

**STOCK PURCHASE AGREEMENT**

between

**TRILOGY HEALTH HOLDINGS, LLC**  
("Seller")

and

**MY CHOICE FAMILY CARE, INC.**  
("Buyer")

dated as of  
January 17, 2019

## TABLE OF CONTENTS

ARTICLE I DEFINITIONS .....	5
ARTICLE II PURCHASE AND SALE .....	13
Section 2.01 Purchase and Sale .....	13
Section 2.02 Purchase Price .....	13
Section 2.03 Transactions to be Effected at the Closing .....	13
Section 2.04 Estimated Closing Statement; Purchase Price Adjustment.....	13
Section 2.05 Closing .....	16
Section 2.06 Withholding Tax .....	16
ARTICLE III REPRESENTATIONS AND WARRANTIES OF SELLER.....	16
Section 3.01 Organization and Authority of Seller.....	16
Section 3.02 Organization, Authority and Qualification of Company .....	17
Section 3.03 Capitalization .....	17
Section 3.04 No Subsidiaries .....	17
Section 3.05 No Conflicts; Consents .....	17
Section 3.06 Financial Statements .....	18
Section 3.07 Undisclosed Liabilities.....	18
Section 3.08 Absence of Certain Changes, Events and Conditions.....	18
Section 3.09 Material Contracts.....	20
Section 3.10 Title to Assets; Real Property .....	22
Section 3.11 Condition of Assets.....	22
Section 3.12 Intellectual Property .....	22
Section 3.13 Accounts Receivable.....	23
Section 3.14 Insurance .....	23
Section 3.15 Legal Proceedings; Governmental Orders .....	23
Section 3.16 Compliance With Laws; Permits .....	24
Section 3.17 Environmental Matters.....	24
Section 3.18 Employee Benefit Matters .....	24
Section 3.19 Employment Matters.....	27
Section 3.20 Taxes .....	27
Section 3.21 Books and Records .....	29
Section 3.22 Brokers .....	29
Section 3.23 Reserves and Reinsurance.....	29
Section 3.24 Insurance Business.....	30
Section 3.25 Regulatory Filings.....	30
Section 3.26 Wisconsin DHS Contract.....	30
ARTICLE IV REPRESENTATIONS AND WARRANTIES OF BUYER.....	30
Section 4.01 Organization and Authority of Buyer .....	30
Section 4.02 No Conflicts; Consents .....	30
Section 4.03 Investment Purpose .....	31
Section 4.04 Brokers .....	31
Section 4.05 Sufficiency of Funds .....	31
Section 4.06 Legal Proceedings.....	31
Section 4.07 No Other Representations .....	31

ARTICLE V COVENANTS.....	31
Section 5.01 Conduct of Business Prior to the Closing .....	31
Section 5.02 Access to Information .....	32
Section 5.03 No Solicitation of Other Bids .....	32
Section 5.04 Notice of Certain Events .....	32
Section 5.05 Resignations .....	33
Section 5.06 Confidentiality .....	33
Section 5.07 Non-Competition; Non-Solicitation .....	33
Section 5.08 Governmental Approvals and Consents.....	34
Section 5.09 Books and Records .....	35
Section 5.10 Closing Conditions.....	36
Section 5.11 Insurance .....	36
Section 5.12 Public Announcements .....	36
Section 5.13 Further Assurances.....	36
ARTICLE VI TAX MATTERS.....	37
Section 6.01 Tax Covenants .....	37
Section 6.02 Termination of Existing Tax Sharing Agreements .....	38
Section 6.03 Straddle Period.....	38
Section 6.04 Contests.....	38
Section 6.05 Cooperation and Exchange of Information.....	38
Section 6.06 Tax Refunds.....	39
Section 6.07 Amendment of Returns .....	39
Section 6.08 Other Tax Matters .....	39
Section 6.09 Tax Treatment of Indemnification Payments .....	40
Section 6.10 Payments to Buyer .....	40
Section 6.11 Survival.....	40
Section 6.12 Overlap.....	40
ARTICLE VII CONDITIONS TO CLOSING.....	40
Section 7.01 Conditions to Obligations of Buyer .....	40
Section 7.02 Conditions to Obligations of Seller .....	42
ARTICLE VIII INDEMNIFICATION.....	43
Section 8.01 Survival.....	43
Section 8.02 Indemnification By Seller .....	43
Section 8.03 Indemnification By Buyer.....	44
Section 8.04 Certain Limitations .....	44
Section 8.05 Indemnification Procedures .....	45
Section 8.06 Payments .....	47
Section 8.07 Tax Treatment of Indemnification Payments .....	47
Section 8.08 Exclusive Remedies .....	47
ARTICLE IX TERMINATION.....	47
Section 9.01 Termination.....	47
Section 9.02 Effect of Termination.....	48
ARTICLE X MISCELLANEOUS .....	48
Section 10.01 Expenses .....	48
Section 10.02 Notices .....	48
Section 10.03 Interpretation.....	49

Section 10.04 Headings .....50  
Section 10.05 Severability .....50  
Section 10.06 Entire Agreement.....50  
Section 10.07 Successors and Assigns.....50  
Section 10.08 No Third-party Beneficiaries .....50  
Section 10.09 Amendment and Modification; Waiver .....50  
Section 10.10 Governing Law, Etc. ....50  
Section 10.11 Counterparts .....51  
Section 10.12 Attorney-Client Privilege.....51  
Section 10.13 Representation.....52

## STOCK PURCHASE AGREEMENT

This Stock Purchase Agreement (this "**Agreement**"), dated as of January 17, 2019, is entered into between TRILOGY HEALTH HOLDINGS, LLC, a Wisconsin limited liability company ("**Seller**") and MY CHOICE FAMILY CARE, INC., a Wisconsin nonstock corporation ("**Buyer**").

### RECITALS

A. Seller owns all of the issued and outstanding shares of common stock, par value \$1.00 (the "**Shares**"), of TRILOGY HEALTH INSURANCE, INC., a Wisconsin Chapter 611 domestic insurance company (the "**Company**").

B. Seller wishes to sell to Buyer, and Buyer wishes to purchase from Seller, the Shares, subject to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth below and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

### ARTICLE I DEFINITIONS

The following terms have the meanings specified or referred to in this Article I:

"**Acquisition Proposal**" has the meaning set forth in Section 5.03

"**Action**" means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena or investigation of any nature, civil, criminal, administrative, regulatory or otherwise, whether at law or in equity.

"**Affiliate**" of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. The term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

"**Agreement**" has the meaning set forth in the preamble.

"**Ancillary Documents**" means the SMG AMSA, the IPN ASA and the THS Agreement.

"**Audited Financial Statements**" has the meaning set forth in Section 3.06.

"**Balance Sheet**" has the meaning set forth in Section 3.06.

"**Balance Sheet Date**" has the meaning set forth in Section 3.06.

"**Basket**" has the meaning set forth in Section 8.04(a).

"**Benefit Plan**" has the meaning set forth in Section 3.18(a).

"**Business Day**" means any day except Saturday, Sunday or any other day on which commercial banks located in Milwaukee, Wisconsin are authorized or required by Law to be closed for business.

"**Buyer**" has the meaning set forth in the preamble.

"**Buyer Indemnitees**" has the meaning set forth in Section 8.02.

"**Closing**" has the meaning set forth in Section 2.05.

"**Closing Date**" has the meaning set forth in Section 2.05.

"**Closing Date Payment**" has the meaning set forth in Section 2.04(b).

"**Closing Indebtedness**" has the meaning set forth in Section 2.04(c)(i).

"**Closing Risk-Based Capital**" has the meaning set forth in Section 2.04(c)(i).

"**Code**" means the Internal Revenue Code of 1986, as amended.

"**Company**" has the meaning set forth in the recitals.

"**Company Intellectual Property**" means all Intellectual Property that is owned by Company.

"**Company IP Agreements**" means all licenses, sublicenses, consent to use agreements, settlements, coexistence agreements, covenants not to sue, waivers, releases, permissions and other Contracts, whether written or oral, relating to Intellectual Property (other than commercially available software) to which Company is a party, beneficiary or otherwise bound.

"**Company IP Registrations**" means all Company Intellectual Property for which any issuance, registration or application by, to or with any Governmental Authority or authorized private registrar in any jurisdiction, including issued patents, registered trademarks, domain names and copyrights has been obtained, and pending applications for any of the foregoing.

"**Company Systems**" has the meaning set forth in Section 3.12(e).

"**Contracts**" means all contracts, leases, deeds, mortgages, licenses, instruments, notes, commitments, undertakings, indentures, joint ventures and all other agreements, commitments and legally binding arrangements, whether written or oral.

"**Direct Claim**" has the meaning set forth in Section 8.05(c).

"**Disclosing Party**" has the meaning set forth in Section 10.12.

"**Disclosure Schedules**" means the Disclosure Schedules delivered by Seller and Buyer concurrently with the execution and delivery of this Agreement.

"**Disputed Amounts**" has the meaning set forth in Section 2.04(d)(iii).

"**Dollars or \$**" means the lawful currency of the United States.

"**Encumbrance**" means any charge, claim, community property interest, pledge, condition, equitable interest, lien, option, security interest, mortgage, easement, encroachment, right of way, right of first refusal, or restriction of any kind, including any restriction on use, voting, transfer, receipt of income or exercise of any other attribute of ownership.

"**ERISA**" means the Employee Retirement Income Security Act of 1974, as amended, and the promulgated regulations.

"**ERISA Affiliate**" means all employers (whether or not incorporated) that would be treated together with Company or any of its Affiliates as a "single employer" within the meaning of Section 414 of the Code or Section 4001 of ERISA.

"**Estimated Closing Statement**" has the meaning set forth in Section 2.04(a).

"**Estimated Indebtedness**" has the meaning set forth in Section 2.04(a).

"**Estimated Risk-Based Capital**" has the meaning set forth in Section 2.04(a).

"**Financial Statements**" has the meaning set forth in Section 3.06.

"**Government Contracts**" has the meaning set forth in Section 3.09(a)(viii).

"**Governmental Authority**" means any federal, state or local government or political subdivision, or any agency or instrumentality of such government or political subdivision, or any self-regulated organization or other non-governmental regulatory authority or quasi-governmental authority (to the extent that the rules, regulations or orders of such organization or authority have the force of Law), or any arbitrator, court or tribunal of competent jurisdiction.

"**Governmental Order**" means any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority.

"**Indebtedness**" means, without duplication and with respect to Company, all (a) indebtedness for borrowed money; (b) obligations for the deferred purchase price of property or services (other than amounts taken into account in the calculation of Risk-Based Capital), (c) long or short-term obligations evidenced by notes, bonds, debentures or other similar

instruments; (d) obligations under any interest rate, currency swap or other hedging agreement or arrangement; (e) capital lease obligations; (f) reimbursement obligations under any letter of credit, banker's acceptance or similar credit transactions; (g) guarantees made by Company on behalf of any third party in respect of obligations of the kind referred to in the foregoing clauses (a) through (f); and (h) any unpaid interest, prepayment penalties, premiums, costs and fees that would arise or become due as a result of the prepayment of any of the obligations referred to in the foregoing clauses (a) through (g).

**"Indemnified Party"** has the meaning set forth in Section 8.05.

**"Indemnifying Party"** has the meaning set forth in Section 8.05.

**"Independent Accountant"** has the meaning set forth in Section 2.04(d)(iii).

**"Insurance Policies"** has the meaning set forth in Section 3.14.

**"Intellectual Property"** means any and all rights in, arising out of, or associated with any of the following in any jurisdiction throughout the world: (a) issued patents and patent applications (whether provisional or non-provisional), including any Governmental Authority-issued indicia of invention ownership (including certificates of invention, petty patents, and patent utility models); (b) trademarks, service marks, brands, certification marks, logos, trade dress, trade names, and other similar indicia of source or origin, together with the goodwill connected with the use of and symbolized by, and all registrations, applications for registration, and renewals of, any of the foregoing ("**Trademarks**"); (c) copyrights and works of authorship, whether or not copyrightable, and all registrations, applications for registration, and renewals of any of the foregoing ("**Copyrights**"); (d) internet domain names and social media account or user names (including "handles"), whether or not Trademarks, all associated web addresses, URLs, websites and web pages, social media accounts and pages, and all content and data or related content and data, whether or not Copyrights; (e) trade secrets, know-how, inventions (whether or not patentable), discoveries, improvements, technology, business and technical information, databases, data compilations and collections, tools, methods, processes, techniques, and other confidential and proprietary information and all rights; (f) computer programs, operating systems, applications, firmware, and other code, including all source code, object code, application programming interfaces, data files, databases, protocols, specifications, and other documentation; (g) rights of publicity; and (h) all other intellectual or industrial property and proprietary rights.

**"Interim Balance Sheet"** has the meaning set forth in Section 3.06.

**"Interim Balance Sheet Date"** has the meaning set forth in Section 3.06.

**"Interim Financial Statements"** has the meaning set forth in Section 3.06.

**"IPN"** means Independent Physicians Network, Inc.



"**IPN-ASA**" means the Administrative Services Agreement dated January 1, 2014 between Company and IPN.

"**Law**" means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, other requirement or rule of law of any Governmental Authority.

"**Legal Counsel**" has the meaning set forth in Section 10.13.

"**Liabilities**" has the meaning set forth in Section 3.07.

"**Losses**" means actual, out-of-pocket losses, damages, liabilities, deficiencies, judgments, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorneys' fees and the cost of enforcing any right to indemnification and the cost of pursuing any insurance providers; provided, however, that "Losses" shall not include consequential, incidental or indirect damages, lost profits, diminutions in value or punitive damages (other than punitive damages actually awarded to a Governmental Authority or other third party). For the avoidance of doubt, no "multiple of profits" or "multiple of cash flow" or other valuation methodology will be used in calculating the amount of Losses.

"**Material Adverse Effect**" means any event, occurrence, fact, condition or change that is, or would reasonably be expected to become, individually or in the aggregate, materially adverse to (a) the business, results of operations, condition (financial or otherwise) or assets of Company, or (b) the ability of Seller to consummate the Transactions on a timely basis; provided, however, that "Material Adverse Effect" shall not include any event, occurrence, fact, condition or change, directly or indirectly, arising out of or attributable to: (i) changes in general local, domestic, foreign, or international economic conditions, (ii) changes affecting generally the industries or markets in which the Company operates, (iii) acts of war, sabotage or terrorism, military actions or the escalation thereof, any action required or permitted by this Agreement; (iv) any changes in applicable Laws or accounting rules, including SAP; or (v) the public announcement, pendency or completion of the Transactions; provided further, however, that any event, occurrence, fact, condition or change referred to immediately above shall be taken into account in determining whether a Material Adverse Effect has occurred or would reasonably be expected to occur to the extent that such event, occurrence, fact, condition or change has a disproportionate effect on Company compared to other participants in the health insurance industry in which Company conducts its businesses.

"**Material Contracts**" has the meaning set forth in Section 3.09(a).

"**Multiemployer Plan**" has the meaning set forth in Section 3.18(c).

"**OCI**" means the Office of the Commissioner of Insurance of the State of Wisconsin.

"**Permits**" means all permits, licenses, franchises, approvals, authorizations, registrations, certificates, variances and similar rights obtained, or required to be obtained, from Governmental Authorities.

**"Permitted Encumbrances"** means: (a) Encumbrances for Taxes not yet due as of the Closing Date or the validity of which are being contested in good faith by appropriate proceedings, (b) mechanics', workmen's, repairmen's, warehousemen's, processor's, landlord's, carrier's, maritime, materialmen's, consignee's or other like Encumbrances, including all statutory Encumbrances arising or incurred in the ordinary course of business and related to amounts that are not delinquent, (c) Encumbrances arising in connection with worker's compensation, unemployment insurance, old age pensions and social security benefits which are not due as of the Closing Date and (d) Encumbrances incurred by or resulting from the actions of Buyer.

**"Person"** means an individual, corporation, partnership, joint venture, limited liability company, Governmental Authority, unincorporated organization, trust, association or other entity.

**"Post-Closing Adjustment"** has the meaning set forth in Section 2.04(c)(ii).

**"Post-Closing Statement"** has the meaning set forth in Section 2.04(c)(i).

**"Post-Closing Tax Period"** means any taxable period beginning after the Closing Date and, with respect to any taxable period beginning before and ending after the Closing Date, the portion of such taxable period beginning after the Closing Date.

**"Pre-Closing Tax Period"** means any taxable period ending on or before the Closing Date and, with respect to any taxable period beginning before and ending after the Closing Date, the portion of such taxable period ending on and including the Closing Date.

**"Pre-Closing Taxes"** means Taxes of Company for any Pre-Closing Tax Period.

**"Prime Rate"** means the prime rate of interest as published on a date in the Wall Street Journal, and generally defined as "the base rate on corporate loans posted by at least 75% of the nation's 30 largest banks." If the Wall Street Journal is not published on a date for which the Prime Rate must be determined, the Prime Rate shall be the prime rate published in the Wall Street Journal on the nearest-preceding date on which the Wall Street Journal was published.

**"Provider Agreements"** means Contracts between the Company and physicians, hospitals, skilled nursing facilities, home health agencies or other Persons engaged in providing or arranging for the provision of health care or related services or supplies to individuals enrolled in the Medicaid managed care program and assigned to the health plan established and maintained by the Company.

**"Purchase Price"** has the meaning set forth in Section 2.02.

**"Qualified Benefit Plan"** has the meaning set forth in Section 3.18(c).

**"Real Property"** means the real property owned, leased or subleased by Company, together with all buildings, structures and facilities located thereon.

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

"**Resolution Period**" has the meaning set forth in Section 2.04(d)(ii).

"**Restricted Business**" means operating as a licensed insurance company conducting a business of providing Medicaid health plan benefits to individuals who are participants in Medicaid or Medicaid SSI programs substantially similar to those of the Company as of the Closing Date.

"**Restricted Period**" has the meaning set forth in Section 5.07(a).

"**Review Period**" has the meaning set forth in Section 2.04(d)(i).

"**Risk-Based Capital**" means risk based capital determined in the manner consistent with the manner utilized by OCI.

"**SAP**" means statutory accounting principles as codified by the National Association of Insurance Commissioners subject to the exceptions therefrom mandated by the OCI.

"**Seller**" has the meaning set forth in the preamble.

"**Seller Indemnitees**" has the meaning set forth in Section 8.03.

"**Seller Returns**" has the meaning set forth in Section 6.01(c).

"**Seller Tax Matter**" means: (a) extending or waiving the applicable statute of limitations with respect to a Tax of the Company for a Pre-Closing Tax Period; (b) filing any ruling request with any Governmental Authority that relates to Taxes or Tax Returns of the Company for a Pre-Closing Tax Period; (c) making or revoking any election after the Closing Date in a manner inconsistent with past practices that could have the effect of increasing Taxes of the Company for a Pre-Closing Tax Period; or (d) initiating or participating in any voluntary disclosure program with any Governmental Authority regarding any Tax (or potential Taxes) or Tax Returns of the Company for a Pre-Closing Tax Period.

"**Seller's Knowledge**" or any other similar knowledge qualification, means the actual or constructive knowledge of William D. Felsing, Glenn Reinhardt or Bonita Warner, after due inquiry.

"**Shares**" has the meaning set forth in the recitals.

"**Single Employer Plan**" has the meaning set forth in Section 3.18(c).

"**SMG**" means Scas Management Group, LLC.

"**SMG-AMSA**" means the Administrative and Management Services Agreement dated January 1, 2014 between Company and SMG.

"**Statement of Objections**" has the meaning set forth in Section 2.04(d)(ii).

"**Straddle Period**" has the meaning set forth in Section 6.03.

"**Target Risk-Based Capital**" means \$3,500,000.

"**Tax Claim**" has the meaning set forth in Section 6.04.

"**Tax Return**" means any return, declaration, report, claim for refund, information return or statement or other document relating to Taxes, including any schedule or attachment, and including any amendment.

"**Taxes**" means all federal, state, local, foreign and other income, gross receipts, sales, use, production, ad valorem, transfer, franchise, registration, profits, license, lease, service, service use, withholding, payroll, employment, unemployment, estimated, excise, severance, environmental, stamp, occupation, premium, property (real or personal), real property gains, windfall profits, customs, duties or other taxes, fees, assessments or charges of any kind whatsoever, together with any interest, additions or penalties and any interest in respect of such additions or penalties.

"**Territory**" means State of Wisconsin.

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

"**THS**" means Trilogy Health Solutions, Inc.

"**THS Agreement**" means the Administrative Services Agreement dated the Closing Date between Company and THS.

"**Transaction Expenses**" means all fees and expenses incurred by Company or Seller at or prior to the Closing in connection with the preparation, negotiation and execution of this Agreement, and the performance and consummation of the Transactions.

"**Transactions**" means the transactions contemplated by this Agreement.

"**Union**" has the meaning set forth in Section 3.19(b).

"**Wisconsin DHS**" means the Wisconsin Department of Health Services.

**ARTICLE II  
PURCHASE AND SALE**

**Section 2.01 Purchase and Sale.** Subject to the terms and conditions of this Agreement, at the Closing, Seller shall sell to Buyer, and Buyer shall purchase from Seller, the Shares, free and clear of all Encumbrances, for the consideration specified in Section 2.02.

**Section 2.02 Purchase Price.** The aggregate purchase price for the Shares shall be [REDACTED] subject to adjustment pursuant to Section 2.04 (the "Purchase Price").

**Section 2.03 Transactions to be Effected at the Closing.**

(a) At the Closing, Buyer shall:

(i) deliver to Seller:

(A) the Closing Date Payment by wire transfer of immediately available funds to an account designated in writing by Seller to Buyer no later than two Business Days prior to the Closing Date; and

(B) all other agreements, documents, instruments or certificates required to be delivered by Buyer at or prior to the Closing pursuant to Section 7.02 of this Agreement.

(ii) pay, on behalf of Company or Seller, the following amounts:

(A) Indebtedness of Company to be paid at Closing, by wire transfer of immediately available funds to the accounts and in the amounts specified on the Estimated Closing Statement; and

(B) any Transaction Expenses unpaid at Closing, by wire transfer of immediately available funds to the accounts and in the amounts specified on the Estimated Closing Statement.

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

(i) stock certificates evidencing the Shares, free and clear of all Encumbrances, duly endorsed in blank or accompanied by stock powers or other instruments of transfer duly executed in blank, with all required stock transfer tax stamps affixed; and

(ii) all other agreements, documents, instruments or certificates required to be delivered by Seller at or prior to the Closing pursuant to Section 7.01 of this Agreement.

**Section 2.04 Estimated Closing Statement; Purchase Price Adjustment.**

(a) At least two Business Days prior to the Closing Date, Seller shall prepare and deliver to Buyer a statement setting forth Seller's calculation of: (i) Indebtedness as of the

Closing ("**Estimated Indebtedness**"); (ii) Transaction Expenses as of the Closing ("**Estimated Transaction Expenses**"); and (iii) Risk-Based Capital as of the Closing ("**Estimated Risk-Based Capital**"), in each case calculated in accordance with SAP (the "**Estimated Closing Statement**").

(b) Closing Adjustment. At the Closing, the Purchase Price shall be adjusted in the following manner:

- (i) decreased by the amount of Estimated Indebtedness;
- (ii) decreased by the amount of Estimated Transaction Expenses; and
- (iii) decreased by the amount, if any, by which Target Risk-Based Capital exceeds Estimated Risk-Based Capital.

The net amount after giving effect to the adjustments listed above shall be the "**Closing Date Payment**."

(c) Post-Closing Adjustment.

(i) Within 30 days after the Closing Date, Buyer shall prepare and deliver to Seller a statement setting forth Buyer's calculation of: (A) Indebtedness as of the Closing ("**Closing Indebtedness**"); (B) Transaction Expenses as of the Closing ("**Closing Transaction Expenses**"); and (C) Risk-Based Capital as of the Closing ("**Closing Risk-Based Capital**"), in each case calculated in accordance with SAP (the "**Post-Closing Statement**").

(ii) Subject to Section 2.04(d), the Purchase Price shall be adjusted in the following manner:

(A) increased by the amount, if any, by which Estimated Indebtedness exceeds Closing Indebtedness;

(B) decreased by the amount, if any, by which Closing Indebtedness exceeds Estimated Indebtedness;

(C) increased by the amount, if any, by which Estimated Transaction Expenses exceeds Closing Transaction Expenses;

(D) decreased by the amount, if any, by which Closing Transaction Expenses exceeds Estimated Transaction Expenses;

(E) increased by the amount, if any, by which Closing Risk-Based Capital exceeds Estimated Risk-Based Capital, but in no event by an amount greater than the amount by which Target Risk-Based Capital exceeded Estimated Risk-Based Capital; and

(F) decreased by the amount, if any, by which Estimated Risk-Based Capital exceeds Closing Risk-Based Capital if Estimated Risk-Based Capital was below Target Risk-Based Capital.

The net amount after giving effect to the adjustments listed above shall be the "**Post-Closing Adjustment.**"

(d) Examination and Review.

(i) Examination. After receipt of the Post-Closing Statement, Seller shall have 30 days (the "**Review Period**") to review the Post-Closing Statement. During the Review Period, Seller and Seller's Accountants shall have full access to the books and records of Company, the personnel of, and work papers prepared by or on behalf of Buyer to the extent that they relate to the Post-Closing Statement and to such historical financial information relating to the Post-Closing Statement as Seller may reasonably request for the purpose of reviewing the Post-Closing Statement and to prepare a Statement of Objections (defined below), provided, that such access shall be in a manner that does not interfere with the normal business operations of Buyer or Company.

(ii) Objection. On or prior to the last day of the Review Period, Seller may object to the Post-Closing Statement by delivering to Buyer a written statement setting forth Seller's objections in reasonable detail, indicating each disputed item or amount and the basis for Seller's disagreement (the "**Statement of Objections**"). If Seller fails to deliver the Statement of Objections before the expiration of the Review Period, the Post-Closing Statement and the Post-Closing Adjustment, as the case may be, reflected in the Post-Closing Statement shall be deemed to have been accepted by Seller. If Seller delivers the Statement of Objections before the expiration of the Review Period, Buyer and Seller shall negotiate in good faith to resolve such objections within 15 days after the delivery of the Statement of Objections (the "**Resolution Period**"), and, if the same are so resolved within the Resolution Period, the Post-Closing Adjustment and the Post-Closing Statement with such changes as may have been previously agreed in writing by Buyer and Seller, shall be final and binding.

(iii) Resolution of Disputes. If Seller and Buyer fail to reach an agreement with respect to all of the matters set forth in the Statement of Objections before expiration of the Resolution Period, then any amounts remaining in dispute ("**Disputed Amounts**") shall be submitted for resolution to an impartial nationally recognized firm of independent certified public accountants selected by Buyer and Seller (the "**Independent Accountant**") who, acting as experts and not arbitrators, shall resolve the Disputed Amounts only and make any adjustments to the Post-Closing Adjustment, as the case may be, and the Post-Closing Statement. The parties agree that all adjustments shall be made without regard to materiality. The Independent Accountant shall only decide the Disputed Amounts and their decision for each Disputed Amount must be within the range of values assigned to each such item in the Post-Closing Statement and the Statement of Objections, respectively.

(iv) Fees of the Independent Accountant. The fees and expenses of the Independent Accountant shall be paid by Seller, on the one hand, and by Buyer, on the other hand, based upon the percentage that the amount actually contested but not awarded to Seller or Buyer, respectively, bears to the aggregate amount actually contested by Seller and Buyer.

(v) Determination by Independent Accountant. The Independent Accountant shall make a determination as soon as practicable within 30 days (or such other time

as the parties shall agree in writing) after their engagement, and their resolution of the Disputed Amounts and their adjustments to the Post-Closing Statement and/or the Post-Closing Adjustment shall be conclusive and binding upon the parties.

(e) **Payments of Post-Closing Adjustment.** Except as otherwise provided, any payment of the Post-Closing Adjustment, together with interest calculated as set forth below, shall: (i) be due (A) within five Business Days of acceptance of the applicable Post-Closing Statement or (B) if there are Disputed Amounts, then within five Business Days of the resolution described in Section 2.04(d)(v) and (ii) be paid by wire transfer of immediately available funds to such account as is directed by Buyer or Seller, as the case may be.

(f) **Adjustments for Tax Purposes.** Any payments made pursuant to Section 2.04 shall be treated as an adjustment to the Purchase Price by the parties for Tax purposes, unless otherwise required by Law.

**Section 2.05 Closing.** Subject to the terms and conditions of this Agreement, the closing of the Transactions (the "**Closing**") shall take place remotely by electronic delivery of executed signature pages no later than two Business Days after the last of the conditions to Closing set forth in Article VII have been satisfied or waived (other than conditions which, by their nature, are to be satisfied on the Closing Date), or on such other date or at such other place as Seller and Buyer may mutually agree upon in writing (the day on which the Closing takes place being the "**Closing Date**").

**Section 2.06 Withholding Tax.** Buyer and Company shall be entitled to deduct and withhold from the Purchase Price all Taxes that Buyer and Company may be required to deduct and withhold under any provision of Tax Law. All such withheld amounts shall be treated as delivered to Seller. If Buyer determines that Tax withholding is required pursuant to this Section 2.06, Buyer shall provide notice thereof to Seller promptly following such determination. In the event any such amounts are so deducted or withheld, the amount deducted or withheld shall be treated as paid to the Person to whom such amounts would otherwise have been paid for purposes of this Agreement. Buyer shall use commercially reasonable efforts to cooperate with Seller to avoid or minimize any Tax withholding from the cash consideration payable pursuant to this Agreement.

### **ARTICLE III REPRESENTATIONS AND WARRANTIES OF SELLER**

Except as set forth in the correspondingly numbered Section of the Disclosure Schedules, Seller represents and warrants to Buyer that the statements contained in this Article III are true and correct as of the date hereof.

**Section 3.01 Organization and Authority of Seller.** Seller is a limited liability company duly organized, validly existing and in good standing under the Laws of the state of Wisconsin. Seller has full limited liability company power and authority to enter into this Agreement, to carry out its obligations and to consummate the Transactions. Seller's execution and delivery of this Agreement, Seller's performance of its obligations, and Seller's consummation of the Transactions have been duly authorized by all requisite limited liability



company action on the part of Seller. This Agreement has been duly executed and delivered by Seller, and (assuming due authorization, execution and delivery by Buyer) this Agreement constitutes a legal, valid and binding obligation of Seller enforceable against Seller in accordance with its terms.

**Section 3.02 Organization, Authority and Qualification of Company.** Company is a domestic insurance company duly organized under Chapter 611 of the Wisconsin Statutes, validly existing and in good standing under the Laws of the state of Wisconsin and has full corporate power and authority to own, operate or lease the properties and assets now owned, operated or leased by it and to carry on its business as it has been and is currently conducted. Company is duly licensed and qualified to do business in the state of Wisconsin, and Company is in good standing in Wisconsin. Company is not doing business in any state other than Wisconsin. All corporate actions taken by Company in connection with this Agreement will be duly authorized on or prior to the Closing.

**Section 3.03 Capitalization.**

(a) The authorized capital stock of Company consists of 2,000,000 shares of common stock, par value \$1.00, of which 1,000,000 shares are issued and outstanding and constitute the Shares. All of the Shares have been duly authorized, are validly issued, fully paid and non-assessable, and are owned of record and beneficially by Seller, free and clear of all Encumbrances. Upon consummation of the Transactions, Buyer shall own all of the Shares, free and clear of all Encumbrances.

(b) All of the Shares were issued in compliance with applicable Laws. None of the Shares were issued in violation of any agreement, arrangement or commitment to which Seller or Company is a party or is subject to or in violation of any preemptive or similar rights of any Person.

(c) There are no outstanding or authorized options, warrants, convertible securities or other rights, agreements, arrangements or commitments of any character relating to the capital stock of Company or obligating Seller or Company to issue or sell any shares of capital stock of, or any other interest in, Company. Company does not have outstanding or authorized any stock appreciation, phantom stock, profit participation or similar rights. There are no voting trusts, stockholder agreements, proxies or other agreements or understandings in effect with respect to the voting or transfer of any of the Shares.

**Section 3.04 No Subsidiaries.** Company does not own, or have any interest in any shares or have an ownership interest in any other Person.

**Section 3.05 No Conflicts; Consents.** The execution, delivery and performance by Seller of this Agreement, and the consummation of the Transactions, do not and will not: (a) conflict with or result in a violation or breach of, or default under, any provision of the certificate of incorporation, by-laws or other organizational documents of Seller or Company; (b) conflict with or result in a violation or breach of any provision of any Law or Governmental Order applicable to Seller or Company; (c) except as set forth in Section 3.05 of the Disclosure Schedules or as would not reasonably be expected to result in a Material Adverse Effect: (i)

require the consent, notice or other action by any Person under, conflict with, result in a violation or breach of, constitute a default or an event that, with or without notice or lapse of time or both, would constitute a default under, result in the acceleration of or create in any party the right to accelerate, terminate, modify or cancel any Contract to which Seller or Company is a party or by which Seller or Company is bound or to which any of their respective properties and assets are subject (including any Material Contract) or any Permit affecting the properties, assets or business of Company or (ii) result in the creation or imposition of any Encumbrance other than Permitted Encumbrances on any properties or assets of Company.

**Section 3.06 Financial Statements.** Complete copies of Company's audited financial statements consisting of the statutory balance sheet of Company at its fiscal year end in each of the years 2017, 2016 and 2015 and the related statutory statements of income, statutory statements of changes in capital and surplus and statutory statements of cash flows for the years then ended (the "**Audited Financial Statements**"), and unaudited financial statements consisting of the balance sheet of Company as of October 31, 2018 and the related income statement for the ten-month period then ended (the "**Interim Financial Statements**" and together with the Audited Financial Statements, the "**Financial Statements**") are attached as Section 3.06 of the Disclosure Schedules. The Financial Statements have been prepared in accordance with SAP applied on a consistent basis throughout the period involved, subject, in the case of the Interim Financial Statements, to normal and recurring year-end adjustments and the absence of notes. The Financial Statements are based on the books and records of Company. The Financial Statements present fairly, in all material respects, the financial position of Company as of the respective dates they were prepared and the results of its operations for the periods indicated, all in accordance with SAP. The balance sheet of Company as of the date of Company's most recent fiscal year end is referred to as the "**Balance Sheet**" and the date as the "**Balance Sheet Date**" and the balance sheet of Company as of October 31, 2018 is referred to as the "**Interim Balance Sheet**" and the date as the "**Interim Balance Sheet Date**". Company maintains a standard system of accounting established and administered in accordance with SAP.

**Section 3.07 Undisclosed Liabilities.** To Seller's Knowledge, Company has no material liabilities, obligations or commitments of any nature whatsoever, asserted or unasserted, known or unknown, absolute or contingent, accrued or unaccrued, matured or unmatured or otherwise and of the nature required to be disclosed in a balance sheet prepared in accordance with SAP ("**Liabilities**"), except (a) those which are adequately reflected or reserved against in the Interim Balance Sheet as of the Interim Balance Sheet Date, and (b) those which have been incurred in the ordinary course of business consistent with past practice since the Interim Balance Sheet Date and which are not, individually or in the aggregate, material in amount.

**Section 3.08 Absence of Certain Changes, Events and Conditions.** Since the Interim Balance Sheet Date, except as set forth on Section 3.08 of the Disclosure Schedules, other than in the ordinary course of business consistent with past practice, there has not been, with respect to Company, any:

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

- Company;
- (b) amendment of the charter, by-laws or other organizational documents of Company;
  - (c) split, combination or reclassification of any shares of its capital stock;
  - (d) issuance, sale or other disposition of any of its capital stock, or grant of any options, warrants or other rights to purchase or obtain (including upon conversion, exchange or exercise) any of its capital stock;
  - (e) declaration or payment of any dividends or distributions on or in respect of any of its capital stock or redemption, purchase or acquisition of its capital stock;
  - (f) material change in any method of accounting or accounting practice of Company, except as required by SAP or as disclosed in the notes to the Financial Statements;
  - (g) material change in Company's cash management practices and its policies, practices and procedures with respect to collection of accounts receivable, establishment of reserves for uncollectible accounts, accrual and collection of accounts receivable, inventory control, prepayment of expenses, withdrawals or distributions of cash, payment of trade accounts payable, accrual of other expenses, deferral of revenue and acceptance of deposits;
  - (h) entry into any Contract that would constitute a Material Contract;
  - (i) incurrence, assumption or guarantee of any debt exceeding [REDACTED] in a single transaction or in the aggregate of multiple transactions, except unsecured current obligations and Liabilities incurred in the ordinary course of business consistent with past practice;
  - (j) transfer, assignment, sale or other disposition of any material assets shown or reflected in the Balance Sheet or cancellation of any material debts or entitlements outside the ordinary course of business consistent with past practice;
  - (k) material damage, destruction or loss (whether or not covered by insurance) to its property;
  - (l) any capital investment in, or any loan to, any other Person;
  - (m) acceleration, termination, material modification to or cancellation of any Material Contract;
  - (n) any capital expenditures in excess of [REDACTED];
  - (o) imposition of any Encumbrance (other than Permitted Encumbrances) upon any of Company properties, capital stock or assets, tangible or intangible;
  - (p) (i) grant of any bonuses, whether monetary or otherwise, or increase in any wages, salary, severance, pension or other compensation or benefits in respect of its current or former employees, officers, directors, independent contractors or consultants, other than as

provided for in any written agreements or required by applicable Law, (ii) change in the terms of employment for any employee or any termination of any employees for which the aggregate costs and expenses exceed \$5,000, or (iii) action to accelerate the vesting or payment of any compensation or benefit for any current or former employee, officer, director, independent contractor or consultant;

(q) hiring or promoting any employee except in the ordinary course of business;

(r) adoption, modification or termination of any: (i) employment, severance, retention or other agreement with any current or former employee, officer, director, independent contractor or consultant, (ii) Benefit Plan or (iii) collective bargaining or other agreement with a Union, in each case whether written or oral;

(s) any loan to (or forgiveness of any loan to), or entry into any other transaction with, any of its stockholders or current or former directors, officers and employees;

(t) entry into a new line of business or abandonment or discontinuance of existing lines of business;

(u) adoption of any plan of merger, consolidation, reorganization, liquidation or dissolution or filing of a petition in bankruptcy under any provisions of federal or state bankruptcy Law or consent to the filing of any bankruptcy petition against it under any similar Law;

(v) purchase, lease or other acquisition of the right to own, use or lease any property or assets, except for purchases or leases of inventory, supplies or equipment in the ordinary course of business consistent with past practice;

(w) acquisition by merger or consolidation with, or by purchase of a substantial portion of the assets or stock of, or by any other manner, any business or any Person or any division;

(x) action by Company to make, change or rescind any Tax election or amend any Tax Return;

(y) notice, event, occurrence or development that has had or would reasonably be expected to negatively impact Company's contract with Wisconsin DHS; or

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

### **Section 3.09 Material Contracts.**

(a) Section 3.09(a) of the Disclosure Schedules lists each of the following Contracts of Company, excluding Provider Agreements (such Contracts, together with all Contracts listed or otherwise disclosed in Section 3.10(b) of the Disclosure Schedules and all

Company IP Agreements set forth in Section 3.12(b) of the Disclosure Schedules, being "**Material Contracts**"):

(i) each Contract of Company involving aggregate consideration in excess of \$10,000 and which, in each case, cannot be cancelled by Company without penalty or without more than 90 days' notice;

(ii) all Contracts that require Company to purchase its total requirements of any product or service from a third party or that contain "take or pay" provisions;

(iii) all Contracts that provide for the assumption of any Tax or environmental Liability of any Person;

(iv) all Contracts that relate to the acquisition or disposition of any business, a material amount of stock or assets of any other Person or any real property (whether by merger, sale of stock, sale of assets or otherwise);

(v) all broker, distributor, dealer, manufacturer's representative, franchise, agency, sales promotion, market research, marketing consulting and advertising Contracts to which Company is a party;

(vi) all employment agreements and Contracts with independent contractors or consultants (or similar arrangements) to which Company is a party and which are not cancellable without penalty or without more than 30 days' notice;

(vii) except for Contracts relating to trade receivables, all Contracts relating to Indebtedness (including, without limitation, guarantees) of Company;

(viii) all Contracts with any Governmental Authority to which Company is a party ("**Government Contracts**");

(ix) all Contracts that limit or purport to limit the ability of Company to compete in any line of business or with any Person or in any geographic area or during any period of time;

(x) any Contracts to which Company is a party that provide for any joint venture, partnership or similar arrangement by Company;

(xi) all Contracts between or among Company on the one hand and Seller or any Affiliate of Seller (other than Company) on the other hand; and

(xii) all collective bargaining agreements or Contracts with any Union to which Company is a party.

(b) Each Material Contract and each Provider Agreement is valid and binding on Company in accordance with its terms and is in full force and effect. None of Company or, to Seller's Knowledge, any other party is in breach of or default under (or is alleged to be in breach

of or default under), or has provided or received any notice of any intention to terminate, any Material Contract or any Provider Agreement. To Seller's Knowledge, no event or circumstance has occurred that, with notice or lapse of time or both, would constitute an event of default under any Material Contract or any Provider Agreement or result in termination thereof. Complete and correct copies of each Material Contract (including all modifications, amendments and supplements and waivers) have been made available to Buyer.

**Section 3.10 Title to Assets; Real Property.**

(a) Company has good and valid leasehold interest in, all Real Property and personal property and other assets reflected in the Audited Financial Statements or acquired after the Balance Sheet Date, other than assets sold or otherwise disposed of in the ordinary course of business consistent with past practice since the Balance Sheet Date. All such properties and assets (including leasehold interests) are free and clear of Encumbrances other than Permitted Encumbrances.

(b) Section 3.10(b) of the Disclosure Schedules lists (i) the street address of each parcel of Real Property; (ii) if such property is leased or subleased by Company, the landlord under the lease, the rental amount currently being paid, and the expiration of the term of such lease or sublease for each leased or subleased property; and (iii) the current use of such property. Seller does not own any Real Property. With respect to leased Real Property, Seller has delivered or made available to Buyer true, complete and correct copies of any leases affecting the Real Property. Company is not a sublessor or grantor under any sublease or other instrument granting to any other Person any right to the possession, lease, occupancy or enjoyment of any leased Real Property. To Seller's Knowledge, the use and operation of the Real Property in the conduct of Company's business do not violate in any material respect any Law, covenant, condition, restriction, easement, license, permit or agreement. To Seller's Knowledge, no material improvements constituting a part of the Real Property encroach on real property owned or leased by a Person other than Company. There are no Actions pending nor, to the Seller's Knowledge, threatened against the Real Property or any portion thereof or interest therein in the nature or in lieu of condemnation or eminent domain proceedings.

**Section 3.11 Condition of Assets.** To Seller's Knowledge, the buildings, furniture, fixtures, equipment and other items of tangible personal property of Company are structurally sound, are in good operating condition and repair, and are adequate for the uses to which they are being put, and none is in need of maintenance or repairs except for ordinary, routine maintenance and repairs that are not material in nature or cost.

**Section 3.12 Intellectual Property.**

(a) Section 3.12(a) of the Disclosure Schedules contains a correct, current, and complete list of all (i) Company IP Registrations; (ii) all material unregistered Trademarks included in Company Intellectual Property; and (iii) all proprietary software of Company. All required filings and fees related to Company IP Registrations have been timely filed with and paid to the relevant Governmental Authorities and authorized registrars, and all Company IP Registrations are otherwise in good standing.

(b) Section 3.12(b) of the Disclosure Schedules contains a correct, current, and complete list of all Company IP Agreements, specifying for each the date, title, and parties.

(c) Company is the sole and exclusive legal and beneficial owner of all right, title, and interest in and to the items set forth on Section 3.12(a) of the Disclosure Schedules, and has the valid and enforceable right to use all other Intellectual Property used in or necessary for the conduct of Company's business as currently conducted, in each case, free and clear of Encumbrances other than Permitted Encumbrances.

(d) To Seller's Knowledge: (i) the conduct of Company's business as currently conducted does not infringe, misappropriate or otherwise violate the Intellectual Property or other rights of any Person and (ii) no third party has infringed, misappropriated or otherwise violated any Company Intellectual Property.

(e) The computer hardware, servers, networks, platforms, peripherals, data communication lines, and other information technology equipment and related systems that are owned or used by Company ("**Company Systems**") are reasonably sufficient for the immediate needs of Company's business. To Seller's Knowledge, there has been no unauthorized access or breach of security affecting any Company Systems that has caused or would reasonably be expected to cause any Material Adverse Effect. Company has taken commercially reasonable actions to protect the integrity and security of Company Systems.

**Section 3.13 Accounts Receivable.** The accounts receivable reflected on the Interim Balance Sheet and the accounts receivable arising after the date thereof have arisen from bona fide transactions entered into by Company in the ordinary course of business consistent with past practice. The reserve for bad debts shown on the Interim Balance Sheet or, with respect to accounts receivable arising after the Interim Balance Sheet Date, on the accounting records of Company has been determined in accordance with SAP, consistently applied, subject to normal year-end adjustments and the absence of disclosures normally made in footnotes.

**Section 3.14 Insurance.** Section 3.14 of the Disclosure Schedules sets forth a true and complete list of all current policies or binders of fire, liability, product liability, umbrella liability, real and personal property, workers' compensation, vehicular, directors' and officers' liability, fiduciary liability and other casualty and property insurance maintained by Seller or its Affiliates (including Company) and relating to the assets, business, operations, employees, officers and directors of Company (collectively, the "**Insurance Policies**") and true and complete copies of such Insurance Policies have been made available to Buyer. Such Insurance Policies are in full force and effect and are sufficient for compliance with all applicable Laws and Contracts to which Company is a party or by which it is bound.

**Section 3.15 Legal Proceedings; Governmental Orders.**

(a) There are no Actions pending or, to Seller's Knowledge, threatened (a) against or by Company affecting any of its properties or assets (or by or against Seller or any Affiliate and relating to Company); or (b) against or by Company, Seller or any Affiliate of Seller that challenges or seeks to prevent, enjoin or otherwise delay the Transactions.

(b) There are no outstanding Governmental Orders and no unsatisfied judgments, penalties or awards against or affecting Company or any of its properties or assets.

**Section 3.16 Compliance With Laws; Permits.**

(a) Company is complying in all material respects with all Laws applicable to it or its business, properties or assets.

(b) All Permits required for Company to conduct its business have been obtained by it and are valid and in full force and effect. All fees and charges with respect to such Permits have been paid in full. To Seller's Knowledge, no event has occurred that, with or without notice or lapse of time or both, would reasonably be expected to result in the revocation, suspension, lapse or limitation of any such Permit.

**Section 3.17 Environmental Matters.** Company is currently and has been in material compliance with all environmental Laws and has not, and the Seller has not, received from any Person any: (i) written notice or claim of non-compliance with an environmental Law; or (ii) written request for information pursuant to environmental Law.

**Section 3.18 Employee Benefit Matters.**

(a) Section 3.18(a) of the Disclosure Schedules contains a true and complete list of each pension, benefit, retirement, compensation, profit-sharing, deferred compensation, incentive, bonus, performance award, phantom equity, stock or stock-based, change in control, retention, severance, vacation, paid time off (PTO), medical, vision, dental, disability, welfare, Code Section 125 cafeteria, fringe benefit and other similar agreement, plan, policy, program or arrangement (and any amendments), in each case whether or not reduced to writing and whether funded or unfunded, including each "employee benefit plan" within the meaning of Section 3(3) of ERISA, whether or not tax-qualified and whether or not subject to ERISA, which is sponsored, contributed to, or required to be contributed to by Company for the benefit of any current or former employee, officer, director, retiree, independent contractor or consultant of Company or any spouse or dependent of such individual, or under which Company or any of its ERISA Affiliates has or may have any Liability, or with respect to which Buyer or any of its Affiliates would reasonably be expected to have any Liability, contingent or otherwise (as listed on the Disclosure Schedules, each, a "**Benefit Plan**").

(b) With respect to each Benefit Plan, Seller has made available to Buyer accurate, current and complete copies of each of the following: (i) where the Benefit Plan has been reduced to writing, the plan document together with all amendments; (ii) where the Benefit Plan has not been reduced to writing, a written summary of all material plan terms; (iii) where applicable, copies of any trust agreements or other funding arrangements, custodial agreements, insurance policies and contracts, administration agreements and similar agreements, and investment management or investment advisory agreements; (iv) as applicable, copies of any summary plan descriptions, summaries of material modifications, summaries of benefits and coverage, COBRA communications, employee handbooks relating to any Benefit Plan; (v) in the case of any Benefit Plan that is intended to be qualified under Section 401(a) of the Code, a copy of the most recent determination, opinion or advisory letter from the Internal Revenue Service



and any legal opinions issued with respect to such Benefit Plan's continued qualification; (vi) in the case of any Benefit Plan for which a Form 5500 must be filed, a copy of the two most recently filed Forms 5500, with all corresponding schedules and financial statements attached; (vii) as applicable, actuarial valuations and reports related to any Benefit Plans with respect to the two most recently completed plan years; (viii) as applicable, the most recent nondiscrimination tests performed under the Code; and (ix) copies of material notices, letters or other correspondence from the Internal Revenue Service, Department of Labor, Department of Health and Human Services, Pension Benefit Guaranty Corporation or other Governmental Authority relating to the Benefit Plan.

(c) Each Benefit Plan and any related trust (other than any multiemployer plan within the meaning of Section 3(37) of ERISA (each a "**Multiemployer Plan**")) has been established, administered and maintained in material accordance with its terms and in material compliance with all applicable Laws (including ERISA, the Code and any applicable local Laws). Each Benefit Plan that is intended to be qualified within the meaning of Section 401(a) of the Code (a "**Qualified Benefit Plan**") is so qualified and received a favorable and current determination letter from the Internal Revenue Service with respect to the most recent five year filing cycle, or with respect to a prototype or volume submitter plan, can rely on an opinion letter from the Internal Revenue Service to the prototype plan or volume submitter plan sponsor, to the effect that such Qualified Benefit Plan is so qualified and that the plan and the related trust are exempt from federal income taxes under Sections 401(a) and 501(a), respectively, of the Code, and, to Seller's Knowledge, nothing has occurred that would reasonably be expected to adversely affect the qualified status of any Qualified Benefit Plan. To Seller's Knowledge, nothing has occurred with respect to any Benefit Plan that has subjected or would reasonably be expected to subject Company or any of its ERISA Affiliates or, with respect to any period on or after the Closing Date, Buyer or any of its Affiliates, to a penalty under Section 502 of ERISA or to tax or penalty under Sections 4975 or 4980H of the Code.

No pension plan (other than a Multiemployer Plan) which is subject to minimum funding requirements, including any multiple employer plan, (each, a "**Single Employer Plan**") in which employees of Company or any ERISA Affiliate participate or have participated has an "accumulated funding deficiency", whether or not waived, or is subject to a lien for unpaid contributions under Section 303(k) of ERISA or Section 430(k) of the Code. No Single Employer Plan covering employees of Company which is a defined benefit plan has an "adjusted funding target attainment percentage," as defined in Section 436 of the Code, less than 80%. All benefits, contributions and premiums relating to each Benefit Plan have been timely paid in material accordance with the terms of such Benefit Plan and all applicable Laws and accounting principles, and all benefits accrued under any unfunded Benefit Plan have been paid, accrued or otherwise adequately reserved to the extent required by, and in accordance with, SAP.

(d) To Seller's Knowledge, neither Company nor any of its ERISA Affiliates has (i) incurred or reasonably expects to incur, either directly or indirectly, any material Liability under Title I or Title IV of ERISA or related provisions of the Code or applicable local Law relating to employee benefit plans; (ii) failed to timely pay premiums to the Pension Benefit Guaranty Corporation; (iii) engaged in any transaction which would give rise to liability under Section 4069 or Section 4212(c) of ERISA; (iv) incurred taxes under Section 4971 of the Code

with respect to any Single Employer Plan; or (v) participated in a multiple employer welfare arrangements (MEWA).

(e) With respect to each Benefit Plan (i) no such plan is a Multiemployer Plan, and neither Company nor any ERISA Affiliate has incurred any withdrawal liability under Title IV of ERISA which remains unsatisfied; (ii) no such plan is a "multiple employer plan" within the meaning of Section 413(c) of the Code or a "multiple employer welfare arrangement" (as defined in Section 3(40) of ERISA); (iii) no Action has been initiated by the Pension Benefit Guaranty Corporation to terminate any such plan or to appoint a trustee for any such plan; (iv) no such plan or the plan of any ERISA Affiliate maintained or contributed to within the last six (6) years is a Single Employer Plan subject to Title IV of ERISA; and (v) no "reportable event," as defined in Section 4043 of ERISA, with respect to which the reporting requirement has not been waived has occurred with respect to any such plan.

(f) Each Benefit Plan can be amended, terminated or otherwise discontinued after the Closing in accordance with its terms. Company has no commitment or obligation and has not made any representations to any employee, officer, director, independent contractor or consultant, whether or not legally binding, to adopt, amend, modify or terminate any Benefit Plan or any collective bargaining agreement, in connection with the consummation of the Transactions or otherwise, except as otherwise indicated in the terms of any Benefit Plan.

(g) Other than as required under Sections 601 to 608 of ERISA or other applicable Law, no Benefit Plan provides post-termination or retiree health benefits to any individual for any reason, and neither Company nor any of its ERISA Affiliates has any Liability to provide post-termination or retiree health benefits to any individual.

(h) There is no pending or, to Seller's Knowledge, threatened Action relating to a Benefit Plan (other than routine claims for benefits), and no Benefit Plan has within the five years prior to the date of this Agreement been the subject of an examination or audit by a Governmental Authority or the subject of an application or filing under or is a participant in, an amnesty, voluntary compliance, self-correction or similar program sponsored by any Governmental Authority.

(i) Each Benefit Plan that is subject to Section 409A of the Code has been administered in material compliance with its terms and the operational and documentary requirements of Section 409A of the Code and all applicable regulatory guidance (including notices, rulings and proposed and final regulations). Company does not have any obligation to gross up, indemnify or otherwise reimburse any individual for any excise taxes, interest or penalties incurred pursuant to Section 409A of the Code.

(j) Each individual who is classified by Company as an independent contractor has been properly classified for purposes of participation and benefit accrual under each Benefit Plan.

(k) Except as stated in any Benefit Plan, neither the execution of this Agreement nor any of the Transactions will (either alone or upon the occurrence of any additional or subsequent events): (i) entitle any current or former director, officer, employee,

independent contractor or consultant of Company to severance pay or any other payment; (ii) accelerate the time of payment, funding or vesting, or increase the amount of compensation (including stock-based compensation) due to any such individual; (iii) result in "excess parachute payments" within the meaning of Section 280G(b) of the Code; or (iv) require a "gross-up" or other payment to any "disqualified individual" within the meaning of Section 280G(c) of the Code.

### **Section 3.19 Employment Matters.**

(a) Section 3.19(a) of the Disclosure Schedules contains a list of all persons who are employees, independent contractors or consultants of Company as of the date of this Agreement, including any employee who is on a leave of absence of any nature, paid or unpaid, authorized or unauthorized, and sets forth for each such individual the following: (i) name; (ii) title or position (including full-time equivalent); and (iii) hire or retention date. All compensation, including wages, commissions, bonuses, fees and other compensation, payable to all employees, independent contractors or consultants of Company for services performed on or prior to the date of this Agreement have been paid in full (or accrued in full).

(b) Company is not, and has not ever been, a party to, bound by, or negotiating any collective bargaining agreement or other Contract with a union, works council or labor organization (collectively, "**Union**"), and there is not, and has not been, any Union representing or purporting to represent any employee of Company. To Seller's Knowledge, no Union or group of employees is seeking or has sought to organize employees for the purpose of collective bargaining. There has never been, nor has there been any threat of, any strike, slowdown, work stoppage, lockout, concerted refusal to work overtime or other similar labor disruption or dispute affecting Company or any of its employees. Company has no duty to bargain with any Union.

(c) Company is in material compliance with all applicable Laws pertaining to employment and employment practices. All individuals characterized and treated by Company as independent contractors or consultants are properly treated as independent contractors under all applicable Laws. All employees of Company classified as exempt under the Fair Labor Standards Act and state and local wage and hour laws are properly classified. Company is in material compliance with all immigration laws. To Seller's Knowledge, there are no Actions against Company pending or threatened to be brought or filed, by or with any Governmental Authority or arbitrator in connection with the employment of any current or former applicant, employee, consultant or independent contractor of Company.

(d) Company has not been debarred, suspended or otherwise made ineligible from doing business with the United States government or any government contractor.

### **Section 3.20 Taxes.**

(a) All Tax Returns required to be filed on or before the Closing Date by Company have been, or will be, timely filed (determined with regard to any timely extensions). Such Tax Returns are, or will be, true, complete and correct in all material respects. All Taxes

due and owing by Company (whether or not shown on any Tax Return) have been, or will be, timely paid.

(b) Company has withheld and paid each Tax required to have been withheld and paid in connection with amounts paid or owing to any employee, independent contractor, creditor, customer, shareholder or other party, and complied with all information reporting and backup withholding provisions of applicable Law.

(c) No written claim has been made by any taxing authority in any jurisdiction where Company does not file Tax Returns that it is, or may be, subject to Tax by that jurisdiction.

(d) No extensions or waivers of statutes of limitations have been given or requested with respect to any Taxes of Company with respect to any currently open Tax period.

(e) All deficiencies asserted, or assessments made, against Company as a result of any examinations by any taxing authority have been fully paid.

(f) Company is not a party to any Action by any taxing authority. There are no pending or threatened Actions by any taxing authority.

(g) Seller has delivered to Buyer copies of all income Tax Returns, examination reports, and statements of deficiencies assessed against, or agreed to by, Company for all Tax periods ending after 2015.

(h) There are no Encumbrances for Taxes (other than for current Taxes not yet due and payable) upon the assets of Company.

(i) Company is not a party to, or bound by, any Tax indemnity, Tax sharing or Tax allocation agreement.

(j) No private letter rulings, technical advice memoranda or similar agreement or rulings have been requested, entered into or issued by any taxing authority with respect to Company.

(k) Company has not been a member of an affiliated, combined, consolidated or unitary Tax group for Tax purposes. Company has no Liability for Taxes of any Person (other than Company) under Treasury Regulations Section 1.1502-6 (or any corresponding provision of state, local or foreign Law), as transferee or successor, by contract or otherwise.

(l) Company will not be required to include any item of income in, or exclude any item or deduction from, taxable income for any taxable period or portion thereof ending after the Closing Date as a result of:

(i) any change in a method of accounting under Section 481 of the Code (or any comparable provision of state, local or foreign Tax Laws), or use of an improper method of accounting, for a taxable period ending on or prior to the Closing Date;

Closing Date;

- (ii) an installment sale or open transaction occurring on or prior to the Closing Date;
- (iii) a prepaid amount received on or before the Closing Date;
- (iv) any closing agreement under Section 7121 of the Code, or similar provision of state, local or foreign Law entered into before the Closing Date; or
- (v) any election under Section 108(i) of the Code.

(m) Seller is not a "foreign person" as that term is used in Treasury Regulations Section 1.1445-2. Company is not, nor has it been, a United States real property holding corporation (as defined in Section 897(c)(2) of the Code) during the applicable period specified in Section 897(c)(1)(a) of the Code.

(n) Company has not been a "distributing corporation" or a "controlled corporation" in connection with a distribution described in Section 355 of the Code within the two years prior to the date of this Agreement.

(o) Company is not, and has not been, a party to, or a promoter of, a "reportable transaction" within the meaning of Section 6707A(c)(1) of the Code and Treasury Regulations Section 1.6011-4(b).

The representations and warranties set forth in this Section 3.20, and the representations and warranties set forth in Section 3.18 (insofar as they relate to Taxes and the Code), shall constitute the only representations and warranties by Seller with respect to Taxes and the Code.

**Section 3.21 Books and Records.** The minute books and stock record books of Company have been made available to Buyer. At the Closing, all of those books and records will be in the possession of Company.

**Section 3.22 Brokers.** No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the Transactions based upon arrangements made by or on behalf of Seller.

**Section 3.23 Reserves and Reinsurance.** The insurance reserves and liabilities reflected in the Balance Sheet and in the Financial Statements in respect of all future insurance policy benefits, dividends, losses, unearned premiums, claims and expenses make sufficient provision for all reasonably anticipated matured and unmatured liabilities and obligations of Company under all insurance policies and reinsurance and coinsurance agreements or other similar contracts outstanding pursuant to which Company had or has any liability or obligation. All such insurance reserves and liabilities are computed in all material respects in accordance with generally accepted actuarial loss reserving practices and assumptions, consistently applied, are fairly stated in accordance with sound loss reserving and actuarial principles, are based on factors and assumptions relevant to the provisions in the related insurance policies and reinsurance and coinsurance agreements, and are in material compliance with the applicable requirements of applicable Law. Company is not involved in any dispute with or inquiry initiated

by its outside accountants or actuaries, or the OCI or any other Governmental Authority, with respect to Company's actuarial or reserving practices. Company owns assets that qualify as admitted assets under applicable state insurance laws in an amount at least equal to all of its required insurance reserves.

**Section 3.24 Insurance Business.** Company is licensed or authorized to do business as an insurance company under Chapter 611 of the Wisconsin Statutes.

**Section 3.25 Regulatory Filings.** Company has filed all agreements, reports, statements, documents, registrations, filings and submissions required to be filed with OCI. Company has made available to Buyer: (i) any reports of examination (including financial, market conduct and similar examinations) of Company issued since January 1, 2015; and (ii) all material filings or submissions made to OCI since January 1, 2015 to the date of this Agreement by Company. Any recommendations to Company noted in the examination reports have been implemented.

**Section 3.26 Wisconsin DHS Contract.** Company has completed all documents, reports, statements, and submissions required to be filed with Wisconsin DHS to maintain Company's Medicaid Health Maintenance Organization contract for 2019. Company has made available to Buyer copies of all contracts with Wisconsin DHS (and appendices, exhibits, amendments, addenda, schedules and similar documents) effective since January 1, 2017. Company has no notice of, and to Seller's Knowledge there is no, regulatory breach, non-compliance or deficiency on the part of Company in relation to any of its contracts with Wisconsin DHS, and any recommendations of Wisconsin DHS to Company have been implemented.

#### **ARTICLE IV REPRESENTATIONS AND WARRANTIES OF BUYER**

Buyer represents and warrants to Seller that the statements contained in this Article IV are true and correct as of the date of this Agreement.

**Section 4.01 Organization and Authority of Buyer.** Buyer is a nonstock corporation duly organized, validly existing and in good standing under the Laws of the state of Wisconsin. Buyer has full corporate power and authority to enter into this Agreement, to carry out its obligations and to consummate the Transactions. Buyer's execution and delivery of this Agreement, Buyer's performance of its obligations and Buyer's consummation of the Transactions have been duly authorized by all requisite corporate action on the part of Buyer. This Agreement has been duly executed and delivered by Buyer, and (assuming due authorization, execution and delivery by Seller) this Agreement constitutes a legal, valid and binding obligation of Buyer enforceable against Buyer in accordance with its terms.

**Section 4.02 No Conflicts; Consents.** The execution, delivery and performance by Buyer of this Agreement, and the consummation of the Transactions, do not and will not: (a) conflict with or result in a violation or breach of, or default under, any provision of the certificate of incorporation, by-laws or other organizational documents of Buyer; (b) conflict with or result in a violation or breach of any provision of any Law or Governmental Order applicable to Buyer;

or (c) except as set forth in Section 4.02 of the Disclosure Schedules, require the consent, notice or other action by any Person under any Contract to which Buyer is a party. Other than approval or non-disapproval from OCI, no consent, approval, Permit, Governmental Order, declaration or filing with, or notice to, any Governmental Authority is required by or with respect to Buyer in connection with the execution and delivery of this Agreement and the consummation of the Transactions.

**Section 4.03 Investment Purpose.** Buyer is acquiring the Shares solely for its own account for investment purposes and not with a view to, or for offer or sale in connection with, any distribution. Buyer acknowledges that the Shares are not registered under the Securities Act of 1933, as amended, or any state securities laws.

**Section 4.04 Brokers.** No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the Transactions based upon arrangements made by or on behalf of Buyer.

**Section 4.05 Sufficiency of Funds.** Buyer has sufficient cash on hand or other sources of immediately available funds to enable it to make payment of the Purchase Price and consummate the Transactions.

**Section 4.06 Legal Proceedings.** There are no Actions pending or, to Buyer's knowledge, threatened against or by Buyer or any Affiliate of Buyer that challenge or seek to prevent, enjoin or otherwise delay the Transactions. No event has occurred or circumstances exist that may give rise or serve as a basis for any such Action.

**Section 4.07 No Other Representations.** Buyer has conducted its own independent investigation, review and analysis of the Company and acknowledges and agrees that: (a) it is knowledgeable about the industries in which the Company operates and is capable of evaluating the merits and risks of the Transactions and (b) in making its decision to enter into this Agreement and to consummate the Transactions, Buyer has relied solely upon its own investigation and the express representations and warranties set forth in Article III. Without limiting the foregoing, Buyer expressly disclaims that it is relying upon any other representations or warranties, expressed or implied, at law or in equity, with respect to the Company, including with respect to merchantability or fitness for any particular purpose of any assets or the accuracy or completeness of any documents, projections, materials or other information (financial or otherwise) regarding the Company furnished to Buyer or its representatives or made available to Buyer and its representatives in any virtual data rooms, management presentations, or otherwise.

## **ARTICLE V COVENANTS**

**Section 5.01 Conduct of Business Prior to the Closing.** From the date of this Agreement until the Closing, except as otherwise provided in this Agreement, as set forth on Section 5.01 of the Disclosure Schedules or as consented to in writing by Buyer (which consent shall not be unreasonably withheld or delayed), Seller shall, and shall cause Company to, (x) conduct the business of Company in the ordinary course of business consistent with past practice; and (y) use commercially reasonable efforts to maintain and preserve intact the current

organization, business and franchise of Company and to preserve the rights, franchises, goodwill and relationships of its employees, customers, lenders, suppliers, regulators and others having business relationships with Company.

**Section 5.02 Access to Information.** From the date of this Agreement until the Closing, Seller shall, and shall cause Company to: (a) afford Buyer and its Representatives reasonable access to and the right to inspect all of the Real Property, properties, assets, premises, books and records, Contracts and other documents and data related to Company; (b) furnish Buyer and its Representatives with such financial, operating and other data and information related to Company as Buyer or any of its Representatives may reasonably request, including but not limited to status updates of its provider agreement rate negotiation with IPN; and (c) instruct the Representatives of Seller and Company to cooperate with Buyer in its investigation of Company. Notwithstanding the foregoing: (y) Buyer and its Representatives will not: (i) contact or communicate with any of the personnel, customers, suppliers or other business relations of the Company in connection with this Agreement or the Transactions without the prior written consent of Seller; (ii) have access to personnel records of the Company relating to individual performance or evaluation records, medical histories or other information which in Seller's good faith opinion is sensitive or the disclosure of which would reasonably be expected to subject Seller or the Company to Liability for such disclosure; or (iii) have any right to perform or conduct, or cause to be performed or conducted, any environmental sampling or testing at, in, on or underneath any of the Company's properties without written consent from Seller and (z) this Section 5.02 will not require Seller to permit any access to, or to disclose any information that, in the reasonable, good faith judgment of Seller, is reasonably likely to result in any violation of any Law or any Contract to which Seller or the Company is a party or cause any privilege (including attorney-client privilege) or work product protection that Seller or the Company would be entitled to assert to be waived. Any investigation pursuant to this Section 5.02 shall be conducted in such manner as not to interfere unreasonably with the conduct of the business of Seller or Company.

**Section 5.03 No Solicitation of Other Bids.** Seller shall not, and shall not authorize or permit any of its Affiliates (including Company) or any of its or their Representatives to, directly or indirectly, (i) encourage, solicit, initiate, facilitate or continue inquiries regarding an Acquisition Proposal; (ii) enter into discussions or negotiations with, or provide any information to, any Person concerning a possible Acquisition Proposal; or (iii) enter into any agreements or other instruments (whether or not binding) regarding an Acquisition Proposal. Seller shall immediately cease and cause to be terminated, and shall cause its Affiliates (including Company) and all of its and their Representatives to immediately cease and cause to be terminated, all existing discussions or negotiations with any Persons with respect to, or that could lead to, an Acquisition Proposal. "**Acquisition Proposal**" shall mean any inquiry, proposal or offer from any Person (other than Buyer or any of its Affiliates) concerning (i) a merger, consolidation, liquidation, recapitalization, share exchange or other business combination transaction involving Company; (ii) the issuance or acquisition of shares of capital stock or other equity securities of Company; or (iii) the sale, lease, exchange or other disposition of any significant portion of Company's properties or assets.

**Section 5.04 Notice of Certain Events.** Prior to the Closing Date, Seller may supplement the Disclosure Schedule to disclose any matter that if existing, occurring or known



by Seller on the date of this Agreement, should have been so disclosed or that is necessary to correct any information in such Schedule that was or has been rendered inaccurate, provided, however, that except with respect to any supplementary disclosure that is not material, Buyer will, notwithstanding such supplementary disclosure, retain all rights to indemnification pursuant to Article VIII in respect of any matter that came into existence, occurred or was known by Seller, prior to the date of this Agreement.

**Section 5.05 Resignations.** Seller shall deliver to Buyer written resignations, effective as of the Closing Date, of the officers and certain directors of Company.

**Section 5.06 Confidentiality.**

(a) All confidential documents and information concerning the Company furnished to Buyer or its Representatives in connection with the Transactions are subject to the terms and conditions of that certain Confidentiality Agreement, dated as of October 16, 2018, by and between Seller and Buyer, the terms of which are incorporated herein by reference.

(b) During the Restricted Period, Seller shall, and shall cause its Affiliates to, hold, and shall use its commercially reasonable efforts to cause its or their respective Representatives to hold, in confidence any and all information, whether written or oral, concerning Company, except to the extent that Seller can show that such information (a) is generally available to and known by the public through no fault of Seller, any of its Affiliates or their respective Representatives; or (b) is lawfully acquired by Seller, any of its Affiliates or their respective Representatives from and after the Closing from sources which are not prohibited from disclosing such information by a legal, contractual or fiduciary obligation. If Seller or any of its Affiliates or their respective Representatives are compelled to disclose any information by judicial or administrative process or by other requirements of Law, Seller shall promptly notify Buyer in writing and shall disclose only that portion of such information which Seller is advised by its counsel in writing is legally required to be disclosed, provided that Seller shall use commercially reasonable efforts to obtain an appropriate protective order or other reasonable assurance that confidential treatment will be accorded such information.

**Section 5.07 Non-Competition; Non-Solicitation.**

(a) For a period of two years commencing on the Closing Date (the "**Restricted Period**"), Seller shall not, and shall not permit any of its Affiliates to, directly or indirectly, (i) engage in or assist others in engaging in the Restricted Business in the Territory; (ii) have an interest in any Person that engages directly or indirectly in the Restricted Business in the Territory in any capacity, including as a partner, shareholder, member, employee, principal, agent, trustee or consultant; or (iii) intentionally interfere in any material respect with the business relationships (whether formed prior to or after the date of this Agreement) between Company and customers or suppliers of Company. Notwithstanding the foregoing, Seller may own, directly or indirectly, solely as an investment, securities of any Person traded on any national securities exchange if Seller is not a controlling Person of, or a member of a group which controls, such Person and does not, directly or indirectly, own 5% or more of any class of securities of such Person.

(b) During the Restricted Period, Seller shall not, and shall not permit any of its Affiliates to, directly or indirectly, solicit any employee of Company or encourage any such employee to leave such employment except pursuant to a general solicitation which is not directed specifically to any such employees; provided, that nothing in this Section 5.07(b) shall prevent Seller or any of its Affiliates from soliciting (i) any employee whose employment has been terminated by Company or Buyer or (ii) after 180 days from the date of termination of employment, any employee whose employment has been terminated by the employee.

(c) Seller acknowledges that a breach or threatened breach of this Section 5.07 would give rise to irreparable harm to Buyer, for which monetary damages would not be an adequate remedy, and agrees that in the event of a breach or a threatened breach by Seller of any such obligations, Buyer shall, in addition to any and all other rights and remedies that may be available to it in respect of such breach, be entitled to equitable relief, including a temporary restraining order, an injunction, specific performance and any other relief that may be available from a court of competent jurisdiction (without any requirement to post bond).

(d) Seller acknowledges that the restrictions contained in this Section 5.07 are reasonable and necessary to protect the legitimate interests of Buyer and constitute a material inducement to Buyer to enter into this Agreement and consummate the Transactions. The covenants contained in this Section 5.07 and each provision are severable and distinct covenants and provisions. The invalidity or unenforceability of any such covenant or provision as written shall not invalidate or render unenforceable the remaining covenants or provisions, and any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such covenant or provision in any other jurisdiction.

#### **Section 5.08 Governmental Approvals and Consents.**

(a) Each party shall, as promptly as possible, (i) make, or cause or be made, all filings and submissions required by OCI and under any Law applicable to such party or any of its Affiliates; and (ii) use commercially reasonable efforts to obtain, or cause to be obtained, all consents, authorizations, orders, approvals or non-disapprovals from OCI and any Governmental Authorities that may be or become necessary for its execution and delivery of this Agreement and the performance of its obligations pursuant to this Agreement. Each party shall cooperate fully with the other party and its Affiliates in promptly seeking to obtain all such consents, authorizations, orders and approvals. The parties shall not willfully take any action that will have the effect of delaying, impairing or impeding the receipt of any required consents, authorizations, orders and approvals.

(b) Seller and Buyer shall use commercially reasonable efforts to give all notices to, and obtain all consents from, all third parties that are described in Section 3.05 and Section 4.02 of the Disclosure Schedules.

(c) Without limiting the generality of the parties' undertakings pursuant to subsections (a) and (b) above, each of the parties shall use commercially reasonable efforts to:

(i) respond to any inquiries by any Governmental Authority regarding matters with respect to the Transactions;

(ii) avoid the imposition of any order or the taking of any action that would restrain, alter or enjoin the Transactions; and

(iii) in the event any Governmental Order adversely affecting the ability of the parties to consummate the Transactions has been issued, to have such Governmental Order vacated or lifted.

(d) If any consent, approval or authorization necessary to preserve any right or benefit under any Material Contract to which Company is a party is not obtained prior to the Closing, Seller shall, subsequent to the Closing, cooperate with Buyer and Company in attempting to obtain such consent, approval or authorization as promptly thereafter as practicable. If such consent, approval or authorization cannot be obtained, Seller shall use its commercially reasonable efforts to provide Company with the rights and benefits of the affected Material Contract for its term, and, if Seller provides such rights and benefits, Company shall assume all obligations and burdens.

(e) All analyses, appearances, meetings, discussions, presentations, memoranda, briefs, filings, arguments, and proposals made by or on behalf of either party before any Governmental Authority or the staff or regulators of any Governmental Authority, in connection with the Transactions (but, for the avoidance of doubt, not including any interactions between Seller or Company with Governmental Authorities in the ordinary course of business, any disclosure which is not permitted by Law or any disclosure containing confidential information) shall be disclosed to the other party hereunder in advance of any filing, submission or attendance, it being the intent that the parties will consult and cooperate with one another, and consider in good faith the views of one another, in connection with any such analyses, appearances, meetings, discussions, presentations, memoranda, briefs, filings, arguments, and proposals. Each party shall give notice to the other party with respect to any meeting, discussion, appearance or contact with any Governmental Authority or the staff or regulators of any Governmental Authority, with such notice being sufficient to provide the other party with the opportunity to attend and participate in such meeting, discussion, appearance or contact.

(f) Notwithstanding the foregoing, nothing in this Section 5.08 shall require, or be construed to require, Buyer, Seller, the Company or any of their respective Affiliates to agree to (i) sell, hold, divest, discontinue or limit, before or after the Closing Date, any of their respective assets, businesses or interests; (ii) any conditions relating to, or changes or restrictions in, the operations of any such assets, businesses or interests which, in either case, would reasonably be expected to result in a Material Adverse Effect or materially and adversely impact the economic or business benefits to such party of the Transactions; or (iii) any material modification or waiver of the terms and conditions of this Agreement.

#### **Section 5.09 Books and Records.**

(a) In order to facilitate the resolution of any claims made against or incurred by Seller, or for any other reasonable purpose, for a period of six years after the Closing or such longer period as required by Law, contract or Wisconsin DHS, Buyer shall:

(i) retain the books and records (including medical claims, medical records and personnel files) of Company relating to periods prior to the Closing in a manner reasonably consistent with the prior practices of Company; and

(ii) upon reasonable notice, afford the Representatives of Seller reasonable access (including the right to make, at Seller's expense, photocopies), during normal business hours, to such books and records;

provided, however, that any books and records related to Tax matters shall be retained pursuant to the periods set forth in Article VI.

(b) In order to facilitate the resolution of any claims made by or against or incurred by Buyer or Company, or for any other reasonable purpose, for a period of six years following the Closing, Seller shall:

(i) retain the books and records (including personnel files) of Seller which relate to Company and its operations for periods prior to the Closing; and

(ii) upon reasonable notice, afford the Representatives of Buyer or Company reasonable access (including the right to make, at Buyer's expense, photocopies), during normal business hours, to such books and records;

provided, however, that any books and records related to Tax matters shall be retained pursuant to the periods set forth in Article VI.

(c) Neither Buyer nor Seller shall be obligated to provide the other party with access to any books or records (including personnel files) pursuant to this Section 5.09 where such access would violate any Law.

**Section 5.10 Closing Conditions.** From the date of this Agreement until the Closing, each party shall, and Seller shall cause Company to, use commercially reasonable efforts to take such actions as are necessary to expeditiously satisfy the closing conditions set forth in Article VII.

**Section 5.11 Insurance.** Notwithstanding Section 3.14, Buyer acknowledges and agrees that some or all of the Insurance Policies may be terminated as a result of the Closing and that Buyer will be responsible for securing all insurance it considers appropriate for the ownership and operation of the Company from and after Closing.

**Section 5.12 Public Announcements.** Unless otherwise required by applicable Law (based upon the reasonable advice of counsel), no party to this Agreement shall make any public announcements in respect of this Agreement or the Transactions or otherwise communicate with any news media without the prior written consent of the other party (which consent shall not be unreasonably withheld or delayed), and the parties shall cooperate as to the timing and contents of any such announcement.

**Section 5.13 Further Assurances.** Following the Closing, each of the parties shall, and shall cause their respective Affiliates to, execute and deliver such additional documents,

instruments, conveyances and assurances and take such further actions as may be reasonably required to carry out the provisions and give effect to the Transactions.

## ARTICLE VI TAX MATTERS

### Section 6.01 Tax Covenants.

(a) Without the prior written consent of Buyer, Seller (and, prior to the Closing, Company, its Affiliates and their respective Representatives) shall not, to the extent it may affect, or relate to, Company, make, change or rescind any Tax election, amend any Tax Return or take any position on any Tax Return, take any action, omit to take any action or enter into any other transaction that would have the effect of increasing the Tax liability of Buyer or Company in respect of any Post-Closing Tax Period.

(b) All transfer, documentary, sales, use, stamp, registration, value added and other such Taxes and fees (including any penalties and interest) incurred in connection with this Agreement (including any real property transfer Tax and any other similar Tax) shall be borne and paid by Buyer when due. Buyer shall, at its own expense, timely file any Tax Return or other document with respect to such Taxes or fees (and Seller shall cooperate as necessary).

(c) Seller shall prepare, or cause to be prepared, all income Tax Returns required to be filed by Company after the Closing Date with respect to a Pre-Closing Tax Period ("**Seller Returns**"). Any such Seller Return shall be prepared in a manner consistent with past practice (unless otherwise required by Law) and shall be submitted by Buyer to Seller at least 10 days prior to the due date (including extensions) of such Seller Return. Seller will consider in good faith Buyer's suggested revisions, additions or changes and, in its sole discretion, incorporate such suggested revisions into the Seller Return. If such Seller Returns are required to be signed and filed by Buyer on behalf of Company, Seller will provide completed Seller Returns ready for signature and filing by Buyer not less than three Business Days prior to the filing due date for such Seller Returns.

(d) Buyer shall prepare, or cause to be prepared, all Tax Returns required to be filed by Company after the Closing Date with respect to a Straddle Period and a Pre-Closing Tax Period that are not Seller Returns. Any such Tax Return shall be prepared in a manner consistent with past practice (unless otherwise required by Law) and without a change of any election or any accounting method and shall be submitted by Buyer to Seller (together with schedules, statements and, to the extent requested by Seller, supporting documentation) at least 45 days prior to the due date (including extensions) of such Tax Return. If Seller objects to any item on any such Tax Return, it shall, within ten days after delivery of such Tax Return, notify Buyer in writing that it so objects, specifying with particularity any such item and stating the specific factual or legal basis for any such objection. If a notice of objection shall be duly delivered, Buyer and Seller shall negotiate in good faith and use their commercially reasonable efforts to resolve such items. If Buyer and Seller are unable to reach such agreement within ten days after receipt by Buyer of such notice, the disputed items shall be resolved by the Independent Accountant and any determination by the Independent Accountant shall be final. The Independent Accountant shall resolve any disputed items within twenty days of having the

item referred to it pursuant to such procedures as it may require. If the Independent Accountant is unable to resolve any disputed items before the due date for such Tax Return, the Tax Return shall be filed as prepared by Buyer and then amended to reflect the Independent Accountant's resolution. The costs, fees and expenses of the Independent Accountant shall be borne equally by Buyer and Seller.

**Section 6.02 Termination of Existing Tax Sharing Agreements.** Any and all existing Tax sharing agreements (whether written or not) binding upon Company shall be terminated as of the Closing Date. After such date none of Company, Seller nor any of Seller's Affiliates and their respective Representatives shall have any further rights or liabilities.

**Section 6.03 Straddle Period.** In the case of Taxes that are payable with respect to a taxable period that begins before and ends after the Closing Date (each such period, a "**Straddle Period**"), the portion of any such Taxes that are treated as Pre-Closing Taxes for purposes of this Agreement shall be:

(a) in the case of Taxes (i) based upon, or related to, income, receipts, profits, wages, capital or net worth, (ii) imposed in connection with the sale, transfer or assignment of property, or (iii) required to be withheld, deemed equal to the amount which would be payable if the taxable year ended with the Closing Date apportioning income, gain, expense, loss, deductions and credits equitably based on an interim closing of the books as of the end of the Closing Date; and

(b) in the case of other Taxes, deemed to be the amount of such Taxes for the entire period multiplied by a fraction the numerator of which is the number of days in the period ending on the Closing Date and the denominator of which is the number of days in the entire period.

**Section 6.04 Contests.** Buyer agrees to give prompt written notice to Seller of the receipt of any written notice by Company, Buyer or any of Buyer's Affiliates which involves any pending or proposed Tax audit, assessment, litigation or other proceeding with respect to Taxes of the Company in respect of which an indemnity may be sought by Buyer pursuant to Article VIII (a "**Tax Claim**"); provided, that failure to comply with this provision shall not affect Buyer's right to indemnification, except to the extent Seller is prejudiced thereby. Except with respect to income Tax matters of the Company relating to Pre-Closing Tax Periods, Buyer shall control the contest or resolution of any Tax Claim; provided, however, that Buyer shall keep Seller reasonably informed on the progress of any such Tax Claim (including providing copies of all written communication with any taxing authority) and Buyer shall obtain the prior written consent of Seller (which consent shall not be unreasonably withheld or delayed) before entering into any settlement of a claim or ceasing to defend such claim; and, provided further, that Seller shall be entitled to participate in the defense of such claim and to employ counsel of its choice for such purpose, the fees and expenses of which separate counsel shall be borne solely by Seller. Seller shall control all Tax Claims with respect to income Tax matters involving the Company related to Pre-Closing Tax Periods.

**Section 6.05 Cooperation and Exchange of Information.** Seller and Buyer shall provide each other with such cooperation and information as either of them reasonably may

request of the other in filing any Tax Return pursuant to this Article VI or in connection with any audit or other proceeding in respect of Taxes of Company. Such cooperation and information shall include signing any Tax Return, amended Tax Return, claims or other documents necessary to settle any Tax Claim, providing copies of relevant Tax Returns or portions thereof, together with accompanying schedules, related work papers and documents relating to rulings or other determinations by tax authorities, and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. Each of Seller and Buyer shall retain all Tax Returns, schedules and work papers, records and other documents in its possession relating to Tax matters of Company for any taxable period beginning before the Closing Date until the expiration of the statute of limitations of the taxable periods to which such Tax Returns and other documents relate, without regard to extensions except to the extent notified by the other party in writing of such extensions for the respective Tax periods. Prior to transferring, destroying or discarding any Tax Returns, schedules and work papers, records and other documents in its possession relating to Tax matters of Company for any taxable period beginning before the Closing Date, Seller or Buyer (as the case may be) shall provide the other party with reasonable written notice and offer the other party the opportunity to take custody of such materials. Upon request by a Buyer or Seller, such other party shall use its commercially reasonable efforts to obtain any certificate or other document from any Governmental Authority or any other Person as may be necessary to mitigate, reduce or eliminate any Tax that could be imposed with respect to the Transactions.

**Section 6.06 Tax Refunds.** Except for up to [REDACTED] of refunds of Taxes of the Company, or amounts credited against such Taxes, which is generated solely by reason of unused alternative minimum tax credit carryforwards that are attributable to any period occurring on or before the Closing Date ("AMT Refunds"), any refund of Taxes of the Company, or any amounts credited against such Taxes, (including any interest actually received or credited with respect thereto) attributable (or treated as attributable) to any period occurring on or before the Closing Date shall be the property of Seller, shall be paid promptly to Seller and, if received by, or credited to, Buyer or the Company or any other affiliated entity of Buyer, shall be payable promptly to the Seller. For the avoidance of doubt, any AMT Refunds shall be the property of the Company and will not be payable to Seller.

**Section 6.07 Amendment of Returns.** Buyer shall not, and shall cause the Company not to, file, amend or cause the amendment of a Tax Return of the Company, change an annual accounting period, adopt or change any accounting method, or file or amend any Tax election concerning the Company, with respect to any Pre-Closing Tax Period without the prior written consent of Seller. Buyer shall, and shall cause the Company to, upon request by Seller, cooperate in the preparation of and submission to the proper Tax authority of any amended Tax Return with respect to the Company for any Pre-Closing Tax Period which is reasonable under the circumstances.

**Section 6.08 Other Tax Matters.** With respect to certain Tax matters, the Sellers and Buyer agree as follows:

(a) Buyer shall not, and shall not allow the Company to, initiate, agree to, or take any material action in connection with, any Seller Tax Matter that would have the effect of

increasing the Tax-related liability of the Company or the Seller for a Pre-Closing Tax Period without the prior written consent of Seller.

(b) That no election shall be made by Buyer under Code Section 338(g) with respect to the acquisition of the Company.

(c) That Buyer shall not, and shall not allow the Company to, engage in any transaction after the Closing, but on the Closing Date, that is outside of the ordinary course of business and is not contemplated by this Agreement and that will increase the amount of Taxes of the Company for a Pre-Closing Tax Period.

**Section 6.09 Tax Treatment of Indemnification Payments.** Any indemnification payments pursuant to this Article VI shall be treated as an adjustment to the Purchase Price by the parties for Tax purposes, unless otherwise required by Law.

**Section 6.10 Payments to Buyer.** Any amounts payable to Buyer pursuant to this Article VI shall be satisfied by Seller.

**Section 6.11 Survival.** Notwithstanding anything in this Agreement to the contrary, the provisions of Section 3.20 and this Article VI shall survive for the full period of all applicable statutes of limitations (giving effect to any waiver, mitigation or extension) plus 60 days.

**Section 6.12 Overlap.** To the extent that any obligation or responsibility pursuant to Article VIII may overlap with an obligation or responsibility pursuant to this Article VI, the provisions of this Article VI shall govern.

## ARTICLE VII CONDITIONS TO CLOSING

**Section 7.01 Conditions to Obligations of Buyer.** The obligations of Buyer to consummate the Transactions shall be subject to the fulfillment or Buyer's waiver, at or prior to the Closing, of each of the following conditions:

(a) The representations and warranties of Seller contained in Article III shall be true and correct in all respects (in the case of any representation or warranty qualified by materiality or Material Adverse Effect) or in all material respects (in the case of any representation or warranty not qualified by materiality or Material Adverse Effect) on and as of the Closing Date with the same effect as though made at and as of such date (except those representations and warranties that address matters only as of a specified date, the accuracy of which shall be determined as of that specified date).

(b) The Company shall have entered into a Provider Agreement [REDACTED]

(c) Seller shall deliver to Buyer confirmation in the form of signed contracts that (i) SMG will fulfill its duties and obligations of the SMG AMSA and (ii) IPN will fulfill its duties and obligations of the IPN ASA. The SMG AMSA and the IPN ASA shall contain provisions that allow for automatic renewal for an additional three year term to each contract



(through December 31, 2023) unless notice of non-renewal is provided by Company as required in the respective documents.

(d) Buyer and THS shall have entered into an agreement for the provision of certain administrative and personnel services.

(e) Seller shall have duly performed and complied in all material respects with all agreements, covenants and conditions required by this Agreement to be performed or complied with by it prior to or on the Closing Date.

(f) No injunction or restraining order shall have been issued by any Governmental Authority, and be in effect, which restrains or prohibits the Transactions.

(g) All approvals, consents and waivers that are listed on Section 3.05 of the Disclosure Schedules shall have been received, and executed counterparts shall have been delivered to Buyer at or prior to the Closing.

(h) From the date of this Agreement, there shall not have occurred any Material Adverse Effect.

(i) The Ancillary Documents shall have been executed and delivered by the parties thereto (other than Buyer and its Affiliates) and true and complete copies thereof shall have been delivered to Buyer.

(j) Buyer shall have received resignations of the officers and certain directors of Company pursuant to Section 5.05.

(k) Seller shall have delivered to Buyer a certificate of compliance from OCI.

(l) Seller shall have delivered to Buyer a certificate pursuant to Treasury Regulations Section 1.1445-2(b) that Seller is not a foreign person within the meaning of Section 1445 of the Code.

(m) Seller shall have delivered, or caused to be delivered, to Buyer stock certificates evidencing the Shares, free and clear of Encumbrances, duly endorsed in blank or accompanied by stock powers or other instruments of transfer duly executed in blank and with all required stock transfer tax stamps affixed.

(n) Buyer shall have received a certificate, dated the Closing Date and signed by a duly authorized officer of Seller, that each of the conditions set forth in Section 7.01 has been satisfied.

(o) Buyer shall have received a certificate of the Secretary or an Assistant Secretary (or equivalent officer) of Seller certifying that attached are true and complete copies of all resolutions adopted by the board of directors of Seller authorizing the execution, delivery and performance of this Agreement and the consummation of the Transactions, and that all such resolutions are in full force and effect and are all the resolutions adopted in connection with the Transactions.

(p) Buyer shall have received a certificate of the Secretary or an Assistant Secretary (or equivalent officer) of Seller certifying the names and signatures of the officers of Seller authorized to sign this Agreement and the other documents to be delivered.

**Section 7.02 Conditions to Obligations of Seller.** The obligations of Seller to consummate the Transactions shall be subject to the fulfillment or Seller's waiver, at or prior to the Closing, of each of the following conditions:

(a) The representations and warranties of Buyer contained in Article IV shall be true and correct in all respects (in the case of any representation or warranty qualified by materiality or Material Adverse Effect) or in all material respects (in the case of any representation or warranty not qualified by materiality or Material Adverse Effect) on and as of the Closing Date with the same effect as though made at and as of such date (except those representations and warranties that address matters only as of a specified date, the accuracy of which shall be determined as of that specified date).

(b) Buyer shall have duly performed and complied in all material respects with all agreements, covenants and conditions required by this Agreement to be performed or complied with by it prior to or on the Closing Date.

(c) No injunction or restraining order shall have been issued by any Governmental Authority, and be in effect, which restrains or prohibits the Transactions.

(d) All approvals, consents and waivers that are listed on Section 4.02 of the Disclosure Schedules shall have been received, and executed counterparts shall have been delivered to Seller at or prior to the Closing.

(e) The Ancillary Documents shall have been executed and delivered by the parties thereto (other than Seller and its Affiliates) and true and complete copies thereof shall have been delivered to Seller.

(f) Buyer shall have delivered to Seller cash in an amount equal to the Purchase Price by wire transfer of immediately available funds.

(g) Buyer shall have delivered to third parties by wire transfer of immediately available funds that amount of money due and owing to such third parties as Transaction Expenses as set forth on the Estimated Closing Statement.

(h) Buyer shall have delivered to holders of outstanding Indebtedness, if any, by wire transfer of immediately available funds that amount of money due and owing from Company to such holder of outstanding Indebtedness as set forth on the Estimated Closing Statement.

(i) Seller shall have received a certificate, dated the Closing Date and signed by a duly authorized officer of Buyer, that each of the conditions set forth in Section 7.02 has been satisfied.

(j) Seller shall have received a certificate of the Secretary or an Assistant Secretary (or equivalent officer) of Buyer certifying that attached are true and complete copies of all resolutions adopted by the board of directors of Buyer authorizing the execution, delivery and performance of this Agreement and the consummation of the Transactions, and that all such resolutions are in full force and effect and are all the resolutions adopted in connection with the Transactions.

(k) Seller shall have received a certificate of the Secretary or an Assistant Secretary (or equivalent officer) of Buyer certifying the names and signatures of the officers of Buyer authorized to sign this Agreement and the other documents to be delivered.

### **ARTICLE VIII INDEMNIFICATION**

**Section 8.01 Survival.** Subject to the limitations and other provisions of this Agreement, the representations and warranties (other than any representations or warranties contained in Section 3.20 which are subject to Article VI) shall survive the Closing and shall remain in full force and effect until the date that is 18 months after the Closing Date; provided, that the representations and warranties in (a) Section 3.01, Section 3.03, Section 3.18, Section 3.20, Section 3.22, Section 4.01 and Section 4.04 shall survive for the applicable statute of limitations and (b) Section 3.17 shall survive for a period of five years after the Closing. All covenants and agreements of the parties (other than any covenants or agreements contained in Article VI which are subject to Article VI) shall survive the Closing for the applicable statute of limitations or, if shorter, for the period explicitly specified. Notwithstanding the foregoing, any claims asserted in good faith with reasonable specificity (to the extent known at such time) and in writing by notice from the non-breaching party to the breaching party prior to the expiration date of the applicable survival period shall not thereafter be barred by the expiration of the relevant representation or warranty and such claims shall survive until finally resolved.

**Section 8.02 Indemnification By Seller.** Subject to the other terms and conditions of this Article VIII, Seller shall indemnify and defend each of Buyer and its Affiliates (including Company) and their respective Representatives (collectively, the "**Buyer Indemnitees**") against, and shall hold each of them harmless from and against, and shall pay and reimburse each of them for, any and all Losses incurred or sustained by, or imposed upon, the Buyer Indemnitees based upon, arising out of, with respect to or by reason of:

(a) any breach of any of the representations or warranties of Seller contained in Article III;

(b) any breach of any covenant, agreement or obligation to be performed by Seller pursuant to this Agreement;

(c) any Taxes: (i) imposed on, or with respect to, the Company for any Pre-Closing Tax Period; (ii) of any consolidated, combined, unitary, or other group of companies for Tax purposes (or any member thereof) of which the Company (or any predecessor) is or was a member on or prior to the Closing Date by reason of Treasury Regulation Section 1.1502-6(a) (or any comparable provision of state, local or foreign income Tax Law); or (iii) of any other

Person for which the Company is liable as a transferee or successor, by operation of Law, by Contract, or otherwise relating to a transaction or an event occurring before the Closing Date; or

(d) any Transaction Expenses or Indebtedness of Company to the extent not taken into account in the determination of the Purchase Price pursuant to Section 2.04(d).

**Section 8.03 Indemnification By Buyer.** Subject to the other terms and conditions of this Article VIII, Buyer shall indemnify and defend each of Seller and its Affiliates and their respective Representatives (collectively, the "**Seller Indemnitees**") against, and shall hold each of them harmless from and against, and shall pay and reimburse each of them for, any and all Losses incurred or sustained by, or imposed upon, the Seller Indemnitees based upon, arising out of, with respect to or by reason of:

(a) any breach of any of the representations or warranties of Buyer contained in Article IV; or

(b) any breach of any covenant, agreement or obligation to be performed by Buyer pursuant to this Agreement.

**Section 8.04 Certain Limitations.** The indemnification provided in Section 8.02 and Section 8.03 shall be subject to the following limitations:

(a) Seller shall not be liable for indemnification under Section 8.02(a) until the aggregate amount of all Losses in respect of indemnification under Section 8.02(a) exceeds \$100,000 (the "**Basket**"), in which event Seller shall be required to pay or be liable for all such Losses in excess of \$50,000.

(b) Buyer shall not be liable for indemnification under Section 8.03(a) until the aggregate amount of all Losses in respect of indemnification under Section 8.03(a) exceeds the Basket, in which event Buyer shall be required to pay or be liable for all such Losses in excess of \$50,000.

(c) The maximum aggregate liability of Seller for indemnification under Section 8.02(a) will not exceed \$780,000.

(d) Buyer Indemnitees will take commercially reasonable steps to mitigate all Losses after becoming aware of any event which would reasonably be expected to give rise thereto.

(e) The amount of Losses will be determined: [a] net of any amounts recovered by any Buyer Indemnitee under or pursuant to any insurance policy, indemnity, reimbursement arrangement or contract pursuant to which or under which such Buyer Indemnitee is a party or has rights and [b] without duplication of recovery by reason of the state of facts giving rise to such liability constituting a breach of more than one representation, warranty, covenant or agreement.

(f) For purposes of this Article VIII, the amount of Losses with respect to any breach of any representation or warranty shall be determined without regard to any materiality,

Material Adverse Effect or other similar qualification contained in or otherwise applicable to such representation or warranty.

**Section 8.05 Indemnification Procedures.** The party making a claim under this Article VIII is referred to as the "**Indemnified Party**", and the party against whom such claims are asserted under this Article VIII is referred to as the "**Indemnifying Party**".

(a) **Third Party Claims.** If any Indemnified Party receives notice of the assertion or commencement of any Action made or brought by any Person who is not a party to this Agreement or an Affiliate of a party to this Agreement or a Representative of the foregoing (a "**Third Party Claim**") against such Indemnified Party with respect to which the Indemnifying Party is obligated to provide indemnification under this Agreement, the Indemnified Party shall give the Indemnifying Party reasonably prompt written notice, but in any event not later than five calendar days after receipt of such notice of such Third Party Claim. The failure to give such prompt written notice shall not, however, relieve the Indemnifying Party of its indemnification obligations, except and only to the extent that the Indemnifying Party forfeits rights or defenses by reason of such failure. Such notice by the Indemnified Party shall describe the Third Party Claim in reasonable detail, shall include copies of all material written evidence and shall indicate the estimated amount, if reasonably practicable, of the Loss that has been or may be sustained by the Indemnified Party. The Indemnifying Party shall have the right to participate in, or by giving written notice to the Indemnified Party, to assume the defense of any Third Party Claim at the Indemnifying Party's expense and by the Indemnifying Party's own counsel, and the Indemnified Party shall cooperate in good faith in such defense; provided, that if the Indemnifying Party is Seller, such Indemnifying Party shall not have the right to defend or direct the defense of any such Third Party Claim that seeks an injunction or other equitable relief against the Indemnified Party. In the event that the Indemnifying Party assumes the defense of any Third Party Claim, subject to Section 8.05(b), it shall have the right to take such action as it deems necessary to avoid, dispute, defend, appeal or make counterclaims pertaining to any such Third Party Claim in the name and on behalf of the Indemnified Party. The Indemnified Party shall have the right to participate in the defense of any Third Party Claim with counsel selected by it subject to the Indemnifying Party's right to control the defense. The fees and disbursements of such counsel shall be at the expense of the Indemnified Party, provided, that if in the reasonable opinion of counsel to the Indemnified Party, (A) there are legal defenses available to an Indemnified Party that are different from or additional to those available to the Indemnifying Party; or (B) there exists a conflict of interest between the Indemnifying Party and the Indemnified Party that cannot be waived, the Indemnifying Party shall be liable for the reasonable fees and expenses of counsel to the Indemnified Party in each jurisdiction for which the Indemnified Party determines counsel is required. If the Indemnifying Party elects not to compromise or defend such Third Party Claim, fails to promptly notify the Indemnified Party in writing of its election to defend as provided in this Agreement, or fails to diligently prosecute the defense of such Third Party Claim, the Indemnified Party may, subject to Section 8.05(b), pay, compromise, defend such Third Party Claim and seek indemnification for any and all Losses based upon, arising from or relating to such Third Party Claim. Seller and Buyer shall cooperate with each other in all reasonable respects in connection with the defense of any Third Party Claim, including making available (subject to the provisions of Section 5.06) records relating to such Third Party Claim and furnishing, without expense (other than reimbursement of actual out-of-pocket expenses) to

the defending party, management employees of the non-defending party as may be reasonably necessary for the preparation of the defense of such Third Party Claim.

(b) Settlement of Third Party Claims. Notwithstanding any other provision of this Agreement, the Indemnifying Party shall not enter into settlement of any Third Party Claim without the prior written consent of the Indemnified Party, except as provided in this Section 8.05(b). If a firm offer is made to settle a Third Party Claim that provides, in customary form, for the unconditional release of each Indemnified Party from all liabilities and obligations in connection with such Third Party Claim and the Indemnifying Party desires to accept and agree to such offer, the Indemnifying Party shall give written notice to that effect to the Indemnified Party. If the Indemnified Party fails to consent to such firm offer within five days after its receipt of such notice, the Indemnified Party may continue to contest or defend such Third Party Claim and in such event, the maximum liability of the Indemnifying Party as to such Third Party Claim shall not exceed the amount of such settlement offer. If the Indemnified Party fails to consent to such firm offer and also fails to assume defense of such Third Party Claim, the maximum liability of the Indemnifying Party as to such Third Party Claim shall not exceed the amount of such settlement offer. If the Indemnified Party has assumed the defense pursuant to Section 8.05(a), it shall not agree to any settlement without the written consent of the Indemnifying Party (which consent shall not be unreasonably withheld or delayed).

(c) Direct Claims. Any Action by an Indemnified Party on account of a Loss which does not result from a Third Party Claim (a "**Direct Claim**") shall be asserted by the Indemnified Party giving the Indemnifying Party reasonably prompt written notice, but in any event not later than 30 days after the Indemnified Party becomes aware of such Direct Claim. The failure to give such prompt written notice shall not, however, relieve the Indemnifying Party of its indemnification obligations, except and only to the extent that the Indemnifying Party forfeits rights or defenses by reason of such failure. Such notice by the Indemnified Party shall describe the Direct Claim in reasonable detail, shall include copies of all material written evidence and shall indicate the estimated amount, if reasonably practicable, of the Loss that has been or may be sustained by the Indemnified Party. The Indemnifying Party shall have 30 days after its receipt of such notice to respond in writing to such Direct Claim. The Indemnified Party shall allow the Indemnifying Party and its professional advisors to investigate the matter or circumstance alleged to give rise to the Direct Claim, and whether and to what extent any amount is payable in respect of the Direct Claim and the Indemnified Party shall assist the Indemnifying Party's investigation by giving such information and assistance (including access to Company's premises and personnel and the right to examine and copy any accounts, documents or records) as the Indemnifying Party or any of its professional advisors may reasonably request. If the Indemnifying Party does not so respond within such 30 day period, the Indemnifying Party shall be deemed to have rejected such claim, in which case the Indemnified Party shall be free to pursue such remedies as may be available to the Indemnified Party on the terms and subject to the provisions of this Agreement.

(d) Tax Claims. Notwithstanding any other provision of this Agreement, the control of any claim, assertion, event or proceeding in respect of Taxes of Company (including, but not limited to, any such claim in respect of a breach of the representations and warranties in Section 3.20 or any breach or violation of or failure to fully perform any covenant, agreement, undertaking or obligation in Article VI) shall be governed exclusively by Article VI.

**Section 8.06 Payments.** Once a Loss is agreed to by the Indemnifying Party or finally adjudicated to be payable pursuant to this Article VIII, the Indemnifying Party shall satisfy its obligations within 15 Business Days of such final, non-appealable adjudication by wire transfer of immediately available funds. The parties agree that should an Indemnifying Party not make full payment of any such obligations within such 15 Business Day period, any amount payable shall accrue interest from and including the date of agreement of the Indemnifying Party or final, non-appealable adjudication to and including the date such payment has been made at a rate per annum equal to the Prime Rate plus two percent. Such interest shall be calculated daily on the basis of a 365 day year and the actual number of days elapsed without compounding.

**Section 8.07 Tax Treatment of Indemnification Payments.** All indemnification payments made under this Agreement shall be treated by the parties as an adjustment to the Purchase Price for Tax purposes, unless otherwise required by Law.

**Section 8.08 Exclusive Remedies.** Subject to Section 2.04(c) and Section 5.07, the parties acknowledge and agree that their sole and exclusive remedy with respect to any and all claims (other than claims arising from a party's intentional or willful misrepresentation of material facts regarding the representations and warranties made by such party in Article III or Article IV constituting common law fraud) for any breach of any representation, warranty, covenant, agreement or obligation or otherwise relating to the subject matter of this Agreement or the Transactions, shall be pursuant to the indemnification provisions set forth in Article VI and this Article VIII. In furtherance of the foregoing, each party waives, to the fullest extent permitted under Law, any and all rights, claims and causes of action for any breach of any representation, warranty, covenant, agreement or obligation or otherwise relating to the subject matter of this Agreement or the Transactions it may have against the other parties and their Affiliates and each of their respective Representatives arising under or based upon any Law, except pursuant to the indemnification provisions set forth in Article VI and this Article VIII. Nothing in this Section 8.08 shall limit any Person's right to seek and obtain any equitable relief to which any Person shall be entitled or to seek any remedy on account of any party's intentional or willful misrepresentation of material facts regarding the representations and warranties made by such party in Article III or Article IV constituting common law fraud.

## **ARTICLE IX TERMINATION**

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

- (a) by the mutual written consent of Seller and Buyer;
- (b) by Buyer by written notice to Seller if any of the conditions set forth in Section 7.01 shall not have been, or if it becomes apparent that any of such conditions will not be, fulfilled by August 15, 2019, unless such failure shall be due to the failure of Buyer to perform or comply with any of the covenants, agreements or conditions to be performed or complied with by it prior to the Closing; or

(c) by Seller by written notice to Buyer if any of the conditions set forth in Section 7.02 shall not have been, or if it becomes apparent that any of such conditions will not be, fulfilled by August 15, 2019, unless such failure shall be due to the failure of Seller to perform or comply with any of the covenants, agreements or conditions to be performed or complied with by it prior to the Closing.

**Section 9.02 Effect of Termination.** In the event of the termination of this Agreement in accordance with Section 9.01, this Agreement shall forthwith become void and there shall be no liability on the part of any party except:

- (a) as set forth in this Article IX, Section 5.06(a) and Article X; and
- (b) that nothing in this Agreement shall relieve any party from liability for any willful breach of any provision.

## ARTICLE X MISCELLANEOUS

**Section 10.01 Expenses.** Except as otherwise expressly provided in this Agreement, all costs and expenses, including, without limitation, fees and disbursements of counsel, financial advisors and accountants, incurred in connection with this Agreement and the Transactions shall be paid by the party incurring such costs and expenses, whether or not the Closing shall have occurred.

**Section 10.02 Notices.** All notices, requests, consents, claims, demands, waivers and other communications shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile or e-mail of a PDF document (with confirmation of transmission) if sent no later than 5:00 p.m. Central Time on a Business Day, and on the next Business Day if sent after such time or if sent on a non-Business Day; or (d) on the third day after the date mailed, by certified mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 10.02):

If to Seller:	18000 W. Sarah Lane, Suite 310 Brookfield, WI 53045
	Facsimile: 262-432-0396
	E-mail: <a href="mailto:wfelsing@trilogycare.com">wfelsing@trilogycare.com</a>
	Attention: William D. Felsing, CEO
	with copy to: Reinhart Boerner Van Deuren s.c. 1000 N. Water St., Suite 1700 Milwaukee, WI 53202



Attn: Larri J. Broomfield  
Email: lbroomfield@reinhartlaw.com

If to Buyer: 10201 W. Innovation Drive, Suite 100  
Wauwatosa, WI 53226

Facsimile: 414-287-7704

E-mail: Maria.Ledger@mychoicefamilycare.org

Attention: Maria Ledger, CEO

with copy to Kevin Collins, General Counsel  
Kevin.Collins@mychoicefamilycare.org

**Section 10.03 Interpretation.** For purposes of this Agreement, the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation." Unless the context otherwise requires, references: (x) to Articles, Sections, Disclosure Schedules mean the Articles and Sections of, and Disclosure Schedules attached to, this Agreement. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The Disclosure Schedules referenced shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim in this Agreement. Any matter disclosed on any section of the Disclosure Schedule will be deemed disclosed on each other section of the Disclosure Schedule to the extent that the relevance of such disclosure is reasonably apparent. The inclusion of information in the Disclosure Schedule will not be construed as or constitute an admission or agreement that a violation, right of termination, default, liability or other obligation of any kind exists with respect to any item, nor will it be construed as or constitute an admission or agreement that such information is material to the Company or Seller. In addition, matters reflected in the Disclosure Schedule are not necessarily limited to matters required by this Agreement to be reflected in the Disclosure Schedule. Such additional matters are set forth for informational purposes and do not necessarily include other matters of a similar nature. Neither the specifications of any dollar amount in any representation, warranty or covenant contained in this Agreement nor the inclusion of any specific item in the Disclosure Schedule is intended to imply that such amount, or higher or lower amounts, or the item so included or other items, are or are not material, and no party will use the fact of the setting forth of any such amount or the inclusion of any such item in any dispute or controversy between the parties as to whether any obligation, item or matter not described herein or included in the Disclosure Schedule is or is not material for purposes of this Agreement or otherwise. Further, neither the specification of any item or matter in any representation, warranty or covenant contained in this Agreement nor the inclusion of any specific item in the Disclosure Schedule is intended to imply that such item or matter, or other items or matters, are or are not in the ordinary course of business, and no party will use the fact of setting forth or the inclusion of any such items or matter in any dispute or controversy involving any of the parties hereto as to whether any obligation, item or matter not described herein or included in the Disclosure Schedule is or is not in the ordinary course of business for purposes of this Agreement.

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

**Section 10.05 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. Except as provided in Section 5.07(d), 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 be consummated as originally contemplated to the greatest extent possible.

**Section 10.06 Entire Agreement.** This Agreement constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained in this Agreement, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter.

**Section 10.07 Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and permitted assigns. Neither party may assign its rights or obligations without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed; provided, however, that prior to the Closing Date, Buyer may, without the prior written consent of Seller, assign all or any portion of its rights under this Agreement to one or more of its direct or indirect wholly-owned subsidiaries. No assignment shall relieve the assigning party of any of its obligations hereunder.

**Section 10.08 No Third-party Beneficiaries.** Except as provided in Article VIII and Section 10.13, this Agreement is for the sole benefit of the parties and their respective successors and permitted assigns and nothing in this Agreement, express or implied, is intended to or shall confer upon any other Person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

**Section 10.09 Amendment and Modification; Waiver.** 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 in this Agreement shall be effective unless explicitly set forth in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. 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; nor shall any single or partial exercise of any right, remedy, power or privilege preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

**Section 10.10 Governing Law, Etc..**

(a) This Agreement shall be governed by and construed in accordance with the internal laws of the State of Wisconsin without giving effect to any choice or conflict of law provision or rule (whether of the State of Wisconsin or any other jurisdiction).

(b) ANY LEGAL SUIT, ACTION OR PROCEEDING ARISING OUT OF OR BASED UPON THIS AGREEMENT OR THE TRANSACTIONS MAY BE INSTITUTED IN THE FEDERAL COURTS OF THE UNITED STATES OF AMERICA OR THE COURTS OF THE STATE OF WISCONSIN IN EACH CASE LOCATED IN THE CITY OF MILWAUKEE AND COUNTY OF MILWAUKEE, AND EACH PARTY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF SUCH COURTS IN ANY SUCH SUIT, ACTION OR PROCEEDING. SERVICE OF PROCESS, SUMMONS, NOTICE OR OTHER DOCUMENT BY CERTIFIED MAIL (RETURN RECEIPT REQUESTED, POSTAGE PREPAID) TO SUCH PARTY'S ADDRESS SET FORTH IN Section 10.02 SHALL BE EFFECTIVE SERVICE OF PROCESS FOR ANY SUIT, ACTION OR OTHER PROCEEDING BROUGHT IN ANY SUCH COURT. THE PARTIES IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY OBJECTION TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR ANY PROCEEDING IN SUCH COURTS AND IRREVOCABLY WAIVE AND AGREE NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

(c) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS. EACH PARTY TO THIS AGREEMENT CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) SUCH PARTY HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION Section 10.10(c).

**Section 10.11 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 agreement. 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.

**Section 10.12 Attorney-Client Privilege.** Neither Company nor Seller (each, a "Disclosing Party") is waiving, and nor will be deemed to have waived or diminished, any of its attorney work product protections, attorney client privileges, or similar protections and privileges as a result of disclosing its confidential information (including confidential information related to pending or threatened litigation), regardless of whether Buyer has asserted, or is or may be entitled to assert, such privileges and protections. The parties: (a) share a common legal and commercial interest in all of the Disclosing Party's confidential information that is subject to such privileges and protections, (b) are or may become joint defendants in Actions to which the Disclosing Party's confidential information covered by such protections and privileges relates, (c) intend that such

privileges and protections remain intact should either party become subject to any actual or threatened Action to which the Disclosing Party's confidential information covered by such protections and privileges relates. Buyer will not admit, claim or contend, in Actions involving either party or otherwise, that any Disclosing Party waived any of its attorney work product protections, attorney client privileges, or similar protections and privileges with respect to any information, documents or other material due to the Disclosing Party disclosing its confidential information (including confidential information related to pending or threatened litigation) to Buyer.

**Section 10.13 Representation.** It is acknowledged by each of the parties hereto that the Company and Seller (until and after the Closing) have retained Reinhart Boerner Van Deuren s.c. (the "**Legal Counsel**") to act as their counsel in connection with the Transactions and that the Legal Counsel has not acted as counsel for any other Person in connection with the Transactions and that no other party to this Agreement or any other Person has the status of a client of the Legal Counsel for conflict of interest or any other purposes as a result thereof. Buyer hereby agrees that, in the event that a dispute arises between Buyer or any of its Affiliates and Seller or any of its Affiliates, the Legal Counsel may represent Seller or any such Affiliate in such dispute even though the interests of Seller or such Affiliate may be directly adverse to Buyer or any of its Affiliates, and even though the Legal Counsel may have represented the Company in any other matter substantially related to such dispute, and Buyer hereby agrees: (a) to waive, on behalf of itself and each of its Affiliates, any claim that any of them have or may have that any of the Legal Counsel has a conflict of interest in connection with or is otherwise prohibited from engaging in such representation; (b) that, in the event that a dispute arises after the Closing between Buyer or any of its Affiliates (including after the Closing, the Company) on the one hand, and Seller on the other hand, the Legal Counsel may represent Seller in such dispute even though the interest of any such party may be directly adverse to Buyer or any of its Affiliates (including after the Closing, the Company), and even though the Legal Counsel may have represented Seller or the Company in a matter substantially related to such dispute or may be handling ongoing matters for the Company; (c) that as to all communications between the Legal Counsel and Seller that relate in any way to the Transactions or this Agreement, the attorney-client privilege, the expectation of client confidence and all other rights to any evidentiary privilege belong to Seller and may be controlled by Seller and will not pass to or be claimed by Buyer or the Company; and (d) as to all communications between the Legal Counsel and the Company, or among the Legal Counsel, the Company or Seller prior to the Closing that relate in any way to the Transactions or the Transaction Documents, the attorney-client privilege, the expectation of client confidence and all other rights to evidentiary privilege belong to Seller and may be controlled by Seller and will not pass to or be claimed by Buyer, any of its Affiliates or the Company. The parties hereto further agree that the Legal Counsel and their respective partners and employees are third party beneficiaries of this Section 10.13.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have caused this Stock Purchase Agreement to be executed as of the date first written above by their respective officers duly authorized.

TRILOGY HEALTH HOLDINGS, LLC

By William D. Felsing

Name: William D. Felsing

Title: Manager

MY CHOICE FAMILY CARE, INC.

By Maria Ledger

Name: Maria Ledger

Title: CEO