policyholders' surplus for the year ended December 31, 2011 are as follows:

	<u>2011</u>	
	<u>Ordinary</u>	<u>Capital</u>
Total deferred tax assets	\$ 6,695,441	\$ -
Total deferred tax liabilities	<u>-</u>	<u>-</u>
Net deferred tax asset	<u>\$ 6,695,441</u>	<u>\$ -</u>

The provision for federal income taxes incurred is different from that which would be obtained by applying the statutory federal income tax rate to income before income taxes. The significant items causing this difference are as follows:

	<u>Amount</u>	<u>Tax Effect at 35%</u>	<u>Effective Tax Rate</u>
Income before taxes	\$ (9,354,215)	\$ (3,273,976)	35.00%
DRD deduction and tax-exempt interest, net	-	-	0.00%
Penalties	1,581	553	-0.01%
Prior year under accrual	265,442	92,906	-0.99%
Change in nonadmitted assets	(577,930)	(202,276)	2.16%
Meals and entertainment	19,814	6,935	-0.07%
Other	640	224	0.00%
Change in Valuation Allowance	<u>-</u>	<u>6,695,441</u>	<u>-36.09%</u>
Total	<u>\$ (9,644,668)</u>	<u>\$ 3,319,807</u>	<u>0.00%</u>

At December 31, 2011, Chartered had approximately \$5,000,000 of net operating loss carryforwards. The following income tax expense for 2011 would be available for recoupment in the event of future net losses:

2011 \$ -

**D.C. CHARTERED HEALTH PLAN, INC., in Receivership
(A Wholly Owned Subsidiary of D.C. Healthcare Systems, Inc.)**

Statutory Financial Statements - Continued

December 31, 2011

(See Independent Auditors' Report)

D.C. Chartered Health Plan, Inc. is included in a consolidated federal income tax return with its parent company, D.C. Healthcare Systems, Inc. for the fiscal tax years through April 30, 2010. Chartered has a written agreement, approved by Chartered's Board of Directors, which sets forth the manner in which the total combined federal income tax is allocated to each entity that is a party to the consolidation.

(11) Health Care Costs Payable

Chartered uses actuarial techniques based on historical claims experience to estimate incurred claims. Chartered recorded \$43,000,000 in claims unpaid that include both claims that are in course of settlement, as well as those that have been incurred but not reported to Chartered at December 31, 2011. Claim liabilities are continually reviewed and re-estimated as information regarding actual claims payments becomes known. This information is compared to the originally established year-end liability. Chartered incurred other health care costs, which primarily consisted of capitation payments to providers of health care services for Chartered's members of \$13,536,294 for the year ended December 31, 2011.

(12) Professional Liability Insurance

During 2011, Chartered maintained a medical professional liability insurance policy, which is written on a claims-made basis. The coverage limits for the primary medical professional liability policy are \$1,000,000 per loss event and a \$3,000,000 policy limit per physician. This policy remained in full force and effect during 2011 and has been renewed through July 2013. Chartered has not accrued for claims incurred but not reported as of December 31, 2011 as these amounts are not reasonably estimable. Management believes that these amounts would not have a material impact on Chartered's statutory financial statements as of December 31, 2011.

Chartered has an umbrella liability insurance policy that provides an additional coverage limit of \$25,000,000 per loss event. This policy has been renewed through July 2013. In management's opinion, there are no pending or anticipated claims against Chartered that will have a material effect on the statutory financial position, results of operations, or cash flows of Chartered.

(13) Related-Party Transactions

Chartered has entered into various services arrangements with certain related parties, including DCHSI and CFHC. Chartered has not been able to fully substantiate certain related party transactions. Chartered has evaluated known related party receivables for collectability and has determined them to be uncollectible as of December 31, 2011. At December 31, 2011, Chartered recognized a bad debt expense of \$3,855,522 related to related party balances.

(14) Defined Contribution 401(k) Plan

Chartered sponsors a 401(k) plan (the Plan) for its employees. Employees are eligible to participate in the Plan if they are at least 21 years of age and have worked 90 days or longer at Chartered. Employees may contribute between 1% and 12% of eligible salary on a pre-tax basis. Chartered makes a discretionary matching contribution to the Plan of 12% of each employee's contribution amount. Chartered contributed \$41,827 to the Plan for the year ended December 31, 2011.

**D.C. CHARTERED HEALTH PLAN, INC., in Receivership
(A Wholly Owned Subsidiary of D.C. Healthcare Systems, Inc.)**

Statutory Financial Statements - Continued

December 31, 2011

(See Independent Auditors' Report)

(15) Fair Value of Financial Instruments

Chartered's financial assets and liabilities carried at fair value have been classified, for disclosure purposes, based on a hierarchy defined by accounting standards prescribed or permitted by the DISB. The hierarchy gives the highest ranking to fair values determined using unadjusted quoted prices in active markets for identical assets and liabilities (Level 1), quoted prices from those willing to trade in markets that are not active, or other inputs that are observable or can be corroborated by market data for the term of the investment (Level 2), and the lowest ranking to fair values determined by using methodologies and models with unobservable inputs (Level 3). Classification is based on the lowest level input that is significant to its measurement. Assets and liabilities recorded at fair value in the statutory statements of admitted assets, liabilities, capital and surplus are categorized based upon the level of judgment associated with the inputs used to measure their fair value. At December 31, 2011, Chartered's bonds of \$15,025,957 consisted entirely of Level 2 assets.

(16) Dividends Paid

There were no dividends approved or paid during the year ended December 31, 2011.

(17) Concentrations

Chartered earns 100% of its premium revenue under contracts with the District. The current contract expires on April 30, 2013 and Chartered has chosen not to submit a bid for the subsequent contract.

Chartered is limited in both insureds and medical care providers to those within the geographic boundaries of the District of Columbia with limited exceptions.

(18) Subsequent Events

Management has evaluated subsequent events through December 20, 2012, which is the date that these statutory financial statements were issued.

Type I – Recognized Subsequent Events

Effective April 12, 2012, Cardinal Bank, executed a Modification Agreement to a certain "Pledge, Assignment and Security Agreement dated October 10, 2008. The Modification Agreement is between D.C. Healthcare Systems, Inc., Jeffrey E. Thompson and D.C. Chartered Health Plan, Inc., wherein on the effective date, the Lender, Cardinal Bank, "releases and discharges D.C. Chartered Health from its obligation under the Guaranty".

The Modification Agreement releases Chartered as a guarantor on a loan between Cardinal Bank and the parent holding company DCHSI. This issue relates directly to new accounting guidance that requires a reporting entity to book a liability for any guarantees made on behalf of a parent entity. As this release was granted prior to the filing of the Statutory Statement it is treated as a Type I Subsequent Event and no liability was reported on Chartered's Statutory Statement in accordance with SSAP No. 9 – *Subsequent Events*.

D.C. CHARTERED HEALTH PLAN, INC., in Receivership
(A Wholly Owned Subsidiary of D.C. Healthcare Systems, Inc.)

Statutory Financial Statements - Continued

December 31, 2011

(See Independent Auditors' Report)

Type II – Nonrecognized Subsequent Events

The following subsequent events have occurred:

- The Chairman of the Board stepped down in April 2012.
- KPMG (the prior auditors) notified Chartered in April 2012 that they were resigning as Chartered's external auditors.
- The Audit Committee and Board of Directors approved Brown Smith Wallace, LLC as Chartered's new audit firm for the year ended December 31, 2011.
- On October 19, 2012 the Department of Insurance, Securities and Banking placed Chartered into court receivership as a result of the voluntary receivership action approved by Chartered's Board of Directors and authorized by its owner.
- Chartered elected not to submit a response on December 3, 2012 to the office of OCP's request for proposal for a new 5-year contract. Chartered's contract will end on April 30, 2013 and no further premiums will be received.
- Chartered has entered into a non-binding Letter of Intent on December 1, 2012, for the sale of certain assets with a third-party.

(19) Reconciliation of Amounts Reported in the Annual Statement and Statutory Financial Statements

The below schedule summarizes the differences between Chartered's 2011 annual statement and the statutory financial statements.

	<u>Annual statement</u>	<u>Difference</u>	<u>Financial statements</u>
Assets:			
Total Admitted Assets	\$47,658,334	\$10,186,457	\$57,844,791
Liabilities and Capital and Surplus:			
Total Current Liabilities	\$46,216,394	\$5,678,952	\$51,895,346
Total Capital and Surplus	\$1,441,940	\$4,507,505	\$5,949,445
Income - UNAUDITED:			
Total Underwriting Income	\$355,498,611	\$28,244,567	\$383,743,178
Total Underwriting Expenses	378,642,292	7,213,913	385,856,205
Net investment income	432,338	(161,202)	271,136
Net gain or (loss) on premium balances charged off	(1,027,504)	(8,972,496)	(10,000,000)
Other expense/income	7,815,547	5,327,871	2,487,676
Federal income tax expense	(960,716)	960,716	-
Net loss	\$(14,962,584)	\$5,608,369	\$(9,354,215)

D.C. CHARTERED HEALTH PLAN, INC., in Receivership
(A Wholly Owned Subsidiary of D.C. Healthcare Systems, Inc.)

Statutory Financial Statements - Continued

December 31, 2011

(See Independent Auditors' Report)

	<u>Annual statement</u>	<u>Difference</u>	<u>Financial statements</u>
Cash Flows - UNAUDITED:			
Net cash used in operating activities	\$(9,804,717)	\$(398,078)	\$(10,202,795)
Net cash used in investing activities	(972,248)	(1,875,639)	(2,847,887)
Net cash provided by financing activities	926,833	293,885	1,220,718
Cash and cash equivalents, end of year	\$18,955,149	\$(1,979,831)	\$16,975,318

**D.C. CHARTERED HEALTH PLAN, INC., in Receivership
(A Wholly Owned Subsidiary of D.C. Healthcare Systems, Inc.)**

Summary Investment Schedule

Year ended December 31, 2011

(See Independent Auditors' Report on Supplemental Information)

<u>Investment holdings</u>	<u>Admitted assets as reported in the statutory financial statements</u>	
	<u>Amount</u>	<u>Percentage</u>
Cash and cash equivalents:		
Cash and money market funds	\$ 16,975,318	53.0%
Bonds:		
Certificates of deposit	15,025,957	47.0%
Total invested assets	<u>\$ 32,001,275</u>	<u>100.0%</u>

See accompanying independent auditors' report.

D.C. CHARTERED HEALTH PLAN, INC., in Receivership
(A Wholly Owned Subsidiary of D.C. Healthcare Systems, Inc.)

Summary Investment Schedule - Continued

Year ended December 31, 2011

(See Independent Auditors' Report on Supplemental Information)

(1) Total admitted assets: \$ 57,844,791
(2) 10 largest exposures to a single issuer/borrower/investment:

Investment category	Amount	Total admitted assets
Cardinal Bank	\$ 9,591,714	16.58%
Premier Bank	\$ 480,000	0.83
Aurora Bank FSBLEH	\$ 250,000	0.43
First Bank of Puerto Rico FBP	\$ 250,000	0.43
First Bank of Puerto Rico CEN	\$ 250,000	0.43
Alliance Bernstein	\$ 250,000	0.43
State Bank of India	\$ 250,000	0.43
Communit National Bank of Waterloo, IA	\$ 250,000	0.43
Tristate Capital Bank	\$ 250,000	0.43
Bank of China	\$ 250,000	0.43

(3) Total admitted assets held in bonds and preferred stocks by NAIC rating:

Bonds	Amount	Percentage	Stocks	Amount	Percentage
NAIC-1	\$ 15,025,957	26.0%	P/RP-1	None	
NAIC-2			P/RP-2		
NAIC-3			P/RP-3		
NAIC-4			P/RP-4		
NAIC-5			P/RP-5		
NAIC-6			P/RP-6		

- (4) There were no admitted assets held in foreign investments and unhedged foreign currency exposure.
(5) - (11) There were no admitted assets held in Canadian investments, no unhedged Canadian currency exposure, nor any Canadian-currency-denominated investments, which support Canadian-denominated insurance liabilities.
(12) There were no admitted assets held in investments with contractual sales restrictions.
(13) There were no admitted assets held in equity interests.
(14) There were no privately placed equities.
(15) There were no admitted assets held in general partnership interests.
(16) - (17) There were no admitted assets held in mortgage loans.
(18) - (19) There were no assets held in real estate.
(20) There were no admitted assets subject to securities lending, repurchase, reverse repurchase, dollar repurchase, or dollar reverse repurchase agreements.
(21) There were no warrants.
(22) There was no potential exposure for collars, swaps, and forwards.
(23) There was no potential exposure for future contracts.

See accompanying independent auditors' report.



December 20, 2012

To the Commissioner as Rehabilitator
D.C. Chartered Health Plan, Inc. in Receivership
Washington, D.C.

We have audited the statutory statement of admitted assets, liabilities, and capital and surplus of D.C. Chartered Health Plan, Inc. (the "Company") for the year ended December 31, 2011, and have issued our report thereon dated December 20, 2012. Professional standards require that we provide you with information about our responsibilities under generally accepted auditing standards, as well as certain information related to the planned scope and timing of our audit. We have communicated such information in our letter to you dated June 4, 2012. Professional standards also require that we communicate to you the following information related to our audit.

Significant Audit Findings

Qualitative Aspects of Accounting Practices

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the Company are described in Note (2) to the statutory financial statements. During 2011 the Company changed accounting policies with regards to the Medicaid contract with the Department of Health Care Finance ("DHCF"). The Department of Insurance Securities and Banking ("DISB") conducted a limited scope examination and determined it appropriate to account for the agreement as a retrospectively rated contract. We noted a number of transactions for which we were unable to obtain sufficient audit support to conclude. This prevented us from being able to offer an audit opinion on the complete statutory financial statements, as well as leading us to include certain items in our audit opinion which further limited our scope. Throughout the audit, we have discussed such matters with management, the former audit committee, the DISB, as well as the Special Deputy Rehabilitator. As summary of scope limitations reflected in our audit opinion includes:

We were unable to offer an audit opinion on the Company's Statutory Statement of Income, Statutory Statement of Capital and Surplus and Statutory Statement of Cash Flows due to the inability to sufficiently audit the opening balances at January 1, 2011 and certain transactions during 2011.

The Company has recognized a significant receivable for retrospective premiums. The ultimate amount to be realized will be contingent on the successful litigation of the matter against the DHCF. The DHCF denied the initial claim by the Company.

Because of inadequacies in the Company's accounting records and the inability to support certain transactions with related parties, we were not able to form an opinion regarding the propriety of certain related party transactions.

As you are aware the Company has \$13,953,879 in pledged assets which are held as collateral by Cardinal Bank related to a loan taken by the parent company. These funds are not available to pay claims and therefore it is important to inform the reader/user of the Company's financial statements by inclusion in the audit opinion.

It is our understanding that D.C. Healthcare Systems, Inc. (the "Parent") has failed to file consolidated Federal Income Tax returns that include the Company for any periods subsequent to April 30, 2010, the Parent company's fiscal year end.

There is substantial doubt as to the Company's ability to continue normal operations in the near term. During 2012 the Company had significant financial difficulties due to losses occurring as a result of the shortage of premiums received less claims and operating expenses. The Company had a Corrective Action Plan filed with

the DISB during May of 2012; however, goals outlined in that plan were ultimately not realized. The Company has been taken into Rehabilitation. Subsequently, the Company has entered into a non-binding Letter-of-Intent to sell certain assets of the Company. Additionally, the Company has elected not to submit a bid for the upcoming contract renewal with the DHCF.

Accounting estimates are an integral part of the statutory financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the statutory financial statements and because of the possibility that future events affecting them may differ significantly from those expected. The most sensitive estimates affecting the statutory financial statements are as follows:

Management's estimate of retrospective premium receivables is based on management's assertion that the premiums should equal claims expenses plus administrative expenses and profit. As the retrospective premium due to the Company is being litigated, management has set a valuation allowance of roughly one-third of the accrued amount as of December 31, 2011. The Company's actuary has opined on the net amount recorded, as well as the related methodology of the calculation. As part of our audit, we have evaluated the key factors and assumptions used. The estimate appears reasonable given the circumstances; however, it should be noted that the ultimate receivable and collection thereof is highly contingent upon successful resolution of litigation.

Management's estimate of unpaid claims and claims adjustment expense is based on actuarial determinations, membership enrollment, and historic loss payments. We evaluated the key factors and assumptions used to develop the estimate of unpaid claims and claims adjustment expense in determining that it is reasonable in relation to the statutory financial statements taken as a whole as of December 31, 2011.

Management's estimate of pharmaceutical rebates, included within healthcare receivables, is based on actual quarterly volume and historic invoiced amounts. We evaluated the key factors and assumptions used to develop the estimate of pharmaceutical rebates in determining that it is reasonable in relation to the statutory financial statements taken as a whole as of December 31, 2011.

Certain statutory financial statement disclosures are particularly sensitive because of their significance to financial statement users. The most sensitive disclosures affecting the statutory financial statements are as follows:

The disclosure of retrospective premiums receivable in Note 5 to the statutory financial statements involves significant assumptions as to the success of litigation. The Company's ability to fully pay claims in any sort of run-off or wind down of operations is highly contingent upon success of this litigation.

The disclosure of pledged assets in Note 8 (c) to the statutory financial statements includes assumptions regarding the Company being able to collect on the indemnification agreement provided by the owner to Chartered in the case of any pledged assets being utilized by Cardinal Bank. The Company's ability to fully pay claims in any sort of run-off or wind down of operations is highly contingent upon success of eliminating the pledge on these assets.

The disclosures related to income taxes in Note 10 to the statutory financial statements require estimates and calculations by management. Management has informed us that the parent company's last filed Federal Income Tax return was for the fiscal year ended April 30, 2010.

The disclosure of healthcare costs payable in Note 11 to the statutory financial statements identifies claims incurred from previously estimated liabilities, which were settled at amounts different than initially estimated.

The disclosures regarding subsequent events in Note 18 to the statutory financial statements are particularly sensitive as they relate to the Company being taken into Rehabilitation and the Company choosing not to bid on the upcoming contract renewal with the DHCF. The current contract ends on April 30, 2013. Management has also indicated that there is a non-binding Letter of Intent related to the sale of certain assets of the Company.

Difficulties Encountered in Performing the Audit

The completion of our audit was delayed repeatedly due to extensive and unexpected efforts required in obtaining sufficient and appropriate audit evidence. Additionally, the Company's inability to provide a complete set of internal financial statements (i.e. final numbers and drafted footnotes for December 31, 2011) until Mid-December 2012, prevented us from completing our audit procedures in a timely manner. As noted above, for a number of reasons we were not able to obtain sufficient evidential matter from management to form an unqualified opinion on the complete statutory financial statements. Such difficulties resulted in a significant amount of time, as well as a higher degree of skepticism while reviewing the audit evidence provided.

Other difficulties encountered during the course of the audit include the reorganization of the finance department due to direct violations of court imposed restrictions and their unwillingness to provide adequate information surrounding certain related party transactions and other audit requests. The Audit Committee, which has since been disbanded following the Order of Rehabilitation, instructed the CEO to terminate the CFO and Controller during the course of the audit due to the above mentioned violations.

Corrected and Uncorrected Misstatements

Professional standards require us to accumulate all misstatements identified during the audit, other than those that are clearly trivial, and communicate them to the appropriate level of management. Management has corrected all such misstatements. The attached schedule shows misstatements detected as a result of audit procedures that were corrected by management. Management has agreed to these audit adjustments both orally and within the management representation letter provided to us prior to the completion of the audit.

Disagreements with Management

For purposes of this letter, a disagreement with management is a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the statutory financial statements or the auditor's report. We had significant difficulties in obtaining information to support certain company transactions. In addition, there were certain instances, noted above, where we were not able to obtain sufficient audit support for transactions. These instances led to certain qualifications of our audit opinion. As noted above, the Company terminated the CFO and Controller during the audit. In the end, we are able to report that all disagreements have been resolved.

Management Representations

We have requested certain representations from management that are included in the management representation letter dated December 20, 2012.

Management Consultations with Other Independent Accountants

In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a "second opinion" on certain situations. If a consultation involves application of an accounting principle to the Company's statutory financial statements or a determination of the type of auditor's opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, the Company utilized the services of Johnson Lambert LLP in the calculation of a tax provision and related footnote disclosure in the financial statements, as well as Millennium Consulting, who provided significant assistance to the Company with regards to accounting and financial reporting.

Other Audit Findings or Issues

We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management each year prior to retention as the Company's auditors. However, these discussions occurred in the normal course of our professional relationship and our responses were not a condition to our retention.

During the course of the audit we identified a number of errors requiring material adjustments to the Company's financial statements and this has resulted in the Company restating their Annual Statement for 2011. We additionally noted a number of material weaknesses and other internal control concerns. Due to the significance of such matters

identified, we issued a letter summarizing those material weaknesses and significant deficiencies addressed to the Audit Committee, Board of Directors and President and CEO on October 2, 2012.

In addition, we have identified several conditions and events, when considered in the aggregate that indicate a substantial doubt about the Company's ability to continue as a going concern for a reasonable period of time. Additionally, as of the date of our report, the Company's risk based capital is at a mandatory action level, and the Company has been taking into Court Receivership.

Other Matters

With respect to the supplementary information accompanying the statutory financial statements, we made certain inquiries of management and evaluated the form, content, and methods of preparing the information to determine that the information complies with accounting practices prescribed or permitted by the Department of Insurance, Securities and Banking of the District of Columbia ("DISB"), which is a comprehensive basis of accounting other than U.S. generally accepted accounting principles, the method of preparing it has not changed from the prior period, and the information is appropriate and complete in relation to our audit of the statutory financial statements. We compared and reconciled the supplementary information to the underlying accounting records used to prepare the statutory financial statements or to the statutory financial statements themselves.

This information is intended solely for the use of Commissioner as Rehabilitator and management of D.C. Chartered Health Plan, Inc. and is not intended to be, and should not be, used by anyone other than these specified parties.

Very truly yours,

Brown Smith Wallace, L.L.C.

BROWN SMITH WALLACE, LLC

**D.C. CHARTERED HEALTH PLAN, INC., in Receivership
(A Wholly Owned Subsidiary of D.C. Healthcare Systems, Inc.)**

Adjusting Journal Entries

As of and for the year ended December 31, 2011

	Description	Debit	Credit
A	Bonds, at cost which approximates fair value	\$ 1,909,630	
	Cash and cash equivalents		\$ 1,909,630
B	General administrative expense	\$ 70,666	
	Net investment income		\$ 466
	Cash and cash equivalents		70,200
C	Net investment income	\$ 161,668	
	Accrued investment income		\$ 161,668
D	Unassigned (deficit) surplus	\$ 384,261	
	Electronic data processing equipment and software		\$ 384,261
E	Unassigned (deficit) surplus	\$ 2,045,616	
	Claims incurred, net of reinsurance	877,625	
	Health care receivables		\$ 2,923,241
F	General administrative expenses	\$ 78,054	
	Amounts due to parent and affiliates		\$ 49,687
	Other liabilities and accrued expenses		28,367
G	Unassigned surplus	\$ 431,567	
	Net premium income	1,786,706	
	Uncollected premiums		\$ 2,218,273
H	Uncollected premiums	\$ 20,000,000	
	Allowance on accrued retrospective premiums	10,000,000	
	Net premium income		\$ 30,000,000
I	Reinsurance recoverable	\$ 31,273	

	Net premium income		\$	31,273
J	Claims incurred (expense)	\$	27,255	
	Reinsurance recoverable (asset)		\$	27,255
K	Claims incurred (expense)	\$	28,586	
	Claims unpaid (liability)		\$	28,586
L	Related party bad debt expense	\$	2,828,018	
	Other liabilities and accrued expenses		94,510	
	Amounts due to parent and affiliates		476,673	
	Federal income tax expense		960,716	
	Unassigned surplus		\$	300,000
	Amounts due from parent and affiliates			4,059,917
M	Claims incurred	\$	4,975,339	
	Claims unpaid		\$	4,975,339
N	Claims adjustment expense	\$	556,881	
	Claims incurred		11,275	
	Unpaid claims adjustment expenses		\$	568,156
O	General administrative expenses	\$	600,000	
	Other liabilities and accrued expenses		\$	600,000
P	General administrative expenses	\$	4,813,490	
	Claims adjustment expenses		\$	4,813,490
Q	Other income	\$	11,767	
	General administrative expenses		\$	11,767
R	Other income	\$	1,460,582	
	Unassigned surplus		\$	1,460,582



To the Commissioner as Rehabilitator
D.C. Chartered Health Plan, Inc. in Receivership
Washington, DC

We have audited, in accordance with auditing standards generally accepted in the United States of America, the statutory statement of admitted assets, liabilities, and capital and surplus of D.C. Chartered Health Plan, Inc. in Rehabilitation (the "Company") for the year ended December 31, 2011, and have issued our report thereon dated December 20, 2012. In connection therewith, we advise you as follows:

- a. We are independent certified public accountants with respect to the Company and conform to the standards of the accounting profession as contained in the Code of Professional Conduct and pronouncements of the American Institute of Certified Public Accountants, and the Rules of Professional Conduct of the Missouri Board of Public Accountancy.
- b. The engagement partner, who is a certified public accountant, has over 25 years of experience in public accounting and is experienced in auditing insurance enterprises. Members of the engagement team, all of whom have had experience in auditing insurance enterprises and nearly 100 percent of whom are certified public accountants, were assigned to perform tasks commensurate with their training and experience.
- c. We understand that the Company intends to file its statutory financial statements and our report thereon with the Department of Insurance, Securities and Banking of the District of Columbia ("DISB") and that the insurance commissioner will be relying on that information in monitoring the regulating and statutory financial condition of the Company.

While we understand that an objective of issuing a report on the statutory financial statements is to satisfy regulatory requirements, our audit was not planned to satisfy all objectives or responsibilities of insurance regulators. In this context, the Company and insurance commissioners should understand that the objective of an audit of statutory financial statements in accordance with auditing standards generally accepted in the United States of America is to form an opinion and issue a report on whether the statutory financial statements present fairly, in all material respects, the admitted assets, liabilities, and capital and surplus, results of operations and cash flow in conformity with accounting practices prescribed or permitted by the DISB. Consequently, under auditing standards generally accepted in the United States of America, we have the responsibility, within the inherent limitations of the auditing process, to plan and perform our audit to obtain reasonable assurance about whether the statutory financial statements are free of material misstatement, whether caused by error or fraud, and to exercise due professional care in the conduct of the audit. The concept of selective testing of the data being audited, which involves judgment both as to the number of transactions to be audited and the areas to be tested, has been generally accepted as a valid and sufficient basis for an auditor to express an opinion on financial statements. Audit procedures that are effective for detecting errors, if they exist, may be ineffective for detecting misstatements resulting from fraud. Because of the characteristics of fraud, particularly those involving concealment and falsified documentation (including forgery), a properly planned and performed audit may not detect a material misstatement resulting from fraud. In addition, an audit does not address the possibility that material misstatements resulting from fraud may occur in the future. Also, our use of

professional judgment and the assessment of materiality for the purpose of our audit means that matters may exist that would have been assessed differently by the insurance commissioner.

It is the responsibility of the management of the Company to adopt sound accounting policies, to maintain an adequate and effective system of accounts, and to establish and maintain an internal control structure that will, among other things, provide reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition and that transactions are executed in accordance with management's authorization and recorded properly to permit the preparation of financial statements in conformity with accounting practices prescribed or permitted by the DISB.

The Insurance Commissioner should exercise due diligence to obtain whatever other information that may be necessary for the purpose of monitoring and regulating the statutory financial position of insurers and should not rely solely upon the independent auditor's report.

- d. We will retain the workpapers prepared in the conduct of our audit until the DISB has filed a Report of Examination covering 2011, but not longer than seven years. After notification to the Company, we will make the workpapers available for review by the DISB at the offices of the insurer, at our offices, at the Insurance Department or at any other reasonable place designated by the Insurance Commissioner. Furthermore, in the conduct of the aforementioned periodic review by the DISB, photocopies of pertinent audit working papers may be made (under the control of the accountant) and such copies may be retained by the DISB.
- e. The engagement partner has served in the capacity with respect to the Company since 2012, is licensed by the Missouri Board of Public Accountancy, and is a member in good standing of the American Institute of Certified Public Accountants.
- f. To the best of our knowledge and belief, we are in compliance with the requirements of section 7 of the NAIC's Model Rule (Regulation) Requiring Annual Audited Financial Reports regarding qualifications of independent certified public accountants.
- g. A certificate of insurance stating our professional liability coverage is attached.

This letter is furnished solely for filing with the DISB and is not intended to be and should not be used for any other purpose.

Brown Smith Wallace, L.L.C.

St. Louis, Missouri
December 20, 2012

CERTIFICATE OF INSURANCE

DATE: 8/30/12

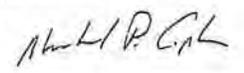
PRODUCER M.P. Caplice Insurance Group LLC 15 Spinning Wheel Road, Suite 320 Hinsdale, IL 60521	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. COMPANIES AFFORDING COVERAGE COMPANY A Greenwich Insurance Company (a member of the XL Group, Ltd.)
Insured Brown Smith Wallace, LLC 1050 North Lindbergh Blvd. St. Louis, MO 63132	COMPANY B North River Insurance Company COMPANY C COMPANY D

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LT	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE	POLICY EXPIRATION	LIMITS
A B	Professional Liability Coverage ___ COMMERCIAL GENERAL LIABILITY <input checked="" type="checkbox"/> CLAIMS MADE ___ OCCUR ___ OWNER'S & CONT PROT	TBA TBA	07/01/2012 07/01/2012	07/01/2013 07/01/2013	GENERAL AGGREGATE PRODUCTS-COMP/OP AGG EACH OCCURRENCE FIRE DAMAGE (Any one fire) MED EXP (Any one person) COMBINED SINGLE LIMIT BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE
	AUTOMOBILE LIABILITY ANY AUTO ___ ALL OWNED AUTOS ___ SCHEDULED AUTOS ___ HIRED AUTOS ___ NON-OWNED AUTOS				
	GARAGE LIABILITY ___ ANY AUTO				AUTO ONLY - EA ACCIDENT OTHER THAN AUTO ONLY EACH ACCIDENT AGGREGATE EACH OCCURRENCE AGGREGATE
	EXCESS LIABILITY ___ UMBRELLA FORM ___ OTHER THAN UMBRELLA FORM				STATUTORY LIMITS EACH ACCIDENT DISEASE - POLICY LIMIT DISEASE - EACH
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY THE PROPRIETOR/ PARTNERS/ ___ INCL EXECUTIVE OFFICERS ARE OTHER				STATUTORY LIMITS EACH ACCIDENT DISEASE - POLICY LIMIT DISEASE - EACH

DESCRIPTION OF OPERATION/ LOCATION/ VEHICLES/ SPECIAL ITEMS
Accountant's Professional Liability Insurance **Limits of Liability \$7,000,000.00/\$7,000,000.00**

CERTIFICATE HOLDER	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE <div style="text-align: center;">  </div>
---------------------------	---