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CIRCUIT COURT
DANE COUNTY, WI
2020CV001054

STATE OF WISCONSIN : CIRCUIT COURT : DANE COUNTY
BRANCH 15

In the Matter of the Rehabilitation of:

Case No. 2020-CV-1054

Time Insurance Company
c/o: Office of the Commissioner of Insurance
125 South Webster Street
Madison, WI 53703

Case Code: 30703

REHABILITATION PLAN

MARK AFABLE, Commissioner of Insurance of the State of Wisconsin, as Rehabilitator of Time Insurance Company (the “Commissioner” or the “Rehabilitator”), by his undersigned attorneys, pursuant to Wis. Stat. § 645.33, chapter 645, in general, and all other applicable laws, proposes the following Rehabilitation Plan (the “Plan”) for Time Insurance Company (“TIC”), which is effective as of the date approved by this Court (the “effective date”):

INTRODUCTION

This Plan provides for the rehabilitation of Time Insurance Company. The Rehabilitator continues to believe that TIC can be successfully rehabilitated without disruption or adverse impacts on policyholders, creditors, or the public.

Since 2014, TIC has been an insurer in run-off, with the vast majority of its policies reinsured on a 100% coinsurance basis with six financially strong and accredited reinsurers. These reinsurers or other third-party administrators provide policy and claims administration for all TIC policies. A small amount of policies directly insured by TIC and not subject to reinsurance agreements also are administered by a third-party administrator. TIC relies heavily on consultants and contractors for the operations of the company, outsourcing most company

functions. This all greatly reduces the risk to policyholders and the public as policy and claims management experiences for policyholders remain largely unaltered during the Rehabilitation.

GOALS OF REHABILITATION PLAN

TIC's risk-based capital has been at a mandatory control level since February 28, 2020. The primary goal of the Rehabilitation is to remove TIC from this financially hazardous condition while providing maximum protection to policyholders, creditors, and the public. The Rehabilitator has determined that pursuing the following courses of action, in combination, provides the best path to restore TIC to a solvent position. The Plan's overarching goal is to rehabilitate TIC's financial stability, primarily through the following three steps:

- (1) *Examine the block of long-term care policies currently reinsured by John Hancock Life Insurance Company ("Hancock") to evaluate the feasibility of a novation or other similar transaction and the necessary capital and surplus needed to support this block of business.* Immediately prior to the Rehabilitation, TIC was attempting to recapture the risk for approximately 25,000 long-term care policies that are subject to 100% coinsurance agreements with Hancock. Presently, the Rehabilitator is in the process of conducting an actuarial review of this block of business to further determine the feasibility of a recapture or other similar transaction, as proposed by Haven Holdings, Inc. ("Haven"), TIC's parent corporation. This review is being conducted by Oliver Wyman Actuarial Consulting, Inc. ("Oliver Wyman"), a consultant retained by the Special Deputy Commissioner. Under the Plan, the Rehabilitator will continue to examine this block of business to determine the feasibility of a transaction and the requisite level of capitalization necessary to

- remove TIC from its financially hazardous position. Any such transaction will be presented to the Court for approval.
- (2) *Pursue assumption agreements with TIC's existing non-long-term care reinsurers, thereby removing those policies from TIC's books entirely and relieving TIC of all insurance obligations or risks associated with those policies.* To the extent possible, the Rehabilitator will pursue assumption agreements with TIC's reinsurers, whereby the policies and associated risks will be fully removed from TIC and Transferred to the reinsurer. The vast majority of the policies written by TIC are subject to 100% reinsurance agreements with financially sound, accredited reinsurers. Further, in each case, the reinsurer or a third-party administrator provides all policy and claims administration services. Transferring these policies from TIC to financially strong entities will improve TIC's financial position, simplify the rehabilitation and, if necessary at some point, a liquidation, while providing limited, if any, disruption to policyholders.
- (3) *Pursue a transaction to remove TIC's risk exposure to the remaining approximately 100 directly insured policies that are not subject to reinsurance agreements.* Under the Plan, the Rehabilitator will consider improving TIC's solvency through a transaction to remove the obligations and risks of these remaining policies from TIC. Because these policies are already administered by a third-party administrator, this effort will cause minimal disruption to policyholders.

Article I. DEFINITIONS

Unless defined elsewhere in this Plan or unless the context otherwise requires, terms used in the plan shall have the respective meanings set forth below.

1.01 “Claim” means any right to payment from TIC, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, equitable, legal, secured, or unsecured, or any right to an equitable remedy for breach of performance if such breach gives rise to a right of payment from TIC, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured.

1.02 “Court” means the Circuit Court of Dane County, State of Wisconsin.

1.03 “Creditor” means a person or entity have a claim against TIC.

1.04 “Delegees” means TIC’s officers, directors, managers, and employees to whom the Rehabilitator has delegated the authority and right to operate TIC during the pendency of the rehabilitation proceedings, or any other persons the Rehabilitator has delegated such partial or complete authority.

1.05 “OCI” means the Office of the Commissioner of Insurance of the State of Wisconsin.

1.06 “Plan” means this Plan of Rehabilitation for TIC, and any subsequent amendments or modifications.

1.07 “Rehabilitation Order” means the Order for Rehabilitation Order entered in the proceeding on July 29, 2020, and any subsequent amendments or modifications.

1.08 “Rehabilitator” means the Commissioner, as the court-appointed rehabilitator of TIC.

1.09 “Reinsurers” means any of the reinsurers with whom TIC has entered into a reinsurance agreement for all or part of the risk associated with policies written by TIC.

1.10 “Transfer” has the meaning set forth in Wis. Stat. § 645.03.

Article II. REHABILITATION PROCEEDINGS

2.01 The Commissioner petitioned this Court for an Order for Rehabilitation on May 18, 2020. Following notice to interested parties, the Court received no objections to the Petition. Accordingly, on July 29, 2020, the Court entered the Rehabilitation Order, placing TIC into rehabilitation and appointing the Commissioner as Rehabilitator of TIC.

Article III. POWERS AND DUTIES OF THE REHABILITATOR

3.01 The Rehabilitator. The Rehabilitator shall continue to exercise all powers granted under the Order for Rehabilitation. The Rehabilitator shall have the full powers and authority granted pursuant to Wis. Stat. §§ 645.33 to 645.35 and all other applicable laws as are reasonable and necessary to fulfill the duties and responsibilities under the Rehabilitation Order and this Plan including, but not limited to, the power and authority to interpret the terms and conditions of this Plan in order to carry out the purposes and effects of this Plan.

3.02 The Special Deputy Commissioner. The Special Deputy Commissioner and any successor appointed by the Rehabilitator pursuant to Wis. Stat. § 645.33, for the purposes of carrying out the rehabilitation, shall have all of the powers of the Rehabilitator under Wis. Stat. §§ 645.33 to 645.35 and all other applicable laws as are reasonable and necessary to fulfill such duties and responsibilities as are set forth in the Rehabilitation Order and this Plan.

3.03 Exclusive Authority and Delegated Responsibilities. The Rehabilitator and Special Deputy Commissioner shall retain the exclusive authority to operate the company under the full power authorized by Wis. Stat. § 645.33(2). All day-to-day management of TIC shall be vested in the Rehabilitator and Special Deputy Commissioner. TIC management and employees may act on behalf of TIC as Delegees of the Rehabilitator only pursuant to the expressly granted permission or delegated authority, and continued oversight of, the Rehabilitator or the Special

Deputy Commissioner. Due to the COVID-19 pandemic, the Rehabilitator and Special Deputy Commissioner have not yet visited TIC's offices and have therefore left certain duties in place with TIC management and staff.

3.04 Administration of this Plan. The Rehabilitator and Special Deputy Commissioner shall perform those responsibilities, duties, and obligations set forth in this Plan on behalf of TIC. To the extent that the manner of performance is not specified in this Plan, the Rehabilitator and Special Deputy Commissioner shall have the discretion to carry out and perform all other obligations or duties imposed on them by this Plan or by law in any manner they so choose, as long as such performance is consistent with the purposes and effects of this Plan, as determined by the Rehabilitator in his sole and absolute discretion.

3.05 Quarterly Updates to the Court. The Rehabilitator will submit to this Court quarterly updates regarding TIC's financial position, the status of the Rehabilitation, and the progress of the Plan.

3.06 Quarterly Regulatory Filings. TIC will submit quarterly regulatory filings presented on a statutory basis of accounting in accordance with the Statements of Statutory Accounting Principles, except that such filings will be limited to the jurat, assets, liabilities, surplus and other funds, summary of operations, and cash flow pages of the Life, Accident and Health Statement Blank. In the event that the Rehabilitator proposes, and the Court approves, a transaction by which TIC recaptures the long-term care business reinsured by Hancock, TIC will make all required regulatory filings as if they were not in rehabilitation.

3.07 Communications with Regulators. The Rehabilitator will continue communications with insurance regulatory departments in the various jurisdictions in which TIC maintains a certificate of authority.

3.08 Guaranty Associations. The Rehabilitator may communicate with the National Organization of Life and Health Insurance Guaranty Associations (“NOLHGA”), the entity monitoring the status of the Rehabilitation on behalf of state guaranty funds, to consider whether the Rehabilitation remains practicable and the effects of a liquidation on state guaranty funds and TIC’s policyholders, creditors, and the public.

Article IV. FINANCIAL POSITION OF TIC

4.01 TIC’s risk-based capital (“RBC”) reached a mandatory control level on February 28, 2020 and has remained at such a level since the filing of the company’s 2019 annual statement. The first quarter 2020 financial statements reflected further deterioration of TIC’s capital and surplus. TIC reported capital and surplus of \$1.1 million on March 31, 2020, compared to \$3.5 million on December 31, 2019.

(a) Assets. As of March 31, 2020, TIC had \$7.6 million of cash and investments, of which \$4.7 million was in statutory deposits required by the nature of TIC’s certificates of authority with various jurisdictions. After March 31, 2020, the \$1.3 million statutory deposit with the Commonwealth of Puerto Rico has been converted to cash with the approval of the Office of the Commissioner of Insurance of Puerto Rico (“PR OCI”). The only other large asset is approximately \$4.0 million in premium tax recoverable for assessments paid to various jurisdictions; this non-liquid asset may only be used to offset future premium taxes.

(b) Liabilities. TIC’s current balance sheet contains Claims and Reserves slightly in excess of \$800,000, attributable to the vast majority of policies being 100% reinsured and only approximately 100 policies remaining as direct

business of TIC. The largest liability is guaranty association assessments of approximately \$5 million (present value). The second largest liability is Unclaimed Property (“UCP”) of approximately \$4 million.

4.02 Since the initiation of the Rehabilitation, the Rehabilitator has taken various actions to limit the further deterioration of TIC’s financial stability. As part of the Plan, the Rehabilitator will continue to implement the following strategies to protect TIC’s financial position.

- (a) Claims. Pursuant to the Rehabilitation Order, the Rehabilitator has taken possession of TIC’s assets and is reviewing for approval all non-claim related expenses on a case-by-case basis. Due to the 100% reinsurance agreements covering the vast majority of policies and the small number of direct policies not covered by a reinsurance agreement, to date, claims are continuing to be paid in the normal course by either the Reinsurers or the Rehabilitator. For the remainder of the Rehabilitation Proceeding, claims will continue to be paid as outlined in Article VII.
- (b) Guaranty Association Assessments. TIC will defer all Guaranty Association assessments for the remainder of the Rehabilitation Proceeding.
- (c) UCP Payments. To further protect the solvency of TIC during the Rehabilitation, the Plan provides that UCP amounts will not be escheated to states and the Rehabilitator will continue to impose limitations on the other UCP payments due to the TIC’s limited available cash position.

Article V. LONGTERM CARE BLOCK

5.01 Prior to the Rehabilitation Proceeding, TIC was attempting to recapture the currently 100% reinsured risks associated with a block of approximately 25,000 long-term care policies currently reinsured by Hancock pursuant to an agreement that took effect March 1, 2000. During the review of that transaction, it was determined that the proposal was contrary to the interest of policyholders, TIC's creditors and the public. Furthermore, nine states had issued cease and desist orders that would have prohibited the transaction. At that time, TIC also stated that, absent approval of the transaction, Time would not be able to fund its business indefinitely going forward, and presented an insurer insolvency expert who opined that without the transaction, TIC likely would need to be placed into liquidation.

5.02 Under the Plan, the Rehabilitator will determine the feasibility of a transaction through which TIC would recapture some or all of the risk associated with this long-term care block of business, provided that TIC would be adequately capitalized to protect TIC's policyholders, creditors, and the public and consistent with Wisconsin insolvency laws. The Rehabilitator will also consider the state of domicile for TIC or any affiliate of TIC which may assume or recapture the risk of these policies.

5.03 The Rehabilitator has retained the services of the actuarial firm Oliver Wyman to provide assistance in understanding the nature of TIC's obligations and risks associated with this long-term care block of business. Oliver Wyman is also aiding in determining the feasibility of entering a recapture, retrocession, novation, or similar transaction as originally proposed by TIC. The review will consider what level of capital would be required were TIC to recapture this block of business.

5.04 If a reinsurance recapture transaction cannot be completed, the Rehabilitator will also consider whether a liquidation proceeding and the associated state guaranty association protections, are necessary and appropriate to protect TIC's policyholders, creditors, and the public.

Article VI. NON-LONG-TERM CARE REINSURANCE AGREEMENTS

6.01 Most of TIC's approximately 165,000 outstanding policies are subject to 100% reinsurance agreements. During the pendency of this Plan, the Rehabilitator may attempt to pursue agreements whereby existing fully-reinsured policies written by TIC will be directly assumed by existing reinsurers or other interested parties upon such terms and conditions as the Rehabilitator may consider prudent and with the approval of this Court. These transactions will improve TIC's financial stability, simplify these proceedings and, if necessary, liquidation proceedings, and protect policyholders. Each of the existing fully reinsured blocks of businesses and the status of the Rehabilitator's efforts to Transfer these blocks are discussed below.

6.02 *National Health Insurance Company ("NHIC")/Integon National Insurance Company ("INIC")*(collectively, "*National General Group*"). On August 26, 2020, the Rehabilitator entered into an assumption agreement with NHIC for approximately 92,356 health and life insurance policies that are currently fully reinsured on a 100% coinsurance basis and administered by NHIC. The agreement includes a consent from INIC. On September 3, 2020, this agreement was submitted to the Court for approval.

6.03 *Talcott Resolution Life and Annuity Insurance Company ("Talcott")*. On April 1, 2001, TIC entered into a reinsurance agreement with the Hartford Life and Annuity Insurance Company ("*Hartford*") providing for policy and claim administration and reinsurance on a 100% coinsurance basis. Harford subsequently sold the life and annuity business to Talcott, which

presently reinsurers approximately 848 of these policies. Another 46,835 policies were subsequently ceded to The Prudential Insurance Company of America (“Prudential”). The Rehabilitator has begun discussions with Talcott and Prudential about possible assumptions.

6.04 *Continental General Insurance Company (“CGIC”).* TIC currently maintains reinsurance with CGIC on a 100% coinsurance basis for approximately 55 Medicare Supplement policies. This reinsurance agreement became effective April 1, 1998. These policies are administered by CIGNA. The Rehabilitator has had preliminary conversations with CGIC regarding an assumption agreement for this block of business.

6.05 *Assurity Life Insurance Company (“ALIC”).* TIC currently maintains reinsurance on a 100% reinsurance basis with ALIC for twelve (12) disability policies in the states of Minnesota and Georgia. This reinsurance agreement became effective April 1, 1996. ALIC also administers these policies. The Rehabilitator is actively pursuing an assumption agreement with ALIC.

Article VII. DIRECT POLICIES

7.01 TIC maintains direct risk for a block of business including approximately 100 policies. TIC currently uses a third-party administrator, Actuarial Management Resources, Inc. (“AMR”), to perform claims administration for this block. The Rehabilitator will pursue assumption agreements or other transactions to Transfer the insurance obligations or risks associated with these policies. The Rehabilitator expects that this may be accomplished with minimum disruption to policyholders as these policies already are administered by a third-party administrator. Completing such a transaction likely would improve TIC’s financial stability by decreasing the company’s minimum capital requirements.

Article VIII. PROCEDURES REGARDING SUBSEQUENT REINSURANCE AGREEMENTS

8.01 The Rehabilitator will endeavor to follow the process established in this Article VIII, to the extent practicable and unless otherwise ordered by the Court, when pursuing any agreement identified in or contemplated by Articles V, VI, or VII of the Plan whereby policies issued by TIC are Transferred to, or assumed by, a Reinsurer or other entity.

8.02 The Rehabilitator will, on behalf of TIC, negotiate and execute the assumption agreement or similar agreement with a Reinsurer or other entity.

8.03 The Rehabilitator will notify insurance regulators of various jurisdictions within which TIC policyholders may reside of the proposed transaction and consider any concerns raised by regulators of other jurisdictions.

8.04 The Rehabilitator will file with the Court a motion and proposed order approving the agreement. Proceedings in the Court to consider the motion will provide an opportunity for interested parties to comment or object, and a hearing may be held, if necessary.

8.05 Upon entry of an order by the Court approving an agreement, the Rehabilitator will provide notice to affected Policyholders. Policyholder approval of the agreement is not required for any agreement under this Article.

Article IX. PROCEDURES GOVERNING SUBMISSION OF CLAIMS AND DISTRIBUTIONS

9.01 Claims Administration. The Rehabilitator and Special Deputy Commissioner are responsible for administering, disputing, objecting to, compromising or otherwise resolving all claims in accordance with this Plan. The Rehabilitator or the Special Deputy Commissioner may delegate or assign specific responsibilities to TIC's management and staff or other persons.

9.02 Direct Policy Claims. For claims of a direct insured of TIC that are valid and covered by an insurance policy issued by TIC and are not subject to a reinsurance agreement:

- (a) The Rehabilitator or the Delegees shall pay the same, during the pendency of the plan, with funds from TIC.
- (b) Subject to Article XI herein and the Rehabilitation Order, the Rehabilitator shall defend or continue the defense of such claims or actions during the pendency of this Plan and shall pay all loss adjustment expenses, including defense attorney's fees related thereto and incurred during the pendency of the Plan.
- (c) The Rehabilitator's obligations under subparagraphs (a) and (b) shall extend to settlements authorized in writing by TIC and final judgments on the merits of claims or actions entered by a court of competent jurisdiction, from which no appeal has been taken and from which no further appeal may be taken provided, however, that the Rehabilitator shall have no obligation to pay those authorized settlements and/or judgments:
 - (i) Procured by fraud or misrepresentation;
 - (ii) Procured by collusion involving the insured and/or his representatives and a third person;
 - (iii) Taken by default by or against the insured; or
 - (iv) As to which claims or actions TIC has a meritorious policy defense or other defense.
- (d) Should the Rehabilitator deny any such claim, the person or entity making the claim may seek review from the Court.

9.03 Nothing in this Plan shall cause to inure to the benefit of any insured of TIC under any insurance policy issued by TIC or to any person or entity having a claim against TIC or any insured of TIC under a policy of insurance issued by TIC, any greater right than that which would have existed were TIC not in rehabilitation.

Article X. ACTIONS AGAINST TIC, ITS INSUREDS, AND THE REHABILITATOR

Subject to the Rehabilitation Order, the Rehabilitator shall immediately attempt to identify all actions and other proceedings pending in any court or other tribunal outside of this state against TIC or the Rehabilitator or any insures of TIC in which TIC has or is claimed to have a duty to defend the insured and shall petition the courts or other tribunals having jurisdiction over those actions and proceedings for stays whenever necessary to protect the TIC estate.

Article XI. IMMUNITY AND INDEMNIFICATION OF THE REHABILITATOR, EMPLOYEES, AND CONSULTANTS

11.01 The following persons and entities are entitled to protection under this part of the Plan: the Rehabilitator, the Rehabilitator's employees (past and present), the Special Deputy Commissioner, any other professionals whom the Rehabilitator employs to assist in the rehabilitation process, and the other professional's employees (past and present), including other professionals (and their employees, past and present) who are retained by the Rehabilitator as independent contractors.

11.02 All persons and entities identified in paragraph 11.01 shall have official immunity and shall be immune from suit and liability, both personally and in their official capacities, for any claim for damage to or loss of property or personal injury or other civil liability caused by or resulting from any alleged act, error, or omission arising out of or by reason of their duties or employment with respect to the TIC rehabilitation; provided that nothing in this paragraph shall be construed to immunize the Rehabilitator or any other person or entity identified in paragraph 13.01 from suit or liability for any damage, loss, injury or liability caused by their intentional misconduct.

11.03 If any legal action is commenced against any person or entity identified in paragraph 11.01, whether against that person or entity personally or in an official capacity, alleging property damage, property loss, personal injury or other civil liability caused by or resulting from any alleged act, error, or omission arising out of or by reason of their duties or employment in connection with this Rehabilitation, that person or entity shall be indemnified from the assets of TIC for all expenses, attorney's fees, judgments, settlement, decrees or amounts due and owing or paid in satisfaction of or incurred in the defense of such legal action, unless it is determined upon a final adjudication on the merits that the alleged act, error, or omission did not arise out of or by reason of the person's or entity's duties or employment for the NNIC rehabilitation, or was caused by intentional misconduct.

11.04 Any indemnification for expense payments, judgments, settlements, decrees, attorney's fees, surety bond premiums or other amounts paid or to be paid from the assets of TIC pursuant to this part of the Plan shall be considered an administrative expense of TIC.

Article XII. GENERAL PROVISIONS

12.01 Preferences under this Plan. Any and all actions taken, or not taken, by the Rehabilitator under this Plan shall not be construed to be, nor be considered, a preference under Wis. Stat. § 645.54 or as that term generally is used in receivership and bankruptcy law.

12.02 Governing Law. The right and obligations arising under this Plan shall be governed by, and construed and enforced in accordance with, the laws of the State of Wisconsin, without giving effect to the principles of conflicts of law thereof.

12.03 Prior Orders and Agreements. Unless modified by this Plan, the prior orders of this Court shall remain in full force and effect throughout the period of administration of this Plan. These orders include, without limitation, the Rehabilitation Order and the Injunction.

Nothing in this Plan alters prior agreements or arrangements approved by the Rehabilitator with respect to TIC or any liability in respect of any Policy or other liability allocated to TIC.

12.04 Revocation or Withdrawal of this Plan. The Rehabilitator reserves the right to revoke or withdraw this Plan prior to the Confirmation Date. If the Rehabilitator so revokes or withdraws this Plan, then this Plan shall be null and void and, in such event, nothing contained herein shall be deemed to constitute a waiver or release of any Claims by or against the TIC or any other Person, or to prejudice in any manner the rights of TIC or any other Person in any further proceedings involving TIC.

12.05 Termination of Rehabilitation. Whenever the Rehabilitator believes that further attempts to rehabilitate TIC would substantially increase the risk of loss to creditors, policyholders, or the public, or would be futile, the Rehabilitator may petition the Rehabilitation Court for an order of liquidation, pursuant to Wis. Stat. Chapter 645. The Rehabilitator may at any time petition the Rehabilitation Court for an order terminating the rehabilitation of TIC if rehabilitation has been accomplished and the grounds for rehabilitation identified in the Rehabilitation Order no longer exist.

Dated at Madison, Wisconsin, this 25th day of September, 2020.

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Respectfully submitted,

GODFREY & KAHN, S.C.

By: Electronically signed by James A. Friedman
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