UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE PLATINUM-BEECHWOOD LITIGATION	:	18-cv-06658 (JSR)
MELANIE L. CYGANOWSKI, Plaintiff, -v- BEECHWOOD RE LTD., et al., Defendants.	:	18-cv-12018 (JSR)

DECLARATION OF IRA S. LIPSIUS IN SUPPORT OF BEECHWOOD RE'S RESPONSE TO CNO'S MOTION TO ENFORCE STATE SECURITY STATUTES

I, Ira S. Lipsius, declare and state as follows:

1. I am an attorney licensed to practice before all the courts of the State of New York. I am a Partner at the law firm of Lipsius BenHaim Law LLP, counsel of record for Defendant Beechwood Re (in Official Liquidation) s/h/a Beechwood Re Ltd. Unless otherwise indicated, I have personal knowledge of the matters stated below and could and would competently testify thereto if called upon to do so.

2. I make this Declaration in support of Beechwood Re's Response to CNO's Motion to Enforce State Security Statutes.

3. Attached hereto as **Exhibit 1** is a true and correct copy of the: (1) New York Indemnity Reinsurance Agreement by and between Bankers Conseco Life Insurance Company and Beechwood Re Ltd; and (2) Indemnity Reinsurance Agreement by and between Washington National Insurance Company and Beechwood Re Ltd.

4. A true and correct copy of the "Notice of Termination of Reinsurance Agreements" letter dated September 29, 2016 is attached hereto as **Exhibit 2.**

5. A true and correct copy of the demonstrative chart entitled "Assets and Liabilities as of September 30, 2016" is attached hereto as **Exhibit 3.**

6. A true and correct copy of the CNO Press Release dated September 29, 2016 is attached hereto as **Exhibit 4.**

7. A true and correct copy of "Claimants' Demand for Arbitration, Statement of Claim, and Request for Emergency Relief," which was filed in the arbitration captioned *Bankers Conseco Life Insurance Company v. Beechwood Re Limited*, AAA Case No. 01-16-0004-02510, on September 29, 2016, is attached hereto as **Exhibit 5.**

8. A true and correct copy of "Claimants' Amended Demand for Arbitration and Statement of Claim," which was filed in the arbitration captioned *Bankers Conseco Life Insurance Company v. Beechwood Re Limited*, AAA Case No. 01-16-0004-02510, on July 6, 2018, is attached hereto as **Exhibit 6.**

9. A true and correct copy of "Beechwood's Amended Counterclaim," which was filed in the arbitration captioned *Bankers Conseco Life Insurance Company v. Beechwood Re Limited*, AAA Case No. 01-16-0004-02510, on April 9, 2018, is attached hereto as **Exhibit 7.**

10. A true and correct copy of "Claimants' Brief in Support of their Motion for Interim Security," which was filed in the arbitration captioned *Bankers Conseco Life Insurance Company v. Beechwood Re Limited*, AAA Case No. 01-16-0004-02510, on July 28, 2017, is attached hereto as **Exhibit 8.**

11. A true and correct copy of "Beechwood's Response to CNO's Motion for Interim Security," which was filed in the arbitration captioned *Bankers Conseco Life Insurance Company*

v. Beechwood Re Limited, AAA Case No. 01-16-0004-02510, on August 11, 2017, is attached hereto as **Exhibit 9.**

12. A true and correct copy of the "Claimants' Reply Brief in Further Support of their Motion for Interim Security," which was filed in the arbitration captioned *Bankers Conseco Life Insurance Company v. Beechwood Re Limited*, AAA Case No. 01-16-0004-02510, on August 15, 2017, is attached hereto as **Exhibit 10.**

13. A true and correct copy of the "Third Order Regarding Claimants' Motion for Interim Security," which was entered in the arbitration captioned *Bankers Conseco Life Insurance Company v. Beechwood Re Limited*, AAA Case No. 01-16-0004-02510, on October 23, 2017, is attached hereto as **Exhibit 11.**

14. A true and correct copy of the "Order Regarding Interim Security," which was entered in the arbitration captioned *Bankers Conseco Life Insurance Company v. Beechwood Re Limited*, AAA Case No. 01-16-0004-02510, on August 22, 2017, is attached hereto as **Exhibit 12.**

15. A true and correct copy of the "Order Regarding Interim Security," which was entered in the arbitration captioned *Bankers Conseco Life Insurance Company v. Beechwood Re Limited*, AAA Case No. 01-16-0004-02510, on September 14, 2017, is attached hereto as **Exhibit 13.**

16. A true and correct copy of the email entitled "CNO v. Beechwood – Order Regarding the Form of Interim Security," which is dated November 14, 2017, is attached hereto as **Exhibit 14.**

17. A true and correct copy of the email entitled "CNO v. Beechwood: Confirmation of $5 Million in Trust Account," which is dated March 2, 2018, is attached hereto as **Exhibit 15.**

18. A true and correct copy of a chart showing CNO's allegations for breach of contract in its Demand for Arbitration (9.29.16), Amended Demand for Arbitration (7.6.18) and Cross-Claim (ECF No. 204) is attached hereto as **Exhibit 16.**

19. A true and correct copy of the email entitled "Cyganowski v. Beechwood Re Ltd, et al.: Claimants' cross-claims and third-party claims," which is dated March 27, 2019, is attached hereto as **Exhibit 17.**

20. A true and correct copy of the American Arbitration Association's "Commercial Arbitration Rules and Mediation Procedures" is attached hereto as **Exhibit 18.**

21. A true and correct copy of the "Declaration of Ben Keslowitz," which was filed in the arbitration captioned *Bankers Conseco Life Insurance Company v. Beechwood Re Limited*, AAA Case No. 01-16-0004-02510, is attached hereto as **Exhibit 19.**

22. A true and correct copy of the "Declaration of Dhruv Narain," which was filed in the arbitration captioned *Bankers Conseco Life Insurance Company v. Beechwood Re Limited*, AAA Case No. 01-16-0004-02510, is attached hereto as **Exhibit 20.**

Dated: June 26, 2019
New York, New York

___/s/ Ira S. Lipsius_____

LIPSIUS BENHAIM LAW LLP
Ira S. Lipsius
80-02 Kew Gardens Rd, Suite 1030
Kew Gardens, New York 11415
Tel: (212) 981-8440

Exhibit 1

[Execution Version]

NEW YORK INDEMNITY REINSURANCE AGREEMENT

BY AND BETWEEN

BANKERS CONSECO LIFE INSURANCE COMPANY

AND

BEECHWOOD RE LTD

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NEW YORK INDEMNITY REINSURANCE AGREEMENT

THIS NEW YORK INDEMNITY REINSURANCE AGREEMENT (this "New York Reinsurance Agreement") is effective as of the Effective Time by and between Bankers Conseco Life Insurance Company ("New York Ceding Company") and Beechwood Re Ltd ("Reinsurer"). New York Ceding Company and Reinsurer are sometimes hereinafter referred to individually as a "Party" and together as the "Parties."

RECITALS

A. Reinsurer is a stock life reinsurance company licensed and domiciled in the Cayman Islands.

B. New York Ceding Company is a stock life insurance company licensed and domiciled in the State of New York.

C. Washington National Insurance Company, a stock life insurance company domiciled in the State of Indiana and an Affiliate (defined below) of New York Ceding Company ("WNIC"), has entered into the WNIC Indemnity Reinsurance Agreement (defined below) pursuant to which WNIC has agreed to cede to Reinsurer, on a coinsurance basis, one hundred percent (100%) of WNIC's liability arising under the Insurance Policies (as defined in the WNIC Indemnity Reinsurance Agreement).

D. New York Ceding Company, pursuant to this New York Reinsurance Agreement, desires to cede to Reinsurer, on a coinsurance basis, one hundred percent (100%) of New York Ceding Company's liability arising under the New York Insurance Policies (defined below), and Reinsurer is willing to accept such liability from New York Ceding Company.

E. The Parties desire to set forth their rights and obligations in relation to this transfer of liability by New York Ceding Company to Reinsurer.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual benefits to be received by the Parties and the mutual covenants and agreements contained herein, the Parties agree as follows:

Article I
Definitions

As used in this New York Reinsurance Agreement, the following terms shall have the meanings set forth herein:

"Affiliate" means, with respect to any Person, any other Person directly or indirectly controlling or controlled by, or under direct or indirect common control with, such Person. For purposes of this definition, a Person shall be deemed to control another Person if it owns or controls more than ten percent (10%) of the voting equity of the other Person (or other comparable ownership if the Person is not a corporation).

"Applicable Law" means any applicable federal, state or local law (in each case, statutory, common or otherwise), constitution, treaty, convention, ordinance, code, rule, statute, regulation, judgment, order, administrative interpretation or other similar requirement enacted, issued, adopted, promulgated, entered into or applied by a Governmental Entity.

"Business Day" means any day on which banks are not required or authorized to close in the City of New York.

"Ceded Percentage" means one hundred percent (100%).

"Closing" shall have the meaning ascribed to it in Section 5.4.

"Closing Date" shall mean either (i) the date that is at least two Business Days after the satisfaction or waiver (subject to Applicable Law) of the conditions set forth in Section 5.4, or (ii) such date as the Parties otherwise mutually agree.

"Effective Time" shall mean either (i) October 1, 2013 if the Parties receive regulatory approval of this New York Reinsurance Agreement by the New York Department of Financial Services pursuant to Section 5.1 by December 31, 2013 or (ii) such date as the Parties otherwise mutually agree.

"Fair market value" or "market value" means the price for which an asset would be sold in a transaction on the open market between an unrelated buyer and seller, with neither under any obligation to do so.

"GAAP" means generally accepted accounting principles in the United States.

"Governmental Entity" means any national, state, municipal or local government, any instrumentality, subdivision, court, arbitrator or arbitrator panel, regulatory or administrative agency or commission, or other authority thereof, or any regulatory or quasi-regulatory organization or private body exercising any regulatory, taxing, importing or other governmental or quasi-governmental authority.

"Investment Guidelines" means the investment guidelines set forth in Exhibit C.

"IRS" means the United States Department of the Treasury Internal Revenue Service.

"New York Ceding Company" shall have the meaning ascribed to it in the Preamble.

"New York Extra Contractual Liabilities" means all liabilities or obligations, other than those arising under the express terms of the New York Insurance Policies, for (i) fines, penalties, forfeitures, compensatory, consequential, exemplary, punitive, statutory or similar extra contractual damages that relate to or arise in connection with any alleged or actual act, error or omission in connection with the New York Insurance Policies or the New York Insurance Liabilities, whether or not intentional, negligent, in bad faith or otherwise, including, without limitation, any such alleged or actual act, error or omission relating to or arising out of

(a) the marketing, underwriting, sales, production, issuance, cancellation or administration of the New York Insurance Policies, (b) the investigation, defense, trial, settlement or handling of any claims, benefits or payments under the New York Insurance Policies, (c) the failure to pay or the delay in payment, or error in calculating or administering the payment, of benefits, claims or any other amounts due or alleged to be due under or in connection with the New York Insurance Policies; or (d) any advice concerning tax matters; or (ii) for taxes owed by New York Ceding Company on account of New York Ceding Company's transfer of the New York Insurance Liabilities. However, New York Extra Contractual Liabilities shall not include liabilities or obligations incurred due to the fraud of a member of the Board of Directors or a corporate officer of New York Ceding Company acting individually or collectively or in collusion with any individual or corporation or any other organization or party.

"New York Insurance Liabilities" means all liabilities and obligations arising out of or relating to the New York Insurance Policies, including, without limitation: (i) liabilities and obligations for incurred claims or losses, incurred but not reported claims, benefits or other payments arising under or relating to the New York Insurance Policies, whether (A) included or not included within the statutory reserves or (B) incurred before, on or after the Effective Time and any attorneys' fees related to such claims or other payments; (ii) loss adjustment expenses and expense reimbursement amounts arising out of the New York Insurance Policies; (iii) liabilities and obligations arising out of any changes to the terms and conditions of the New York Insurance Policies mandated by Applicable Law (including, without limitation, by a court of competent jurisdiction), whether incurred before, on or after the Effective Time; (iv) premium taxes due in respect of premiums paid on or after the Effective Time with respect to the New York Insurance Policies; (v) assessments and similar charges based on policies in force on or after the Effective Time with respect to the New York Insurance Policies in connection with the involuntary or voluntary participation by New York Ceding Company in any guaranty association or risk pool established or governed by any state or other jurisdiction; (vi) commissions due with respect to the New York Insurance Policies to the extent that such commissions are based on premiums paid on or after the Effective Time; (vii) liabilities and obligations for amounts payable on or after the Effective Time for returns or refunds of premiums with respect to the New York Insurance Policies; (viii) liabilities and obligations directly or indirectly arising out of or relating to any actual or alleged action or inaction of Reinsurer or any of its Affiliates, subcontractors or delegees in respect of the New York Insurance Policies on or after the Effective Time; (ix) unclaimed property liabilities and obligations arising under or relating to the New York Insurance Policies and payable on or after the Effective Time; (x) New York Extra Contractual Liabilities arising on or after the Effective Time; (xi) New York Extra Contractual Liabilities arising, as a result of the action or inaction of SHIP or its subcontractors or delegees, whether before, on or after the Effective Time; (xii) attorneys' fees in respect of litigation relating to the New York Insurance Policies threatened on the Effective Time; and (xiii) any and all out-of-pocket costs reasonably incurred or accrued directly or indirectly to third parties by New York Ceding Company on or after the Effective Time allocable to the New York Insurance Policies. For the avoidance of doubt, the New York Insurance Liabilities shall not include liabilities and obligations, including but not limited to costs, attorneys' fees, settlements or judgments, in respect of litigation, arbitration, mediation or any similar proceeding relating to the New York Insurance Policies that is ongoing as of the Effective Time.

"New York Insurance Policies" shall have the meaning ascribed to it Section 2.1.

"New York Reinsurance Agreement" shall have the meaning ascribed to it in the Preamble.

"New York SHIP ASA" means that certain Administrative Services Agreement by and between New York Ceding Company and SHIP, dated as of November 12, 2008, as amended.

"New York Supplemental Trust Agreement" means the New York Supplemental Trust Agreement in the form set forth in Exhibit D.

"New York Transition Services Agreement" means the transition services agreement by and between New York Ceding Company and Reinsurer in the form attached hereto as Exhibit E.

"New York Trust Agreement" means the New York Regulation 114 Trust Agreement in the form set forth in Exhibit B.

"Party" or "Parties" shall have the meaning ascribed to it in the Preamble.

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

"Qualifying Trust Assets" shall have the meaning ascribed to it in Section 4.2(c).

"Quarterly Reports" shall have the meaning ascribed to it in Section 4.5.

"Reg 114 Trust Account" shall have the meaning ascribed to it in Section 4.2(a).

"SHIP" means Senior Health Insurance Company of Pennsylvania.

"Supplemental Trust Account" shall have the meaning ascribed to it in Section 4.3(a).

"Special Considerations Letter" means the letter published each year by the New York Department of Financial Services regarding special considerations relating to year-end reserves and other solvency issues.

"Third Party Accountant" means a nationally recognized independent accounting firm which is mutually acceptable to New York Ceding Company and Reinsurer, or, if New York Ceding Company and Reinsurer are unable to agree on such an accounting firm, an independent accounting firm selected by mutual agreement of New York Ceding Company's and Reinsurer's independent auditors.

"Trust Amount" means pursuant to Section 4.1, the book value of the statutory reserves necessary for New York Ceding Company to take full statutory credit for the reinsurance ceded pursuant to this New York Reinsurance Agreement.

"WNIC" shall have the meaning ascribed to it in the Recitals.

"WNIC Indemnity Reinsurance Agreement" means that certain Indemnity Reinsurance Agreement, dated as of [●], 2013, by and between WNIC and Beechwood Re Ltd.

"WNIC Supplemental Trust Account" shall have the meaning ascribed to it in Section 4.3(f).

Article II
Reinsurance of the New York Insurance Policies

Section 2.1 Scope of Reinsurance. This New York Reinsurance Agreement applies to all of the insurance contracts, plans and policies that constitute New York Ceding Company's closed block of long-term care business that were in effect as of or prior to the Effective Time and set forth on Schedule 2.1 (the "New York Insurance Policies").

Section 2.2 Amount of Reinsurance.

(a) New York Ceding Company hereby cedes to Reinsurer, on a coinsurance basis, and Reinsurer hereby accepts and agrees to reinsure, as of the Effective Time, the Ceded Percentage of the New York Insurance Liabilities. Reinsurer shall remain liable as Reinsurer on all liability reinsured under this New York Reinsurance Agreement until the earlier of (i) such time as New York Ceding Company no longer has liability under the New York Insurance Policies or (ii) the date this New York Reinsurance Agreement is terminated. Except as set forth in Section 3.2, the liability of Reinsurer under this New York Reinsurance Agreement shall follow and be identical to the liability of New York Ceding Company in respect of the New York Insurance Liabilities. Notwithstanding anything herein to the contrary, Reinsurer's liability for New York Extra Contractual Liabilities, whether known or unknown, directly or indirectly arising out of or relating to any actual or alleged action or inaction of SHIP or its subcontractors or delegees prior to the Effective Time shall be limited to Fifty Thousand Dollars ($50,000) per occurrence and subject to an aggregate limit of Five Hundred Thousand Dollars ($500,000) for the term of this New York Reinsurance Agreement.

(b) Subject to Section 3.1 and Exhibit A, "Terms of Administrative Services", Reinsurer shall be bound by all payments and settlements entered into by New York Ceding Company and Reinsurer shall pay the Ceded Percentage of all contractual benefits and other liabilities that New York Ceding Company owes in connection with the New York Insurance Liabilities, whether the amount of such benefits and other liabilities is fixed by settlement, judgment, arbitration or otherwise.

Section 2.3 Payments to Reinsurer. In consideration of the reinsurance provided hereunder, New York Ceding Company shall pay to Reinsurer (by depositing into the Reg 114 Trust Account to be established pursuant to Section 4.2), the following:

(a) On the Closing Date, cash and the mutually agreed-upon admitted invested assets set forth on Schedule 2.3(a) having a fair market value equal to the sum of (i) the Ceded Percentage of the statutory reserves that New York Ceding Company was required to maintain on the New York Insurance Policies as of the Effective Time (as shown on Schedule 2.3(a)(i)), together with the additional amount for transaction (also shown on Schedule 2.3(a)(i)), and (ii) the adjustments reflecting cash flows occurring after the Effective Time and prior to the Closing Date (as shown on Schedule 2.3(a)(ii)); and

(b) On and after the Closing Date, the Ceded Percentage of gross premium collected in connection with the New York Insurance Policies subsequent to the Closing Date.

Section 2.4 No Privity. The Parties agree that no rights or legal duties shall arise, by virtue of the reinsurance provided under this New York Reinsurance Agreement, between Reinsurer and any policyholder insured by New York Ceding Company. Reinsurer's liability is to New York Ceding Company as provided under the terms of this New York Reinsurance Agreement.

Article III
Policy Administration and Related Matters

Section 3.1 Administration.

(a) In consideration for the payments by New York Ceding Company to Reinsurer pursuant to Section 2.3, the Parties agree that, on and after the Closing Date, Reinsurer shall be responsible for (including all costs and expenses) and shall subcontract or delegate the administration of the New York Insurance Policies to SHIP (or a licensed Affiliate thereof). Subject to the prior written consent of New York Ceding Company, such consent not to be unreasonably delayed or withheld, Reinsurer may at any time replace SHIP with another licensed and qualified third party administrator with prior experience administering long-term care insurance business. The New York Insurance Policies shall be administered in conformance with Applicable Law and industry standards and pursuant to the terms and conditions of the New York Insurance Policies, this New York Reinsurance Agreement and the terms set forth in Exhibit A. Any agreement with a third party accepting and agreeing to any such delegation or subcontracting by Reinsurer shall expressly require that the third party perform its obligations in accordance with the terms and subject to the conditions set forth in this New York Reinsurance Agreement in general and in accordance with this Section 3.1 and Exhibit A specifically. Reinsurer shall monitor any such delegee(s) or subcontractor(s) in the performance of the administrative services hereunder for strict compliance with the terms and conditions set forth in this New York Reinsurance Agreement and Exhibit A. Reinsurer shall annually certify to New York Ceding Company whether or not the performance of such delegee(s) or subcontractor(s) is in strict compliance with the terms and conditions of this New York Reinsurance Agreement and Exhibit A, and if not, shall provide with such certification a report detailing all such noncompliance (including number of occurrences, dates, times and magnitude) and the

corrective action steps taken for each occurrence. In addition, Reinsurer will notify the New York Department of Financial Services of noncompliance by such third party as described in this Section 3.1 and provide the New York Department of Financial Services with a copy of any report detailing such noncompliance. For the avoidance of doubt, any such delegation or subcontracting shall not relieve Reinsurer of its responsibility or liability for the costs and expenses of administering the New York Insurance Policies (including such costs and expense of any third party administrator) or the provision of such services pursuant to this New York Reinsurance Agreement and Exhibit A.

(b) New York Ceding Company hereby subrogates Reinsurer to a proportional amount of New York Ceding Company's indemnification rights under Article XIII (Indemnification) of the New York SHIP ASA (pursuant to Section 14.3 thereof, such rights survive the termination of the New York SHIP ASA); provided, however, the amount of Reinsurer's subgrogation provided for in this Section 3.1(c) shall be limited to the amount that Reinsurer actually pays for any New York Extra Contractual Liabilities arising out of or relating to any actual or alleged action or inaction of SHIP or its subcontractors or delegees prior to the Effective Time.

Section 3.2 Reimbursement.

(a) Reinsurer shall reimburse New York Ceding Company for the Ceded Percentage of the New York Insurance Liabilities.

(b) All monies, checks, drafts, money orders, postal notes and other instruments that may be received after the Closing Date by New York Ceding Company for the Ceded Percentage of premiums, fees or other payments on or in respect of the New York Insurance Policies shall be held in trust by New York Ceding Company for the benefit of Reinsurer and shall be promptly remitted to Reinsurer, but in no event later than fifteen (15) Business Days after receipt by New York Ceding Company. Reinsurer shall be authorized to endorse for payment to Reinsurer any such checks, drafts, money orders and other instruments pertaining to the New York Insurance Policies that are payable to, or to the order of, New York Ceding Company and received by Reinsurer under this New York Reinsurance Agreement.

(c) If New York Ceding Company receives premium or state income tax credit in connection with guaranty association or other assessments related to the New York Insurance Policies, then New York Ceding Company shall pay the amount of any tax savings it realizes to Reinsurer.

Section 3.3 Reporting and Payments. Within nine (9) calendar days after the end of each calendar quarter, Reinsurer shall provide New York Ceding Company with accounting and settlement reports reflecting premiums, losses, reserves and expenses for the New York Insurance Policies in form and substance mutually agreed upon by the Parties. Such reports shall, at a minimum, contain all information needed by New York Ceding Company to prepare in a timely manner all financial reports under statutory and GAAP accounting methods. Such reports shall include, but not be limited to, the reports set forth in Schedule 3.3. If a report shows a balance due to a Party, the other Party shall remit the amount of such balance to such owed Party within fifteen (15) Business Days after receipt of the report. All payments shall be

made in cash (United States legal tender) or its equivalent. Any amount due and unpaid under this New York Reinsurance Agreement shall accrue interest at a rate equal to the ten (10) year U. S. Treasury note plus one hundred (100) basis points.

Section 3.4 Records.

(a) Either Party and its employees and authorized representatives may audit, examine and copy (at such Party's own expense), during regular business hours, at the home office of the other Party, any and all books, records, statements, correspondence, reports and other documents that relate to the New York Insurance Policies or this New York Reinsurance Agreement, upon giving at least five (5) Business Days' prior notice to the other Party. The other Party shall (i) provide a reasonable work space for such audit, examination or copying, (ii) cooperate fully and faithfully and (iii) disclose the existence of and produce any and all materials reasonably requested to be produced.

(b) No Party shall have the right to conduct an audit or examination pursuant to this Section 3.4 more than twice during any consecutive twelve (12) month period except for reasonable cause or as otherwise required to attend to litigation threatened or instituted against a Party or to comply with Applicable Law or a Governmental Entity's investigation or inquiry (including financial or market conduct examinations).

Section 3.5 Errors and Omissions. If any delay, omission, error or failure to pay amounts due or to perform any other act required by this New York Reinsurance Agreement is unintentional and caused by misunderstanding or oversight, the Parties shall adjust the situation to what it would have been had the misunderstanding or oversight not occurred, and the reinsurance provided hereunder shall not be invalidated. The Party first discovering such misunderstanding or oversight shall promptly notify the other Party in writing, and the Parties shall act to correct such misunderstanding or oversight promptly following receipt of such notice.

Section 3.6 DAC Tax Election. If the New York Insurance Policies reinsured hereunder include for U.S. federal income tax purposes Specified Insurance Contracts pursuant to Section 848 of the Internal Revenue Code or the IRS regulations promulgated thereunder, the Parties shall make the election provided in IRS Regulation Section 1.848-2(g)(8). The specifics on this election are set forth in Schedule 3.6.

Section 3.7 Excise Tax Reimbursement. Reinsurer shall reimburse New York Ceding Company in full for any federal excise tax paid by New York Ceding Company under Section 4371 of the Internal Revenue Code of 1986, as amended, in connection with this New York Reinsurance Agreement.

Article IV
Credit for Reinsurance and Related Matters

Section 4.1 Reserves. New York Ceding Company and Reinsurer shall establish and maintain proper reserves (including for unearned premium, claims, incurred but not reported claims, asset adequacy and other reserves) for the New York Insurance Policies in accordance with statutory accounting principles promulgated by the National Association of

Insurance Commissioners and the requirements of the laws of the State of New York, including the most recent Special Considerations Letter published by the New York Department of Financial Services. Asset adequacy testing will be performed on a stand-alone basis using the assets in the Reg 114 Trust Account. Reinsurer shall take such steps as may be required for New York Ceding Company to receive full credit on New York Ceding Company's statutory financial statements for the reinsurance ceded under this New York Reinsurance Agreement. Towards that end, as of the Closing Date and at all times during the term of this New York Reinsurance Agreement, Reinsurer shall provide collateral and enter into the New York Trust Agreement as required by Section 4.2.

Section 4.2 Trust Agreement.

(a) New York Ceding Company and Reinsurer shall enter into a New York Trust Agreement in the form attached hereto as Exhibit B, to be effective concurrently with this New York Reinsurance Agreement. The New York Trust Agreement shall contain those provisions necessary to effect the terms and conditions of this New York Reinsurance Agreement and shall comply with the requirements of the State of New York, including New York Insurance Regulation 114. Reinsurer shall establish in accordance with such New York Trust Agreement a trust account (the "Reg 114 Trust Account") with an independent financial institution reasonably acceptable to New York Ceding Company for the sole use and benefit of New York Ceding Company, for so long as there are New York Insurance Policies reinsured under this New York Reinsurance Agreement.

(b) On or before the Closing Date, Reinsurer shall deposit assets into the Reg 114 Trust Account consisting of Qualifying Trust Assets in compliance with the Investment Guidelines with an aggregate fair market value equal to one hundred two percent (102%) of the Trust Amount as of the Effective Time.

(c) The assets in the trust shall be valued according to their current fair market value. Reinsurer will, subject to the receipt of New York Ceding Company's prior written consent, direct the trustee to invest or reinvest the trust assets in accordance with the Investment Guidelines set forth in Exhibit C or as otherwise agreed upon by New York Ceding Company. Only the following assets (the "Qualifying Trust Assets") shall be eligible for investment and deposit into the Reg 114 Trust Account and only such Qualifying Trust Assets shall be counted for purposes of calculating New York Ceding Company's reserve credit: cash (United States legal tender), certificates of deposit (issued by a United States bank and payable in United States legal tender), and investments of the type specified in paragraphs (1), (2), (3) (8) and (10) of Section 1404(a) of the New York Insurance Law, provided that such investments (i) are issued by an institution that is not the parent, subsidiary or affiliate of either of the Parties and (ii) are otherwise acceptable to the New York Department of Financial Services.

(d) Prior to depositing assets with the trustee, Reinsurer shall execute assignments, endorsements in blank or transfer legal title to the trustee of all shares, obligations or any other assets requiring assignments, in order that New York Ceding Company (or the trustee at the direction of New York Ceding Company) may whenever necessary negotiate the trust assets without the consent or signature of Reinsurer or any other entity.

(e) New York Ceding Company shall have the right to withdraw assets from the Reg 114 Trust Account at any time, without notice to Reinsurer, subject only to a written request for withdrawal from New York Ceding Company to the trustee. Assets withdrawn by New York Ceding Company may be used only in accordance with Section 4.4.

(f) If, at the end of any calendar quarter, (i) the aggregate fair market value of the Qualifying Trust Assets exceeds one hundred two percent (102%) of the Trust Amount as of such calendar quarter end, and (ii) the aggregate fair market value of the assets in the Supplemental Trust Account established pursuant to Section 4.3 exceeds five percent (5%) of the Trust Amount as of the same calendar quarter end, then New York Ceding Company shall, within fifteen (15) calendar days of Reinsurer's request, consent in writing to Reinsurer's withdrawal of any excess assets from the Reg 114 Trust Account.

(g) If, at the end of any calendar quarter, the aggregate fair market value of the Qualifying Trust Assets is less than one hundred two percent (102%) of the Trust Amount as of such calendar quarter end, then, within fifteen (15) calendar days of its delivery of the Quarterly Reports set forth in Section 4.5, Reinsurer shall cause to be deposited into the Reg 114 Trust Account such additional Qualifying Trust Assets as are necessary to ensure that the aggregate fair market value of the Qualifying Trust Assets maintained in the Reg 114 Trust Account is no less than one hundred two percent (102%) of the Trust Amount.

(h) Appointment by the trustee or Reinsurer of any asset manager or subcustodian to manage or invest the assets of the Reg 114 Trust Account shall not be permitted without first receiving the prior written consent of New York Ceding Company, such consent not to be unreasonably withheld.

(i) The Reg 114 Trust Account established under this Section 4.2 is intended to secure payment of amounts owed by Reinsurer to New York Ceding Company under this New York Reinsurance Agreement. Reinsurer hereby grants to New York Ceding Company, as security for payment and performance of Reinsurer's obligations under this Agreement, a first priority security interest in Reinsurer's beneficial interest in the Reg 114 Trust Account established and funded pursuant to this Section. Assets properly withdrawn from the trust by Reinsurer will not be subject to the security interest.

Section 4.3 Supplemental Trust Agreement.

(a) New York Ceding Company and Reinsurer shall enter into a New York Supplemental Trust Agreement in the form attached hereto as Exhibit D, to be effective concurrently with this New York Reinsurance Agreement. The New York Supplemental Trust Agreement shall contain those provisions necessary to effect the terms and conditions of this New York Reinsurance Agreement and shall comply with the requirements of the State of New York but not be subject to New York Regulation 114. Reinsurer shall establish in accordance with such New York Supplemental Trust Agreement a supplemental trust account (the "Supplemental Trust Account") with an independent financial institution reasonably acceptable to New York Ceding Company for the sole use and benefit of New York Ceding Company, for so long as there are New York Insurance Policies reinsured under this Agreement.

(b) On or before the Closing Date, Reinsurer shall deposit assets into the Supplemental Trust Account consisting of assets in compliance with the Investment Guidelines with an aggregate fair market value equal to or exceeding five percent (5%) of the Trust Amount as of the Effective Time. The New York Supplemental Trust Agreement shall be maintained as overcollateralization of Reinsurer's obligations hereunder, and shall at all times be maintained at a minimum level of five percent (5%) of the Trust Amount.

(c) The assets in the Supplemental Trust Account shall be valued according to their current fair market value. Reinsurer will direct the trustee to invest or reinvest the trust assets in accordance with the Investment Guidelines set forth in Exhibit C or as otherwise agreed upon by New York Ceding Company and Reinsurer.

(d) Prior to depositing assets with the trustee, Reinsurer shall execute assignments, endorsements in blank or transfer legal title to the trustee of all shares, obligations or any other assets requiring assignments, in order that New York Ceding Company (or the trustee at the direction of New York Ceding Company) may whenever necessary negotiate the trust assets without the consent or signature of Reinsurer or any other entity.

(e) New York Ceding Company shall have the right to withdraw assets from the Supplemental Trust Account established pursuant to this Section 4.3 only at such time as the assets in the Reg 114 Trust Account established pursuant to Section 4.2 are insufficient to satisfy New York Ceding Company's authorized uses set forth in Section 4.4 and after prior notice to Reinsurer. For the avoidance of doubt, consent to any such withdrawal is not required to be provided by Reinsurer; rather, the trustee shall honor such withdrawal requests upon receipt of a written request from New York Ceding Company. Assets withdrawn by New York Ceding Company may be used only in accordance with Section 4.4.

(f) If, at the end of any calendar quarter, the market value of the assets in the Supplemental Trust Account exceeds five percent (5%) of the Trust Amount as of such calendar quarter end, and if the market value of the Qualifying Trust Assets in the Reg 114 Trust Account established pursuant to Section 4.2 exceeds one hundred two percent (102%) of the Trust Amount, New York Ceding Company shall, within fifteen (15) calendar days of Reinsurer's request, consent in writing to Reinsurer's withdrawal of any excess assets from the Supplemental Trust Account. If Reinsurer requests that all or any portion of the amount to be withdrawn hereunder instead be transferred to the supplement trust account established by Reinsurer pursuant to the WNIC Indemnity Reinsurance Agreement (the "WNIC Supplemental Trust Account"), then New York Ceding Company shall consent to such transfer within two (2) Business Days of receipt of Reinsurer's request and direct the trustee to transfer such combination of cash and trusteed assets as may be requested by Reinsurer to the trustee of the WNIC Supplemental Trust Account for immediate deposit.

(g) If, at the end of any calendar quarter, the aggregate fair market value of the assets in the Supplemental Trust Account is less than five percent (5%) of the Trust Amount as of such calendar quarter end, then, within fifteen (15) calendar days of its delivery of the Quarterly Reports set forth in Section 4.5, Reinsurer shall cause to be deposited into the Supplemental Trust Account such additional assets as are necessary to ensure that the aggregate

fair market value of the assets maintained in the Supplemental Trust Account is no less than five percent (5%) of the Trust Amount.

(h) Appointment by the trustee or Reinsurer of any asset manager or subcustodian to manage or invest the assets of the Supplemental Trust Account shall not be permitted without first receiving the prior written consent of New York Ceding Company, such consent not to be unreasonably withheld.

(i) The Supplemental Trust Account established under this Section 4.3 is intended to secure payment of amounts owed by Reinsurer to New York Ceding Company under this New York Reinsurance Agreement. Reinsurer hereby grants to New York Ceding Company, as security for payment and performance of Reinsurer's obligations under this Agreement, a first priority security interest in Reinsurer's beneficial interest in the Supplemental Trust Account established and funded pursuant to this Section. Assets properly withdrawn from the trust by Reinsurer will not be subject to the security interest.

Section 4.4 Use of Funds by New York Ceding Company.

(a) Reinsurer and New York Ceding Company agree that the assets in the Reg 114 Trust Account (established pursuant to Section 4.2) and the Supplemental Trust Account (established pursuant to Section 4.3), may be withdrawn by New York Ceding Company at any time, notwithstanding any other provisions in this New York Reinsurance Agreement, and shall be utilized and applied by New York Ceding Company or any successor by operation of law of New York Ceding Company, including, without limitation, any liquidator, rehabilitator, receiver or conservator of such company, without diminution because of insolvency on the part of New York Ceding Company or Reinsurer, only for the following purposes:

(i) to reimburse New York Ceding Company for the Ceded Percentage of premiums returned to owners of the New York Insurance Policies on account of cancellations of such New York Insurance Policies;

(ii) to reimburse New York Ceding Company for the Ceded Percentage of surrenders and benefits or losses paid by New York Ceding Company under the terms and provisions of the New York Insurance Policies;

(iii) to fund an account with New York Ceding Company in an amount at least equal to the deduction, for reinsurance ceded, from New York Ceding Company's liabilities for New York Insurance Policies ceded under this New York Reinsurance Agreement. Such amount shall include, but not be limited to, amounts for policy reserves, reserves for claims and losses incurred (including losses incurred but not reported), loss adjustment expenses and unearned premiums; and

(iv) to pay any other amounts New York Ceding Company claims are due under this New York Reinsurance Agreement.

(b) New York Ceding Company agrees to: (1) return promptly to Reinsurer, by depositing into the applicable trust account to be established pursuant to Section 4.2 and/or

Section 4.3, any assets withdrawn from such trust accounts in excess of the actual amounts required for subparagraphs (i), (ii), and (iii), above, or in the case of subparagraph (iv), any amounts that are subsequently determined not to be due; (2) pay Reinsurer interest on any amounts held pursuant to Section 4.4(a)(iii) at the prime rate of interest; and (3) permit the award, by an arbitration panel or court of competent jurisdiction of (i) interest at a rate different from that specified above and (ii) court or arbitration costs including attorneys' fees and any other reasonable expenses in connection with a failure by New York Ceding Company to make proper return of funds drawn.

(c) Payment of funds to New York Ceding Company by the trustee shall constitute payment by Reinsurer pursuant to this New York Reinsurance Agreement and shall discharge Reinsurer of the obligation that gave rise to the withdrawal.

Section 4.5 Quarterly Reports.

(a) Reinsurer shall prepare written reports on a quarterly basis (the "Quarterly Reports") setting forth, among others, the aggregate fair market value of the Qualifying Trust Assets maintained in the Reg 114 Trust Account and the assets maintained in the Supplemental Trust Account (both on an asset-by-asset basis and a cumulative basis, but by trust account), together with supporting detail, and such other information reasonably necessary to verify the compliance of the assets with all Investment Guidelines, in each case as of the end of each calendar quarter, and the reports listed on Schedule 4.5. The Quarterly Reports shall be delivered to New York Ceding Company within thirty (30) calendar days after the end of the applicable calendar quarter.

(b) As soon as is practicable, but in no event more than fifteen (15) Business Days following its receipt of the Quarterly Reports, New York Ceding Company shall either (i) agree with the contents of the Quarterly Reports or (ii) notify Reinsurer that it objects to any item in the Quarterly Reports concerning compliance of the assets with the Investment Guidelines. The Parties shall promptly begin good faith negotiations to resolve such dispute. If the Parties are unable to resolve such dispute within ten (10) Business Days of New York Ceding Company's transmittal to Reinsurer of its notice of objection, the Parties shall submit the dispute to the Third Party Accountant for resolution of the dispute. The Third Party Accountant shall deliver no later than five (5) Business Days after commencement of its review a report setting forth its determination concerning the disputed item(s) of the Quarterly Reports. Such Third Party Accountant's report shall be final and binding upon Reinsurer and New York Ceding Company. The fees, costs and expenses of the Third Party Accountant shall be borne equally by New York Ceding Company and Reinsurer. Reinsurer shall permit New York Ceding Company and/or the Third Party Accountant to audit its records in order to perform their respective reviews. Reinsurer shall cooperate fully with such audit. Access to Reinsurer and its employees by New York Ceding Company and/or the Third Party Accountant in connection with such audit shall be at reasonable times during regular business hours upon reasonable prior written notice (including by e-mail) in a manner which does not unreasonably interfere with the business or operations of Reinsurer.

Section 4.6 Reinsurer Change of Control. In the event of a change in the ownership, controlling interest or management of Reinsurer or its ultimate parent company (a "change in control"), New York Ceding Company shall have the right to, in its reasonable discretion, modify the Investment Guidelines. Reinsurer shall give New York Ceding Company sixty (60) calendar days' prior written notice of any proposed transfer or change in control.

Article V
Regulatory Approvals and Requirements; Closing

Section 5.1 Approvals. The obligation of the Parties to consummate the transactions contemplated by this New York Reinsurance Agreement is contingent upon the receipt of regulatory approval of this New York Reinsurance Agreement by the New York Department of Financial Services. Each Party will use its commercially reasonable efforts to secure the required regulatory approval.

Section 5.2 Cooperation. The Parties shall cooperate with each other in complying with regulatory requirements and responding to regulatory inquiries associated with the New York Insurance Policies or this New York Reinsurance Agreement. The duty of cooperation provided for in this Section 5.2 shall extend to any and all litigation matters regarding the New York Insurance Liabilities or the New York Insurance Policies, including litigation involving third parties.

Section 5.3 Insolvency. Reinsurance provided under this New York Reinsurance Agreement shall be payable by Reinsurer on the basis of New York Ceding Company's liability under the New York Insurance Policies without diminution because of any insolvency of New York Ceding Company. Reinsurer shall pay its share of New York Ceding Company's liability directly to New York Ceding Company or its liquidators, receivers or statutory successors. The liquidators, receivers or statutory successors shall give written notice to Reinsurer of the pendency of a claim against New York Ceding Company involving a policy reinsured under this New York Reinsurance Agreement within a reasonable time after such claim is filed in the insolvency proceeding. During the pendency of such claim, Reinsurer may investigate the claim and interpose, at its own expense, in the proceeding where the claim is to be adjudicated, any defense or defenses which it may deem available to New York Ceding Company or New York Ceding Company's liquidators, receivers or statutory successors. Any expense Reinsurer thus incurs shall be chargeable, subject to court approval, to New York Ceding Company as part of the expense of liquidation to the extent of the proportionate share of the benefit which may accrue to New York Ceding Company solely from the defense undertaken by Reinsurer. In the event two or more assuming Reinsurers are involved in the same claim and a majority in interest elect to interpose a defense to such claim, the expense shall be apportioned in accordance with the terms of this New York Reinsurance Agreement as though such expenses had been incurred by New York Ceding Company.

Section 5.4 Closing Conditions. The obligations of the Parties to cause the transactions contemplated herein to be consummated (the "Closing") are subject to satisfaction of each of the following conditions at or prior to the Closing:

(a) Receipt of regulatory approval of this New York Reinsurance Agreement by the New York Department of Financial Services pursuant to Section 5.1.

(b) Termination of the New York SHIP ASA.

(c) The Parties shall have delivered to each other duly executed copies of the New York Transition Services Agreement.

(d) Closing of the transactions contemplated by the WNIC Indemnity Reinsurance Agreement.

Article VI
Representations and Warranties of New York Ceding Company

New York Ceding Company represents and warrants to Reinsurer that the matters set forth in this Article VI are true and correct as of the date hereof (or, if made as of a specified date, as of such date):

Section 6.1 Organization and Standing of New York Ceding Company. New York Ceding Company is an insurance company duly organized, validly existing and in good standing under the laws of the State of New York.

Section 6.2 Authorization. New York Ceding Company has all requisite power and authority to execute, deliver and perform its obligations under this New York Reinsurance Agreement. All acts or proceedings required to be taken by New York Ceding Company to authorize the execution, delivery and performance of this New York Reinsurance Agreement and all transactions contemplated hereby have been duly and validly taken. This New York Reinsurance Agreement has been duly executed and delivered by New York Ceding Company, and assuming due and valid authorization, execution and delivery hereof by other parties hereto, constitutes the legal, valid and binding obligations of New York Ceding Company, enforceable against New York Ceding Company in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium or other similar laws affecting creditors' rights generally, by applicable insurance insolvency and liquidation statutes and regulations and by general equitable principles (regardless of whether such enforceability is considered in a proceeding in equity or at law).

Section 6.3 No Conflict or Violation. The execution, delivery and performance of this New York Reinsurance Agreement shall not (i) violate any provision of the Articles of Incorporation, Bylaws or other charter or organizational document of New York Ceding Company, (ii) violate, conflict with or result in the breach of any of the terms of, result in any modification of, give any counterparty the right to terminate, or constitute a default under, any contract or other agreement to which New York Ceding Company is a party, (iii) violate any order, judgment or decree applicable to New York Ceding Company or (iv) subject to the receipt of the necessary regulatory approvals pursuant to Section 5.1, violate any statute, law or regulation of any jurisdiction applicable to New York Ceding Company.

Article VII
Representations and Warranties of Reinsurer

Reinsurer represents and warrants to New York Ceding Company that the matters set forth in this Article are true and correct as of the date hereof (or, if made as of a specified date, as of such date):

Section 7.1 Organization and Standing of Reinsurer. Reinsurer is a life reinsurance company duly organized, validly existing and in good standing under the laws of the Cayman Islands.

Section 7.2 Authorization. Reinsurer has all requisite power and authority to execute, deliver and perform its obligations under this New York Reinsurance Agreement. All acts or proceedings required to be taken by Reinsurer to authorize the execution, delivery and performance of this New York Reinsurance Agreement and all transactions contemplated hereby have been duly and validly taken. This New York Reinsurance Agreement has been duly executed and delivered by Reinsurer, and assuming due and valid authorization, execution and delivery hereof by other parties hereto, constitutes the legal, valid and binding obligations of Reinsurer, enforceable against Reinsurer in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium or other similar laws affecting creditors' rights generally, by applicable insurance insolvency and liquidation statutes and regulations and by general equitable principles (regardless of whether such enforceability is considered in a proceeding in equity or at law).

Section 7.3 No Conflict or Violation. The execution, delivery and performance of this New York Reinsurance Agreement shall not (i) violate any provision of the Articles of Incorporation, Bylaws or other charter or organizational document of Reinsurer, (ii) violate, conflict with or result in the breach of any of the terms of, result in any modification of, give any counterparty the right to terminate, or constitute a default under, any contract or other agreement to which Reinsurer is a party, (iii) violate any order, judgment or decree applicable to Reinsurer or (iv) subject to the receipt of the necessary regulatory approvals pursuant to Section 5.1, violate any statute, law or regulation of any jurisdiction applicable to Reinsurer.

Section 7.4 U.S. Federal Income Taxes. Reinsurer is a recognized United States federal income tax-paying entity.

Article VIII
Indemnification

Section 8.1 Indemnification by New York Ceding Company. New York Ceding Company hereby indemnifies and holds Reinsurer harmless from and against all loss, damage, cost and expense of any nature, including legal, accounting and other professional fees, arising from (i) any liability relating to the New York Insurance Policies that results from New York Ceding Company's acts, errors or omissions that occur on or after the Effective Time, (ii) any violation or breach of the provisions of this New York Reinsurance Agreement by New

York Ceding Company or (iii) any inaccuracy or falsity of a representation or warranty made by New York Ceding Company under this New York Reinsurance Agreement.

Section 8.2 Indemnification by Reinsurer. Reinsurer hereby indemnifies and holds New York Ceding Company harmless from and against all loss, damage, cost and expense of any nature, including legal, accounting and other professional fees, arising from (i) any violation or breach of the provisions of this New York Reinsurance Agreement by Reinsurer or (ii) any inaccuracy or falsity of a representation or warranty made by Reinsurer under this New York Reinsurance Agreement.

Section 8.3 Notice of Potential Liability. Promptly after receipt by an indemnified Party hereunder of notice of any demand, claim or circumstances which, with or without the lapse of time, would give rise to the commencement (or threatened commencement) of any action, proceeding or investigation that may result in an indemnified liability, the indemnified Party shall give notice of the potential liability to the indemnifying Party. The notice shall (i) describe the potential liability in reasonable detail, (ii) indicate the amount (estimated, if necessary) of the loss that has been or may be suffered by the indemnified Party and (iii) include a statement as to the basis for the indemnification sought. Failure to provide notice in a timely manner shall not be deemed a waiver of the indemnified Party's right to indemnification other than to the extent that such failure prejudices the defense of the action, proceeding or investigation by the indemnifying Party.

Section 8.4 Opportunity to Defend. The indemnifying Party may elect to defend, at its own expense and by its own counsel, any potential liability covered by this Article; provided, however, that the indemnifying Party may not compromise or settle any such liability without the consent of the indemnified Party (which consent shall not be unreasonably withheld or delayed). If the indemnifying Party elects to defend the potential liability, it shall within thirty (30) calendar days from receipt of the notice required by Section 8.3 notify the indemnified Party of its intent to do so, and the indemnified Party shall cooperate in the defense at its own expense.

Section 8.5 Exclusive Remedy. The provisions of this Article shall be the sole and exclusive remedy at law for any breach of a representation, warranty or covenant under this New York Reinsurance Agreement, except that nothing set forth in this Article shall be deemed to prohibit or limit either Party's right to seek specific performance or other equitable relief for the failure of the other Party to perform any covenant contained herein.

Article IX
Term; Termination

Section 9.1 Term. This New York Reinsurance Agreement shall be effective as of the Effective Time, and shall remain in effect until New York Ceding Company ceases to have any obligations or liabilities under the New York Insurance Policies, unless terminated before such time by New York Ceding Company or Reinsurer pursuant to this Article.

Section 9.2 Termination.

(a) Mutual Agreement. This New York Reinsurance Agreement may be terminated at any time by mutual written agreement of the Parties. For the avoidance of doubt, except for non-payment by New York Ceding Company as expressly set forth in Section 9.2(c), Reinsurer may not unilaterally terminate this New York Reinsurance Agreement.

(b) Termination by New York Ceding Company. New York Ceding Company may terminate this New York Reinsurance Agreement:

(i) immediately upon the failure, within forty-five (45) calendar days, to correct material business or financial practices which are the subject of any administrative action or order by any insurance regulatory authority with jurisdiction over Reinsurer;

(ii) immediately upon Reinsurer's failure to meet the prescribed capital requirement under the laws of the Cayman Islands;

(iii) immediately upon the initiation against Reinsurer of any delinquency proceeding, including but not limited to supervision, conservation, rehabilitation, liquidation, bankruptcy or any other proceeding of a similar nature, or any order of administrative supervision (or any other form of order that has substantially the same effect) is entered with respect to Reinsurer;

(iv) upon giving thirty (30) calendar days' prior written notice to Reinsurer if Reinsurer's delegee or subcontractor materially breaches the terms of Exhibit A in connection with the provision of administrative services under this New York Reinsurance Agreement, but only if during thirty (30) day period Reinsurer has not formulated and begun implementation of a plan, reasonably acceptable to New York Ceding Company, to cure such material breach or breaches;

(v) upon giving thirty (30) calendar days' prior written notice to Reinsurer for any breach by Reinsurer of its obligations under this New York Reinsurance Agreement, the New York Trust Agreement or the New York Supplemental Trust Agreement, if the breach is not cured during such period; or

(vi) upon giving thirty (30) calendar days' prior written notice to Reinsurer for non-payment of amounts due by Reinsurer to New York Ceding Company under this New York Reinsurance Agreement (provided that the amounts due are not *de minimis*), unless the unpaid amounts are the subject of a good-faith dispute, if full payment of such amounts is not made within such period.

(c) Termination by Reinsurer. Reinsurer may terminate this New York Reinsurance Agreement upon giving thirty (30) calendar days' prior written notice to New York Ceding Company for non-payment of amounts due by New York Ceding Company to Reinsurer

under this New York Reinsurance Agreement (provided that the amounts due are not *de minimis*), unless the unpaid amounts are the subject of a good-faith dispute, if full payment of such amounts is not made within such period.

Section 9.3 Effect of Termination. On and after the effective date of the termination of this New York Reinsurance Agreement, New York Ceding Company shall recapture all liabilities previously ceded to Reinsurer under this New York Reinsurance Agreement, (ii) New York Ceding Company shall reassume responsibility for the administration of the New York Insurance Policies under Section 3.1 and New York Ceding Company and Reinsurer shall cooperate with each other and use their reasonable best efforts to effect an orderly transition and conversion of such administrative services, (iii) Reinsurer's liability under this New York Reinsurance Agreement in connection with the recaptured risks will terminate (subject to Reinsurer's satisfaction of subsections (v) and (vi) hereof, (iv) New York Ceding Company shall pay to Reinsurer any amounts owed by New York Ceding Company to Reinsurer under this New York Reinsurance Agreement as of the date of recapture, (v) Reinsurer shall pay to New York Ceding Company any amounts owed by Reinsurer to New York Ceding Company under this New York Reinsurance Agreement as of the date of recapture and (vi) Reinsurer shall pay to New York Ceding Company cash or admitted invested assets having a fair market value equal to the statutory reserves attributable to the liability being recaptured.

Article X
Miscellaneous Provisions

Section 10.1 Arbitration.

(a) Except as otherwise provided in this New York Reinsurance Agreement, all disputes or differences between the Parties arising under or relating to this New York Reinsurance Agreement upon which an amicable understanding cannot be reached shall be decided by arbitration pursuant to the terms of this Section. Except as otherwise provided in this New York Reinsurance Agreement, the arbitration proceeding shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association.

(b) The court of arbitration provided for herein shall place a liberal construction upon this New York Reinsurance Agreement in light of the prevailing customs and practices for reinsurance in the life and health insurance industry.

(c) The court of arbitrators shall consist of three (3) arbitrators who must be officers or retired officers of life and health insurance or reinsurance companies (other than the Parties to this New York Reinsurance Agreement or their Affiliates). Each arbitration under this New York Reinsurance Agreement shall be held in the City of New York, New York, unless a different location is mutually agreed upon by the Parties.

(d) Within thirty (30) calendar days of written demand of any Party to arbitrate any dispute, New York Ceding Company and Reinsurer shall each appoint an arbitrator and notify the other Party of the name and address of their arbitrator. The two (2) arbitrators so appointed shall thereupon select a third (3rd) arbitrator. If either Party shall fail to appoint an

arbitrator as herein provided, or should the two (2) arbitrators so named fail to select a third (3rd) arbitrator within thirty (30) calendar days of their appointment, then in either event, either Party may request the American Arbitration Association to appoint the third (3rd) arbitrator. The three (3) arbitrators so selected shall constitute the court of arbitrators.

(e) A decision of a majority of said court shall be final and binding and there shall be no appeal therefrom. The court shall not be bound by legal rules of procedure and may receive evidence in such a way as to do justice between the Parties. The court shall enter an award which shall do justice between the Parties and the award shall be supported by written opinion.

(f) The cost of arbitration, including the fees of the arbitrators, shall be borne equally by the Parties unless the court of arbitrators shall decide otherwise.

(g) Either Party may seek to enforce an arbitration award in the State of New York, United States of America, in state or federal court. Toward that end, New York Ceding Company and Reinsurer agree to submit to the non-exclusive jurisdiction of such courts and waive any objection which they may have to the laying of venue of any such proceeding brought in such courts and any claim that such proceeding was brought in an inconvenient forum. In addition, New York Ceding Company and Reinsurer hereby consent to service of process out of such courts at the addresses set forth in Section 10.9.

Section 10.2 Assignment and Delegation. This New York Reinsurance Agreement may not be assigned, and the duties and obligations hereunder may not be delegated, by any Party unless such assignment or delegation is agreed to in advance in writing by both Parties hereto. This New York Reinsurance Agreement shall be binding on the Parties, their permitted assignees, delegees and successors (including, without limitation, any liquidator, rehabilitator, receiver or conservator of a Party).

Section 10.3 Confidentiality. The Parties shall comply with all applicable state and federal privacy laws and requirements. In addition, each Party (i) shall keep the business, policy and other records of the other Party confidential, (ii) shall not disclose or reveal such records to anyone and (iii) shall not use the records for any purpose whatsoever, other than performing its responsibilities under this New York Reinsurance Agreement, unless (iv) the Party is legally required to disclose or reveal the information contained in such records. In that event, the information shall be disclosed only to the extent legally required and only after giving ten (10) calendar days' prior notice to the other Party.

Section 10.4 Construction. The headings of Articles and Sections in this New York Reinsurance Agreement are provided for convenience only and shall not affect its construction or interpretation. All references to "Articles" and "Sections" refer to the corresponding Articles and Sections of this New York Reinsurance Agreement. All words used in this New York Reinsurance Agreement shall be construed to be of such gender or number as the circumstances require. Unless otherwise expressly provided, the word "including" does not limit the preceding words or terms.

Section 10.5 Counterparts. This New York Reinsurance Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original copy of this New York Reinsurance Agreement and all of which, when taken together, shall be deemed to constitute one and the same agreement. The exchange of copies of this New York Reinsurance Agreement and of signature pages by facsimile or other electronic transmission shall constitute effective execution and delivery of this New York Reinsurance Agreement as to the Parties and may be used in lieu of the original agreement for all purposes. Signatures of the Parties transmitted by facsimile or other electronic transmission shall be deemed to be their original signatures for all purposes.

Section 10.6 Entire Agreement. This New York Reinsurance Agreement, the New York Trust Agreement and the New York Supplemental Trust Agreement supersede all prior agreements, whether written or oral, between the Parties with respect to its subject matter and constitutes (along with the exhibits, schedules and other documents delivered pursuant to this New York Reinsurance Agreement, the New York Trust Agreement and the New York Supplemental Trust Agreement) a complete and exclusive statement of the terms of the agreement between the Parties with respect to its subject matter. This New York Reinsurance Agreement may not be amended, supplemented or otherwise modified except by a written agreement that identifies itself as an amendment to this New York Reinsurance Agreement executed by the Parties.

Section 10.7 Governing Law; Jurisdiction; Service of Process.

(a) This New York Reinsurance Agreement and any dispute, suit, action or proceeding arising under this New York Reinsurance Agreement, or any dispute, suit, action or proceeding related to or arising out of, directly, indirectly, or incidentally, this New York Reinsurance Agreement, or out of the transactions and actions arising from performance of this New York Reinsurance Agreement, will be governed by and construed in accordance with the substantive laws of the State of New York.

(b) The Parties agree that any dispute, suit, action or proceeding under this New York Reinsurance Agreement, or any dispute, suit, action or proceeding related to or arising out of, directly, indirectly, or incidentally, this New York Reinsurance Agreement, or out of the transactions and actions arising from performance of this New York Reinsurance Agreement, will be subject to the jurisdiction, and resolved in the courts, of the State of New York (unless another jurisdiction within the United States is otherwise mutually agreed to by the Parties), and that Reinsurer submits to the personal jurisdiction of such court, will comply with the requirements necessary to give that court jurisdiction, will abide by the final decision of that court or of an appellate court in the event of an appeal, and will consent to any effort to enforce the final decision of the court in the home jurisdiction of Reinsurer, including the granting of full faith and credit or comity in the home jurisdiction of Reinsurer or any other jurisdiction where Reinsurer is subject to jurisdiction.

(c) Reinsurer hereby appoints the Superintendent of Insurance of the State of New York, his successors in office, and any deputy superintendent, its true and lawful attorney, in and for the State of New York, upon whom all lawful process against Reinsurer may be served in any action or proceeding against Reinsurer, subject to and in accordance with all provisions of

the Insurance Law of the State of New York in force at the time of such service. This appointment shall be binding upon any successor acquiring the assets and assuming the liabilities of Reinsurer by merger or consolidation, and shall not be terminated so long as there are in effect any New York Insurance Policies or New York Insurance Liabilities reinsured hereunder.

(d) Nothing set forth in this Section 10.7 shall override or supersede the agreement between New York Ceding Company and Reinsurer to submit any and all disputes to arbitration pursuant to Section 10.1, in accordance with the laws of the State of New York.

Section 10.8 Interpretations. No uncertainty or ambiguity in this New York Reinsurance Agreement shall be construed or resolved against any Party whether under any rule of construction or otherwise. No Party to this New York Reinsurance Agreement shall be considered the draftsman. The Parties acknowledge and agree this New York Reinsurance Agreement has been negotiated, reviewed and accepted by all Parties and their attorneys and shall be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of all Parties hereto.

Section 10.9 Notices. All notices and other communications required or permitted by this New York Reinsurance Agreement shall be in writing and shall be effective, and any applicable time period shall commence when (a) delivered to the following address by hand or by internationally recognized overnight courier service (cost prepaid) or (b) transmitted electronically to the following facsimile numbers or e-mail addresses with confirmation of receipt of transmission, in each case marked to the attention of the respective person (by name or title) designated below (or to such other address, facsimile number, e-mail address or person as a Party may designate by notice to the other Parties):

(a) If to New York Ceding Company:

CNO Financial Group, Inc.
Attention: Matthew J. Zimpfer
Executive Vice President and General Counsel
11825 N. Pennsylvania Street
Carmel, IN 46032
Telephone No.: (317) 817-2889
Facsimile No.:
E-mail Address: Matt.Zimpfer@CNOinc.com

With a copy to:

Faegre Baker Daniels LLP
Attention: Scott M. Kosnoff
300 North Meridian Street, Suite 2700
Indianapolis, Indiana 46204
Telephone No.: (317) 237-1201
Facsimile No.: (317) 231-1000
E-mail Address: scott.kosnoff@faegrebd.com

(b) If to Reinsurer:

Beechwood Re Ltd
Attention: Scott Taylor
President
Building 3, 2nd Floor, Governors Square
23 Lime Tree Avenue
Grand Cayman KY1- 1108
Telephone No.: (345) 949-7966
Facsimile No.:
E-mail Address: staylor@beechwoodreinsurance.com

With a copy to:

Edwards Wildman Palmer LLP
750 Lexington Avenue
New York, New York 10022
Attention: Nick Pearson
Telephone No.: (212) 912-2798
Facsimile No.:
E-mail Address: npearson@edwardswildman.com

Section 10.10 Offset. Any debts or credits, matured or unmatured, liquidated or unliquidated, regardless of when they arose or were incurred, in favor of or against either New York Ceding Company or Reinsurer with respect to this New York Reinsurance Agreement are deemed mutual debts or credits, as the case may be, and shall be set off, and only the balance shall be allowed or paid.

Section 10.11 Other Instruments. New York Ceding Company and Reinsurer shall promptly execute and deliver all additional instruments and shall promptly take all reasonable actions in order to carry out the purposes of this New York Reinsurance Agreement.

Section 10.12 Severability. If any provision of this New York Reinsurance Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this New York Reinsurance Agreement shall remain in full force and effect. Any provision of this New York Reinsurance Agreement held invalid or unenforceable only in part or degree shall remain in full force and effect to the extent not held invalid or unenforceable.

Section 10.13 Subrogation. With respect to any payment made by Reinsurer under this New York Reinsurance Agreement, Reinsurer shall be subrogated to all of New York Ceding Company's rights to recover such payment against any person or organization, and New York Ceding Company shall execute and deliver any required documents or instruments and do whatever is necessary to preserve and secure such rights. Any recovery made by New York Ceding Company shall be paid to Reinsurer to the extent of payment made by Reinsurer under this New York Reinsurance Agreement.

Section 10.14 Waiver of Breach. Neither the failure nor any delay on the part of New York Ceding Company or Reinsurer to exercise any right, remedy, power or privilege under this New York Reinsurance Agreement shall operate as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege shall preclude the further exercise of that right, remedy, power or privilege or the exercise of any other right, remedy, power or privilege. No waiver of any right, remedy, power or privilege with respect to any occurrence shall be construed as a waiver of that right, remedy, power or privilege with respect to any other occurrence. No waiver shall be effective unless it is in writing and signed by the Party granting the waiver.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;
SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have caused this New York Reinsurance Agreement to be executed by their respective duly authorized officers, as of the dates indicated below.

REINSURER:

BEECHWOOD RE LTD

By: _____ President Date: _____
[Name, Title]

NEW YORK CEDING COMPANY:

BANKERS CONSECO LIFE INSURANCE COMPANY

By: _____ Date: _____
Mark E. Billingsley, Senior Vice President

IN WITNESS WHEREOF, the Parties have caused this New York Reinsurance Agreement to be executed by their respective duly authorized officers, as of the dates indicated below.

REINSURER:

BEECHWOOD RE LTD

By: _____ Date: _____
[Name, Title]

NEW YORK CEDING COMPANY:

BANKERS CONSECO LIFE INSURANCE COMPANY

By: _____ Date: 2-10-14
Mark E. Billingsley, Senior Vice President

[Execution Version]

INDEMNITY REINSURANCE AGREEMENT

BY AND BETWEEN

WASHINGTON NATIONAL INSURANCE COMPANY

AND

BEECHWOOD RE LTD

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INDEMNITY REINSURANCE AGREEMENT

THIS INDEMNITY REINSURANCE AGREEMENT (this "Reinsurance Agreement") is effective as of the Effective Time by and between Washington National Insurance Company ("Ceding Company") and Beechwood Re Ltd ("Reinsurer"). Ceding Company and Reinsurer are sometimes hereinafter referred to individually as a "Party" and together as the "Parties."

RECITALS

A. Reinsurer is a stock life reinsurance company licensed and domiciled in the Cayman Islands.

B. Ceding Company is a stock life insurance company licensed and domiciled in the State of Indiana.

C. Bankers Conseco Life Insurance Company, a stock life insurance company domiciled in the State of New York and an Affiliate (defined below) of Ceding Company ("BCLIC"), has entered into the BCLIC Reinsurance Agreement (defined below) pursuant to which BCLIC has agreed to cede to Reinsurer, on a coinsurance basis, one hundred percent (100%) of BCLIC's liability arising under the New York Insurance Policies (as defined in the BCLIC Reinsurance Agreement).

D. Ceding Company, pursuant to this Reinsurance Agreement, desires to cede to Reinsurer, on a coinsurance basis, one hundred percent (100%) of Ceding Company's liability arising under the Insurance Policies (defined below), and Reinsurer is willing to accept such liability from Ceding Company.

E. The Parties desire to set forth their rights and obligations in relation to this transfer of liability by Ceding Company to Reinsurer.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual benefits to be received by the Parties and the mutual covenants and agreements contained herein, the Parties agree as follows:

Article I
Definitions

As used in this Reinsurance Agreement, the following terms shall have the meanings set forth herein:

"Affiliate" means, with respect to any Person, any other Person directly or indirectly controlling or controlled by, or under direct or indirect common control with, such Person. For purposes of this definition, a Person shall be deemed to control another Person if it

owns or controls more than ten percent (10%) of the voting equity of the other Person (or other comparable ownership if the Person is not a corporation).

"Applicable Law" means any applicable federal, state or local law (in each case, statutory, common or otherwise), constitution, treaty, convention, ordinance, code, rule, statute, regulation, judgment, order, administrative interpretation or other similar requirement enacted, issued, adopted, promulgated, entered into or applied by a Governmental Entity.

"BCLIC" shall have the meaning ascribed to it in the Recitals.

"BCLIC Reinsurance Agreement" means that certain Indemnity Reinsurance Agreement, dated as of [●], 2014, by and between BCLIC and Beechwood Re Ltd.

"BCLIC Supplemental Trust Account" shall have the meaning ascribed to it in Section 4.3(f).

"Business Day" means any day on which banks are not required or authorized to close in the City of New York.

"Ceding Company" shall have the meaning ascribed to it in the Preamble.

"Ceded Percentage" means one hundred percent (100%).

"Closing" shall have the meaning ascribed to it in Section 5.4.

"Closing Date" shall mean either (i) the date that is at least two Business Days after the satisfaction or waiver (subject to Applicable Law) of the conditions set forth in Section 5.4, or (ii) such date as the Parties otherwise mutually agree.

"Effective Time" shall mean either (i) October 1, 2013 or (ii) such date as the Parties otherwise mutually agree.

"ERC" means Employers Reinsurance Corporation, a Kansas domiciled insurance company.

"ERC Reinsurance Agreement" means that certain Quota Share Long Term Care Reinsurance Agreement by and between ERC and Pioneer Life Insurance Company of Illinois, dated January 1, 1988, as amended.

"Extra Contractual Liabilities" means all liabilities or obligations, other than those arising under the express terms of the Insurance Policies, for (i) fines, penalties, forfeitures, compensatory, consequential, exemplary, punitive, statutory or similar extra contractual damages that relate to or arise in connection with any alleged or actual act, error or omission in connection with the Insurance Policies or the Insurance Liabilities, whether or not intentional, negligent, in bad faith or otherwise, including, without limitation, any such alleged or actual act, error or omission relating to or arising out of (a) the marketing, underwriting, sales, production, issuance, cancellation or administration of the Insurance Policies, (b) the investigation, defense, trial, settlement or handling of any claims, benefits or payments under the Insurance Policies, (c) the

failure to pay or the delay in payment, or error in calculating or administering the payment, of benefits, claims or any other amounts due or alleged to be due under or in connection with the Insurance Policies; or (d) any advice concerning tax matters; or (ii) for taxes owed by Ceding Company on account of Ceding Company's transfer of the Insurance Liabilities. However, Extra Contractual Liabilities shall not include liabilities or obligations incurred due to the fraud of a member of the Board of Directors or a corporate officer of Ceding Company acting individually or collectively or in collusion with any individual or corporation or any other organization or party.

"Fair market value" or "market value" means the price for which an asset would be sold in a transaction on the open market between an unrelated buyer and seller, with neither under any obligation to do so.

"Florida Order" means that certain Order by the State of Florida Office of Insurance Regulation dated July 1, 2004 (Case No. 75886-04-CO), as amended in January 2006 (Case No. 84621-06) and as interpreted by the Florida Office of Insurance Regulation.

"GAAP" means generally accepted accounting principles in the United States.

"Governmental Entity" means any national, state, municipal or local government, any instrumentality, subdivision, court, arbitrator or arbitrator panel, regulatory or administrative agency or commission, or other authority thereof, or any regulatory or quasi-regulatory organization or private body exercising any regulatory, taxing, importing or other governmental or quasi-governmental authority.

"Insurance Liabilities" means all liabilities and obligations arising out of or relating to the Insurance Policies, including, without limitation: (i) liabilities and obligations for incurred claims or losses, incurred but not reported claims, benefits or other payments arising under or relating to the Insurance Policies, whether (A) included or not included within the statutory reserves or (B) incurred before, on or after the Effective Time and any attorneys' fees related to such claims or other payments; (ii) loss adjustment expenses and expense reimbursement amounts arising out of the Insurance Policies; (iii) liabilities and obligations arising out of any changes to the terms and conditions of the Insurance Policies mandated by Applicable Law (including, without limitation, by a court of competent jurisdiction), whether incurred before, on or after the Effective Time; (iv) premium taxes due in respect of premiums paid on or after the Effective Time with respect to the Insurance Policies; (v) assessments and similar charges based on policies in force on or after the Effective Time with respect to the Insurance Policies in connection with the involuntary or voluntary participation by Ceding Company in any guaranty association or risk pool established or governed by any state or other jurisdiction; (vi) commissions due with respect to the Insurance Policies to the extent that such commissions are based on premiums paid on or after the Effective Time; (vii) liabilities and obligations for amounts payable on or after the Effective Time for returns or refunds of premiums with respect to the Insurance Policies; (viii) liabilities and obligations directly or indirectly arising out of or relating to any actual or alleged action or inaction of Reinsurer or any of its Affiliates, subcontractors or delegees in respect of the Insurance Policies on or after the Effective Time; (ix) unclaimed property liabilities and obligations arising under or relating to the Insurance Policies and payable on or after the Effective Time; (x) Extra Contractual Liabilities

arising on or after the Effective Time; (xi) Extra Contractual Liabilities arising, as a result of the action or inaction of SHIP or its subcontractors or delegees, whether before, on or after the Effective Time; (xii) attorneys' fees in respect of litigation relating to the Insurance Policies threatened on the Effective Time; and (xiii) any and all out-of-pocket costs reasonably incurred or accrued directly or indirectly to third parties by Ceding Company on or after the Effective Time allocable to the Insurance Policies. For the avoidance of doubt, the Insurance Liabilities shall not include liabilities and obligations, including but not limited to costs, attorneys' fees, settlements or judgments, in respect of litigation, arbitration, mediation or any similar proceeding relating to the Insurance Policies that is ongoing as of the Effective Time.

"Insurance Policies" shall have the meaning ascribed to it Section 2.1.

"Investment Guidelines" means the investment guidelines set forth in Exhibit C.

"IRS" means the United States Department of the Treasury Internal Revenue Service.

"MedAmerica Management Agreement" means that certain Management Agreement between Ceding Company and Group Management Services, Inc., effective October 1, 1994, as assigned to MedAmerica Insurance Company pursuant to that certain Assignment Agreement, effective April 1, 2003.

"MedAmerica Reinsurance Agreement" means that certain Long Term Care Proportional Reinsurance Contract between Ceding Company and American Long Term Care Reinsurance Group, effective October 1, 1994, as assigned and novated to MedAmerica Insurance Company pursuant to that certain Assignment Agreement, effective April 1, 2003.

"Negative Ceding Commission" shall have the meaning ascribed to it Section 2.4.

"Party" or "Parties" shall have the meaning ascribed to it in the Preamble.

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

"Qualifying Trust Assets" shall have the meaning ascribed to it in Section 4.2(c).

"Quarterly Reports" shall have the meaning ascribed to it in Section 4.5.

"Reinsurance Agreement" shall have the meaning ascribed to it in the Preamble.

"Reinsurance Trust Account" shall have the meaning ascribed to it in Section 4.2(a).

"Reinsurance Trust Agreement" means the Trust Agreement necessary for Ceding Company to receive full credit for the reinsurance provided hereunder and in the form set forth in Exhibit B.

"SHIP" means Senior Health Insurance Company of Pennsylvania.

"SHIP ASA" means that certain Administrative Services Agreement by and between Ceding Company and SHIP, dated as of November 12, 2008, as amended.

"Supplemental Trust Account" shall have the meaning ascribed to it in Section 4.3(a).

"Supplemental Trust Agreement" means the Supplemental Trust Agreement in the form set forth in Exhibit D.

"Supplemental Trust Alternative Amount" means:

At the Effective Time:	$20,618,378
End of Year 1 (~ day 365):	$17,843,394
Year 2 (~ day 730):	$15,068,410
Year 3:	$13,680,918
Year 4:	$8,130,951
Year 5:	$0

"Third Party Accountant" means a nationally recognized independent accounting firm which is mutually acceptable to Ceding Company and Reinsurer, or, if Ceding Company and Reinsurer are unable to agree on such an accounting firm, an independent accounting firm selected by mutual agreement of Ceding Company's and Reinsurer's independent auditors.

"Transition Services Agreement" means the transition services agreement by and between Ceding Company and Reinsurer in the form attached hereto as Exhibit E.

"Trust Amount" means pursuant to Section 4.1, the book value of the statutory reserves necessary for Ceding Company to take full statutory credit for the reinsurance ceded pursuant to this Reinsurance Agreement.

"UFL" means Universal Fidelity Insurance Company.

"UFL Administrative Services Agreement" means that certain Administrative Services Agreement by and between UFL and Ceding Company, dated January 1, 2004.

"UFL Reinsurance Agreement" means that certain Coinsurance Agreement by and between UFL and Ceding Company (as successor via merger to Pioneer Life Insurance Company), dated December 31, 1998.

Article II
Reinsurance of the Insurance Policies

Section 2.1 Scope of Reinsurance. This Reinsurance Agreement applies to all of the insurance contracts, plans and policies, including assumed reinsurance, that constitute Ceding Company's closed block of long-term care business that were in effect as of or prior to the Effective Time and set forth on Schedule 2.1 (the "Insurance Policies").

Section 2.2 Amount of Reinsurance.

(a) Ceding Company hereby cedes to Reinsurer, on a coinsurance basis, and Reinsurer hereby accepts and agrees to reinsure, as of the Effective Time and net of inuring reinsurance, the Ceded Percentage of the Insurance Liabilities. Reinsurer shall remain liable as Reinsurer on all liability reinsured under this Reinsurance Agreement until the earlier of (i) such time as Ceding Company no longer has liability under the Insurance Policies or (ii) the date this Reinsurance Agreement is terminated. Except as set forth in Section 3.2, the liability of Reinsurer under this Reinsurance Agreement shall follow and be identical to the liability of Ceding Company in respect of the Insurance Liabilities. Notwithstanding anything herein to the contrary, Reinsurer's liability for Extra Contractual Liabilities, whether known or unknown, directly or indirectly arising out of or relating to any actual or alleged action or inaction of SHIP or its subcontractors or delegees prior to the Effective Time shall be limited to Fifty Thousand Dollars ($50,000) per occurrence and subject to an aggregate limit of Two Million Dollars ($2,000,000) for the term of this Reinsurance Agreement.

(b) Subject to Section 3.1 and Exhibit A, "Terms of Administrative Services", Reinsurer shall be bound by all payments and settlements entered into by Ceding Company and Reinsurer shall pay the Ceded Percentage of all contractual benefits and other liabilities that Ceding Company owes in connection with the Insurance Liabilities, whether the amount of such benefits and other liabilities is fixed by settlement, judgment, arbitration or otherwise.

Section 2.3 Payments to Reinsurer. In consideration of the reinsurance provided hereunder, Ceding Company shall pay to Reinsurer (by depositing into the Reinsurance Trust Account to be established pursuant to Section 4.2), the following:

(a) On the Closing Date, cash or mutually agreed-upon admitted invested assets (as set forth on Schedule 2.3(a)) having a fair market value equal to the sum of (i) the Ceded Percentage of the statutory reserves that Ceding Company was required to maintain on the Insurance Policies as of the Effective Time (giving credit for inuring reinsurance) (as shown on Schedule 2.3(a)(i)) and (ii) the adjustments reflecting cash flows occurring after the Effective Time and prior to the Closing Date (as shown on Schedule 2.3(a)(ii)); and

(b) On and after the Closing Date, the Ceded Percentage of gross premium (as adjusted for inuring reinsurance) collected in connection with the Insurance Policies subsequent to the Closing Date.

Section 2.4 Suspense Amounts. Suspense and other amount not yet applied or received will be included in the adjustments pursuant to Section 2.3(a)(ii) with a true-up

effected at or shortly after the end of the term of the applicable services under the Transition Services Agreement.

Section 2.5 Ceding Commission. In consideration of the reinsurance ceded hereunder, on the Closing Date, Ceding Company shall pay into the Supplemental Trust Account a negative ceding commission equal to Forty-Two Million Two Hundred Thousand Dollars ($42,200,000) (the "Negative Ceding Commission").

Section 2.6 No Privity. The Parties agree that no rights or legal duties shall arise, by virtue of the reinsurance provided under this Reinsurance Agreement, between Reinsurer and any policyholder insured by Ceding Company. Reinsurer's liability is to Ceding Company as provided under the terms of this Reinsurance Agreement.

Section 2.7 Unclaimed Property. Notwithstanding anything herein to the contrary, any known unclaimed property liability with respect to the Insurance Policies that is identified prior to the end of the term of the Transition Services Agreement in accordance with Ceding Company's general administrative procedures will remain with Ceding Company and Ceding Company shall be responsible for continued administration thereof in accordance with Applicable Law. Thereafter, the administration of any unclaimed property liability identified with respect to any of the Insurance Policies will be the responsibility of Reinsurer or its delegee.

Article III
Policy Administration and Related Matters

Section 3.1 Administration.

(a) In consideration for the payments by Ceding Company to Reinsurer pursuant to Section 2.3 and Section 2.4, the Parties agree that, on and after the Closing Date, Reinsurer shall be responsible for (including all costs and expenses) and shall subcontract or delegate the administration of the Insurance Policies to SHIP (or a licensed Affiliate thereof). Subject to the prior written consent of Ceding Company, such consent not to be unreasonably delayed or withheld, Reinsurer may at any time replace SHIP with another licensed and qualified third party administrator with prior experience administering long-term care insurance business. The Insurance Policies shall be administered in conformance with Applicable Law and industry standards and pursuant to the terms and conditions of the Insurance Policies, this Reinsurance Agreement, the Florida Order and the terms set forth in Exhibit A. Any third party accepting and agreeing to any such delegation or subcontracting by Reinsurer shall expressly acknowledge and agree to perform its obligations in accordance with the terms and subject to the conditions set forth in this Reinsurance Agreement in general and in accordance with this Section 3.1 and Exhibit A specifically. Reinsurer shall monitor any such delegee(s) or subcontractor(s) in the performance of the administrative services hereunder for strict compliance with the terms and conditions set forth in this Reinsurance Agreement and Exhibit A. Reinsurer shall annually certify to Ceding Company whether or not the performance of such delegee(s) or subcontractor(s) is in strict compliance with the terms and conditions of this Reinsurance Agreement and Exhibit A, and if not, shall provide with such certification a report detailing all such noncompliance (including number of occurrences, dates, times and magnitude) and the corrective action steps taken for each occurrence. For the avoidance of doubt, any such

delegation or subcontracting shall not relieve Reinsurer of its responsibility or liability for the provision of such services pursuant to this Reinsurance Agreement and Exhibit A.

(b) Notwithstanding the foregoing, the Parties acknowledge that, pursuant to the UFL Administrative Services Agreement, a small number of the Insurance Policies (those reinsured by Ceding Company pursuant to the UFL Reinsurance Agreement) are currently administered and will continue to be administered for a period of time after the Closing Date by UFL. Pursuant to Section 3.1(a), on and after the Closing Date, Reinsurer shall be responsible for all costs and expenses of Ceding Company for such administration under the UFL Administrative Services Agreement. The Parties agree to reasonably cooperate to transition such administration to Reinsurer and/or its subcontractor/delegee following the Closing Date.

(c) The Parties agree to use commercially reasonable efforts to assign and novate, effective as of the Closing Date, Ceding Company's obligations pursuant to the MedAmerica Management Agreement, including the payment of any fees thereunder, to Reinsurer. In connection therewith, the Parties will use commercially reasonable efforts to execute all documents to effectuate such assignment and novation. For the avoidance of doubt, for periods on or after the Closing Date, the Parties agree that Reinsurer shall pay all fees to MedAmerica Insurance Company relating to administration of the applicable policies under the Management Agreement.

(d) Ceding Company hereby subrogates Reinsurer to a proportional amount of Ceding Company's indemnification rights under Article XIII (Indemnification) of the SHIP ASA (pursuant to Section 14.3 thereof, such rights survive the termination of the SHIP ASA); provided, however, the amount of Reinsurer's subgrogation provided for in this Section 3.1(c) shall be limited to the amount that Reinsurer actually pays for any Extra Contractual Liabilities arising out of or relating to any actual or alleged action or inaction of SHIP or its subcontractors or delegees prior to the Effective Time.

Section 3.2 Reimbursement.

(a) Reinsurer shall pay directly or reimburse Ceding Company for the Ceded Percentage of the Insurance Liabilities.

(b) All monies, checks, drafts, money orders, postal notes and other instruments that may be received after the Closing Date by Ceding Company for the Ceded Percentage of premiums, fees or other payments on or in respect of the Insurance Policies shall be held in trust by Ceding Company for the benefit of Reinsurer and shall be promptly remitted to Reinsurer, but in no event later than fifteen (15) Business Days after receipt by Ceding Company. Reinsurer shall be authorized to endorse for payment to Reinsurer any such checks, drafts, money orders and other instruments pertaining to the Insurance Policies that are payable to, or to the order of, Ceding Company and received by Reinsurer under this Reinsurance Agreement. As between the Parties, Reinsurer shall be deemed the owner of all such payments.

(c) If Ceding Company receives premium or state income tax credit in connection with guaranty association or other assessments related to the Insurance Policies, then Ceding Company shall pay the amount of any tax savings it realizes to Reinsurer.

Section 3.3 Reporting and Payments. Within nine (9) calendar days after the end of each calendar quarter, Reinsurer shall provide Ceding Company with accounting and settlement reports reflecting premiums, losses, reserves and expenses for the Insurance Policies in form and substance mutually agreed upon by the Parties. Such reports shall, at a minimum, contain all information needed by Ceding Company to prepare in a timely manner all financial reports under statutory and GAAP accounting methods. Such reports shall include, but not be limited to, the reports set forth in Schedule 3.3. If a report shows a balance due to a Party, the other Party shall remit the amount of such balance to such owed Party within fifteen (15) Business Days after receipt of the report. All payments shall be made in cash (United States legal tender) or its equivalent. Any amount due and unpaid under this Reinsurance Agreement shall accrue interest at a rate equal to the ten (10) year U. S. Treasury note plus one hundred (100) basis points.

Section 3.4 Records.

(a) Either Party and its employees and authorized representatives may audit, examine and copy (at such Party's own expense), during regular business hours, at the home office of the other Party, any and all books, records, statements, correspondence, reports and other documents that relate to the Insurance Policies or this Reinsurance Agreement, upon giving at least five (5) Business Days' prior notice to the other Party. The other Party shall (i) provide a reasonable work space for such audit, examination or copying, (ii) cooperate fully and faithfully and (iii) disclose the existence of and produce any and all materials reasonably requested to be produced.

(b) No Party shall have the right to conduct an audit or examination pursuant to this Section 3.4 more than twice during any consecutive twelve (12) month period except for reasonable cause or as otherwise required to attend to litigation threatened or instituted against a Party or to comply with Applicable Law or a Governmental Entity's investigation or inquiry (including financial or market conduct examinations).

Section 3.5 Errors and Omissions. If any delay, omission, error or failure to pay amounts due or to perform any other act required by this Reinsurance Agreement is unintentional and caused by misunderstanding or oversight, the Parties shall adjust the situation to what it would have been had the misunderstanding or oversight not occurred, and the reinsurance provided hereunder shall not be invalidated. The Party first discovering such misunderstanding or oversight shall promptly notify the other Party in writing, and the Parties shall act to correct such misunderstanding or oversight promptly following receipt of such notice.

Section 3.6 DAC Tax Election. If the Insurance Policies reinsured hereunder include for U.S. federal income tax purposes Specified Insurance Contracts pursuant to Section 848 of the Internal Revenue Code or the IRS regulations promulgated thereunder, the Parties shall make the election provided in IRS Regulation Section 1.848-2(g)(8). The specifics on this election are set forth in Schedule 3.6.

Section 3.7 Excise Tax Reimbursement. Reinsurer shall reimburse Ceding Company in full for any federal excise tax paid by Ceding Company under Section 4371 of the Internal Revenue Code of 1986, as amended, in connection with this Reinsurance Agreement.

Article IV
Credit for Reinsurance and Related Matters

Section 4.1 Reserves.

(a) Ceding Company and Reinsurer shall establish and maintain proper reserves (including for unearned premium, claims, incurred but not reported claims, asset adequacy and other reserves) for the Insurance Policies in accordance with statutory accounting principles promulgated by the National Association of Insurance Commissioners and the requirements of the laws of their domiciliary jurisdictions. Reinsurer shall take such steps as may be required for Ceding Company to receive full credit on Ceding Company's statutory financial statements for the reinsurance ceded under this Reinsurance Agreement. Towards that end, as of the Closing Date and at all times during the term of this Reinsurance Agreement, Reinsurer shall provide collateral and enter into the Reinsurance Trust Agreement as required by Section 4.2.

(b) Reinsurer shall comply with the Florida Order as it relates to the Insurance Policies, including any applicable distribution restrictions and reserve requirements or assumptions.

Section 4.2 Trust Agreement.

(a) Ceding Company and Reinsurer shall enter into a Reinsurance Trust Agreement substantially in the form attached hereto as Exhibit B, to be effective concurrently with this Reinsurance Agreement. The Reinsurance Trust Agreement shall contain those provisions necessary to effect the terms and conditions of this Reinsurance Agreement and shall comply with the requirements of the State of Indiana, including Rule 56 (Credit for Reinsurance) of Title 760 of the Indiana Administrative Code. Reinsurer shall establish in accordance with such Reinsurance Trust Agreement a trust account (the "Reinsurance Trust Account") with an independent financial institution reasonably acceptable to Ceding Company for the sole use and benefit of Ceding Company, for so long as there are Insurance Policies reinsured under this Reinsurance Agreement.

(b) On or before the Closing Date, Reinsurer shall deposit assets into the Reinsurance Trust Account consisting of Qualifying Trust Assets in compliance with the Investment Guidelines with an aggregate fair market value equal to one hundred two percent (102%) of the Trust Amount as of the Effective Time.

(c) The assets in the trust shall be valued according to their current fair market value. Reinsurer will direct the trustee to invest or reinvest the trust assets in accordance with the Investment Guidelines set forth in Exhibit C or as otherwise agreed upon by Ceding Company and Reinsurer. Only the following trust assets (the "Qualifying Trust Assets") shall be counted for purposes of calculating Ceding Company's reserve credit: cash (United States legal tender), certificates of deposit (issued by a United States bank and payable in United States legal tender), and investments permitted by the Indiana Insurance Code, provided that such investments (i) are issued by an institution that is not the parent, subsidiary or affiliate of either of the Parties and (ii) are otherwise acceptable to the Indiana Department of Insurance.

(d) Prior to depositing assets with the trustee, Reinsurer shall execute assignments, endorsements in blank or transfer legal title to the trustee of all shares, obligations or any other assets requiring assignments, in order that Ceding Company (or the trustee at the direction of Ceding Company) may whenever necessary negotiate the trust assets without the consent or signature of Reinsurer or any other entity.

(e) Ceding Company shall have the right to withdraw assets from the Reinsurance Trust Account at any time, without notice to Reinsurer, subject only to a written request for withdrawal from Ceding Company to the trustee. Assets withdrawn by Ceding Company may be used only in accordance with Section 4.4.

(f) If, at the end of any calendar quarter, (i) the aggregate fair market value of the Qualifying Trust Assets exceeds one hundred two percent (102%) of the Trust Amount as of such calendar quarter end, and (ii) the aggregate fair market value of the assets in the Supplemental Trust Account established pursuant to Section 4.3 exceeds the greater of five percent (5%) of the Trust Amount or the Supplemental Trust Alternative Amount as of the same calendar quarter end , then Ceding Company shall, within fifteen (15) calendar days of Reinsurer's request, consent in writing to Reinsurer's withdrawal of any excess assets from the Reinsurance Trust Account.

(g) If, at the end of any calendar quarter, the aggregate fair market value of the Qualifying Trust Assets is less than one hundred two percent (102%) of the Trust Amount as of such calendar quarter end, then, within fifteen (15) calendar days of its delivery of the Quarterly Reports set forth in Section 4.5, Reinsurer shall cause to be deposited into the Reinsurance Trust Account such additional Qualifying Trust Assets as are necessary to ensure that the aggregate fair market value of the Qualifying Trust Assets maintained in the Reinsurance Trust Account is no less than one hundred two percent (102%) of the Trust Amount.

(h) Appointment by the trustee or Reinsurer of any asset manager or subcustodian to manage or invest the assets of the Reinsurance Trust Account shall not be permitted without first receiving the prior written consent of Ceding Company, such consent not to be unreasonably withheld.

(i) The Reinsurance Trust Account established under this Section 4.2 is intended to secure payment of amounts owed by Reinsurer to Ceding Company under this Reinsurance Agreement. Reinsurer hereby grants to Ceding Company, as security for payment and performance of Reinsurer's obligations under this Agreement, a first priority security interest in Reinsurer's beneficial interest in the Reinsurance Trust Account established and funded pursuant to this Section. Assets properly withdrawn from the trust by Reinsurer will not be subject to the security interest.

Section 4.3 Supplemental Trust Agreement.

(a) Ceding Company and Reinsurer shall enter into a Supplemental Trust Agreement substantially in the form attached hereto as Exhibit D, to be effective concurrently with this Reinsurance Agreement. The Supplemental Trust Agreement shall contain those provisions necessary to effect the terms and conditions of this Reinsurance Agreement and shall

comply with the requirements of the State of Indiana but not be subject to Rule 56 (Credit for Reinsurance) of Title 760 of the Indiana Administrative Code. Reinsurer shall establish in accordance with such Supplemental Trust Agreement a supplemental trust account (the "Supplemental Trust Account") with an independent financial institution reasonably acceptable to Ceding Company for the sole use and benefit of Ceding Company, for so long as there are Insurance Policies reinsured under this Agreement.

(b) On or before the Closing Date, Reinsurer shall deposit assets into the Supplemental Trust Account consisting of assets in compliance with the Investment Guidelines with an aggregate fair market value equal to or exceeding the greater of (i) five percent (5%) of the Trust Amount as of the Effective Time or (ii) the Supplemental Trust Alternative Amount. The Supplemental Trust Agreement shall be maintained as overcollateralization of Reinsurer's obligations hereunder, and shall at all times be maintained at a minimum level of the greater of (i) five percent (5%) of the Trust Amount or (ii) the Supplemental Trust Alternative Amount.

(c) The assets in the Supplemental Trust Account shall be valued according to their current fair market value. Reinsurer will direct the trustee to invest or reinvest the trust assets in accordance with the Investment Guidelines set forth in Exhibit C or as otherwise agreed upon by Ceding Company and Reinsurer.

(d) Prior to depositing assets with the trustee, Reinsurer shall execute assignments, endorsements in blank or transfer legal title to the trustee of all shares, obligations or any other assets requiring assignments, in order that Ceding Company (or the trustee at the direction of Ceding Company) may whenever necessary negotiate the trust assets without the consent or signature of Reinsurer or any other entity.

(e) Ceding Company shall have the right to withdraw assets from the Supplemental Trust Account established pursuant to this Section 4.3 only at such time as the assets in the Reinsurance Trust Account established pursuant to Section 4.2 are insufficient to satisfy Ceding Company's authorized uses set forth in Section 4.4 and after prior notice to Reinsurer. For the avoidance of doubt, consent to any such withdrawal is not required to be provided by Reinsurer; rather, the trustee shall honor such withdrawal requests upon receipt of a written request from Ceding Company. Assets withdrawn by Ceding Company may be used only in accordance with Section 4.4.

(f) If, at the end of any calendar quarter, the market value of the assets in the Supplemental Trust Account exceeds the greater of (i) five percent (5%) of the Trust Amount as of such calendar quarter end or (ii) the Supplemental Trust Alternative Amount, and if the market value of the Qualifying Trust Assets in the Reinsurance Trust Account established pursuant to Section 4.2 exceeds one hundred two percent (102%) of the Trust Amount, Ceding Company shall, within fifteen (15) calendar days of Reinsurer's request, consent in writing to Reinsurer's withdrawal of any excess assets from the Supplemental Trust Account. If Reinsurer requests that all or any portion of the amount to be withdrawn hereunder instead be transferred to the supplement trust account established by Reinsurer pursuant to the BCLIC Reinsurance Agreement (the "BCLIC Supplemental Trust Account"), then Ceding Company shall consent to such transfer within two (2) Business Days of receipt of Reinsurer's request and direct the trustee

to transfer such combination of cash and trusteed assets as may be requested by Reinsurer to the trustee of the BCLIC Supplemental Trust Account for immediate deposit.

(g) If, at the end of any calendar quarter, the aggregate fair market value of the assets in the Supplemental Trust Account is less than the greater of (i) five percent (5%) of the Trust Amount as of such calendar quarter end or (ii) the Supplemental Trust Alternative Amount, then, within fifteen (15) calendar days of its delivery of the Quarterly Reports set forth in Section 4.5, Reinsurer shall cause to be deposited into the Supplemental Trust Account such additional assets as are necessary to ensure that the aggregate fair market value of the assets maintained in the Supplemental Trust Account is no less than the greater of (i) five percent (5%) of the Trust Amount or (ii) the Supplemental Trust Alternative Amount.

(h) Appointment by the trustee or Reinsurer of any asset manager or subcustodian to manage or invest the assets of the Supplemental Trust Account shall not be permitted without first receiving the prior written consent of Ceding Company, such consent not to be unreasonably withheld.

(i) The Supplemental Trust Account established under this Section 4.3 is intended to secure payment of amounts owed by Reinsurer to Ceding Company under this Reinsurance Agreement. Reinsurer hereby grants to Ceding Company, as security for payment and performance of Reinsurer's obligations under this Agreement, a first priority security interest in Reinsurer's beneficial interest in the Supplemental Trust Account established and funded pursuant to this Section. Assets properly withdrawn from the trust by Reinsurer will not be subject to the security interest.

Section 4.4 Use of Funds by Ceding Company.

(a) Ceding Company may use assets withdrawn from the Reinsurance Trust Account established pursuant to Section 4.2 and the Supplemental Trust Account established pursuant to Section 4.3 only for the following purposes:

(i) to reimburse Ceding Company for the Ceded Percentage of premiums returned to owners of the Insurance Policies on account of cancellations of such Insurance Policies;

(ii) to reimburse Ceding Company for the Ceded Percentage of surrenders and benefits or losses paid by Ceding Company under the terms and provisions of the Insurance Policies;

(iii) to fund an account with Ceding Company in an amount at least equal to the deduction, for reinsurance ceded, from Ceding Company's liabilities for Insurance Policies ceded under this Reinsurance Agreement. Such amount shall include, but not be limited to, amounts for policy reserves, reserves for claims and losses incurred (including losses incurred but not reported), loss adjustment expenses and unearned premiums; and

(iv) to pay any other amounts Ceding Company claims are due under this Reinsurance Agreement.

(b) Ceding Company agrees to: (1) return promptly to Reinsurer, by depositing into the applicable trust account to be established pursuant to Section 4.2 and/or Section 4.3, any assets withdrawn from such trust accounts in excess of the actual amounts required for subparagraphs (i), (ii), and (iii), above, or in the case of subparagraph (iv), any amounts that are subsequently determined not to be due; (2) pay Reinsurer interest on any amounts held pursuant to Section 4.4(a)(iii) at the prime rate of interest; and (3) permit the award, by an arbitration panel or court of competent jurisdiction of (i) interest at a rate different from that specified above and (ii) court or arbitration costs including attorneys' fees and any other reasonable expenses in connection with a failure by Ceding Company to make proper return of funds drawn.

(c) Payment of funds to Ceding Company by the trustee shall constitute payment by Reinsurer pursuant to this Reinsurance Agreement and shall discharge Reinsurer of the obligation that gave rise to the withdrawal.

Section 4.5 Quarterly Reports.

(a) Reinsurer shall prepare a written report on a quarterly basis (the "Quarterly Reports") setting forth, among others, the aggregate fair market value of the Qualifying Trust Assets maintained in the Reinsurance Trust Account and the assets maintained in the Supplemental Trust Account (both on an asset-by-asset basis and a cumulative basis, but by trust account), together with supporting detail, and such other information reasonably necessary to verify the compliance of the assets with all Investment Guidelines, and the reports listed on Schedule 4.5, in each case as of the end of each calendar quarter. The Quarterly Reports shall be delivered to Ceding Company within thirty (30) calendar days after the end of the applicable calendar quarter.

(b) As soon as is practicable, but in no event more than fifteen (15) Business Days following its receipt of the Quarterly Reports, Ceding Company shall either (i) agree with the contents of the Quarterly Reports or (ii) notify Reinsurer that it objects to any item in the Quarterly Reports concerning compliance of the assets with the Investment Guidelines. The Parties shall promptly begin good faith negotiations to resolve such dispute. If the Parties are unable to resolve such dispute within ten (10) Business Days of Ceding Company's transmittal to Reinsurer of its notice of objection, the Parties shall submit the dispute to the Third Party Accountant for resolution of the dispute. The Third Party Accountant shall deliver no later than five (5) Business Days after commencement of its review a report setting forth its determination concerning the disputed item(s) of the Quarterly Reports. Such Third Party Accountant's report shall be final and binding upon Reinsurer and Ceding Company. The fees, costs and expenses of the Third Party Accountant shall be borne equally by Ceding Company and Reinsurer. Reinsurer shall permit Ceding Company and/or the Third Party Accountant to audit its records in order to perform their respective reviews. Reinsurer shall cooperate fully with such audit. Access to Reinsurer and its employees by Ceding Company and/or the Third Party Accountant in

connection with such audit shall be at reasonable times during regular business hours upon reasonable prior written notice (including by e-mail) in a manner which does not unreasonably interfere with the business or operations of Reinsurer.

Section 4.6 Reinsurer Change of Control. In the event of a change in the ownership, controlling interest or management of Reinsurer or its ultimate parent company (a "change in control"), Ceding Company shall have the right to, in its reasonable discretion, modify the Investment Guidelines. Reinsurer shall give Ceding Company sixty (60) calendar days' prior written notice of any proposed transfer or change in control.

Article V
Regulatory Matters and Requirements; Closing

Section 5.1 Filings. The obligation of the Parties to consummate the transactions contemplated by this Reinsurance Agreement is contingent upon Ceding Company making the regulatory filings set forth on Schedule 5.1, and the absence of an objection by the identified regulators to this Reinsurance Agreement and the transactions contemplated herein.

Section 5.2 Cooperation. The Parties shall cooperate with each other in complying with regulatory requirements and responding to regulatory inquiries associated with the Insurance Policies or this Reinsurance Agreement. The duty of cooperation provided for in this Section 5.2 shall extend to any and all litigation matters regarding the Insurance Liabilities or the Insurance Policies, including litigation involving third parties.

Section 5.3 Insolvency. Reinsurance provided under this Reinsurance Agreement shall be payable by Reinsurer on the basis of Ceding Company's liability under the Insurance Policies without diminution because of any insolvency of Ceding Company. Reinsurer shall pay its share of Ceding Company's liability directly to Ceding Company or its liquidators, receivers or statutory successors. The liquidators, receivers or statutory successors shall give written notice to Reinsurer of the pendency of a claim against Ceding Company involving a policy reinsured under this Reinsurance Agreement within a reasonable time after such claim is filed in the insolvency proceeding. During the pendency of such claim, Reinsurer may investigate the claim and interpose, at its own expense, in the proceeding where the claim is to be adjudicated, any defense or defenses which it may deem available to Ceding Company or Ceding Company's liquidators, receivers or statutory successors. Any expense Reinsurer thus incurs shall be chargeable, subject to court approval, to Ceding Company as part of the expense of liquidation to the extent of the proportionate share of the benefit which may accrue to Ceding Company solely from the defense undertaken by Reinsurer. In the event two or more assuming Reinsurers are involved in the same claim and a majority in interest elect to interpose a defense to such claim, the expense shall be apportioned in accordance with the terms of this Reinsurance Agreement as though such expenses had been incurred by Ceding Company.

Section 5.4 Closing Conditions. The obligations of the Parties to cause the transactions contemplated herein to be consummated (the "Closing") are subject to satisfaction of each of the following conditions at or prior to the Closing:

(a) The making of the regulatory filings set forth on Schedule 5.1, and the absence of an objection by the identified regulators to this Reinsurance Agreement and the transactions contemplated herein.

(b) Termination of the services provided by SHIP under the SHIP ASA with respect to the Insurance Policies.

(c) The Parties shall have delivered to each other duly executed copies of the Transition Services Agreement.

(d) Closing of the transactions contemplated by the BCLIC Reinsurance Agreement.

(e) MedAmerica.

(i) Assignment and novation of the MedAmerica Management Agreement from Ceding Company to Reinsurer.

(ii) Recapture by Ceding Company of the business reinsured by MedAmerica Insurance Company under the MedAmerica Reinsurance Agreement.

(f) Consent/waiver by ERC of any net retention requirement in the ERC Reinsurance Agreement.

Article VI
Representations and Warranties of Ceding Company

Ceding Company represents and warrants to Reinsurer that the matters set forth in this Article VI are true and correct as of the date hereof (or, if made as of a specified date, as of such date):

Section 6.1 Organization and Standing of Ceding Company. Ceding Company is an insurance company duly organized, validly existing and in good standing under the laws of the State of Indiana.

Section 6.2 Authorization. Ceding Company has all requisite power and authority to execute, deliver and perform its obligations under this Reinsurance Agreement. All acts or proceedings required to be taken by Ceding Company to authorize the execution, delivery and performance of this Reinsurance Agreement and all transactions contemplated hereby have been duly and validly taken. This Reinsurance Agreement has been duly executed and delivered by Ceding Company, and assuming due and valid authorization, execution and delivery hereof by other parties hereto, constitutes the legal, valid and binding obligations of Ceding Company, enforceable against Ceding Company in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium or other similar laws affecting creditors' rights generally, by applicable insurance insolvency and liquidation statutes and regulations and by general equitable principles (regardless of whether such enforceability is considered in a proceeding in equity or at law).

Section 6.3 No Conflict or Violation. The execution, delivery and performance of this Reinsurance Agreement shall not (i) violate any provision of the Articles of Incorporation, Bylaws or other charter or organizational document of Ceding Company, (ii) violate, conflict with or result in the breach of any of the terms of, result in any modification of, give any counterparty the right to terminate, or constitute a default under, any contract or other agreement to which Ceding Company is a party, (iii) violate any order, judgment or decree applicable to Ceding Company or (iv) subject to making the necessary regulatory filings and the absence of regulatory objections pursuant to Section 5.1, violate any statute, law or regulation of any jurisdiction applicable to Ceding Company.

Article VII
Representations and Warranties of Reinsurer

Reinsurer represents and warrants to Ceding Company that the matters set forth in this Article are true and correct as of the date hereof (or, if made as of a specified date, as of such date):

Section 7.1 Organization and Standing of Reinsurer. Reinsurer is a life reinsurance company duly organized, validly existing and in good standing under the laws of the Cayman Islands.

Section 7.2 Authorization. Reinsurer has all requisite power and authority to execute, deliver and perform its obligations under this Reinsurance Agreement. All acts or proceedings required to be taken by Reinsurer to authorize the execution, delivery and performance of this Reinsurance Agreement and all transactions contemplated hereby have been duly and validly taken. This Reinsurance Agreement has been duly executed and delivered by Reinsurer, and assuming due and valid authorization, execution and delivery hereof by other parties hereto, constitutes the legal, valid and binding obligations of Reinsurer, enforceable against Reinsurer in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium or other similar laws affecting creditors' rights generally, by applicable insurance insolvency and liquidation statutes and regulations and by general equitable principles (regardless of whether such enforceability is considered in a proceeding in equity or at law).

Section 7.3 No Conflict or Violation. The execution, delivery and performance of this Reinsurance Agreement shall not (i) violate any provision of the Articles of Incorporation, Bylaws or other charter or organizational document of Reinsurer, (ii) violate, conflict with or result in the breach of any of the terms of, result in any modification of, give any counterparty the right to terminate, or constitute a default under, any contract or other agreement to which Reinsurer is a party, (iii) violate any order, judgment or decree applicable to Reinsurer or (iv) subject to making the necessary regulatory filings and the absence of regulatory objections pursuant to Section 5.1, violate any statute, law or regulation of any jurisdiction applicable to Reinsurer.

Section 7.4 U.S. Federal Income Taxes. Reinsurer is a recognized United States federal income tax-paying entity.

Article VIII
Indemnification

Section 8.1 Indemnification by Ceding Company. Ceding Company hereby indemnifies and holds Reinsurer harmless from and against all loss, damage, cost and expense of any nature, including legal, accounting and other professional fees, arising from (i) any liability relating to the Insurance Policies that results from Ceding Company's acts, errors or omissions that occur on or after the Effective Time, (ii) any violation or breach of the provisions of this Reinsurance Agreement by Ceding Company or (iii) any inaccuracy or falsity of a representation or warranty made by Ceding Company under this Reinsurance Agreement.

Section 8.2 Indemnification by Reinsurer. Reinsurer hereby indemnifies and holds Ceding Company harmless from and against all loss, damage, cost and expense of any nature, including legal, accounting and other professional fees, arising from (i) any violation or breach of the provisions of this Reinsurance Agreement by Reinsurer or (ii) any inaccuracy or falsity of a representation or warranty made by Reinsurer under this Reinsurance Agreement.

Section 8.3 Notice of Potential Liability. Promptly after receipt by an indemnified Party hereunder of notice of any demand, claim or circumstances which, with or without the lapse of time, would give rise to the commencement (or threatened commencement) of any action, proceeding or investigation that may result in an indemnified liability, the indemnified Party shall give notice of the potential liability to the indemnifying Party. The notice shall (i) describe the potential liability in reasonable detail, (ii) indicate the amount (estimated, if necessary) of the loss that has been or may be suffered by the indemnified Party and (iii) include a statement as to the basis for the indemnification sought. Failure to provide notice in a timely manner shall not be deemed a waiver of the indemnified Party's right to indemnification other than to the extent that such failure prejudices the defense of the action, proceeding or investigation by the indemnifying Party.

Section 8.4 Opportunity to Defend. The indemnifying Party may elect to defend, at its own expense and by its own counsel, any potential liability covered by this Article; provided, however, that the indemnifying Party may not compromise or settle any such liability without the consent of the indemnified Party (which consent shall not be unreasonably withheld or delayed). If the indemnifying Party elects to defend the potential liability, it shall within thirty (30) calendar days from receipt of the notice required by Section 8.3 notify the indemnified Party of its intent to do so, and the indemnified Party shall cooperate in the defense at its own expense.

Section 8.5 Exclusive Remedy. The provisions of this Article shall be the sole and exclusive remedy at law for any breach of a representation, warranty or covenant under this Reinsurance Agreement, except that nothing set forth in this Article shall be deemed to prohibit or limit either Party's right to seek specific performance or other equitable relief for the failure of the other Party to perform any covenant contained herein.

Article IX
Term; Termination

Section 9.1 Term. This Reinsurance Agreement shall be effective as of the Effective Time, and shall remain in effect until Ceding Company ceases to have any obligations or liabilities under the Insurance Policies, unless terminated before such time by Ceding Company or Reinsurer pursuant to this Article.

Section 9.2 Termination.

(a) Mutual Agreement. This Reinsurance Agreement may be terminated at any time by mutual written agreement of the Parties.

(b) Termination by Ceding Company. Ceding Company may terminate this Reinsurance Agreement:

(i) immediately upon the failure, within forty-five (45) calendar days, to correct material business or financial practices which are the subject of any administrative action or order by any insurance regulatory authority with jurisdiction over Reinsurer;

(ii) immediately upon Reinsurer's failure to meet the prescribed capital requirement under the laws of the Cayman Islands;

(iii) immediately upon the initiation against Reinsurer of any delinquency proceeding, including but not limited to supervision, conservation, rehabilitation, liquidation, bankruptcy or any other proceeding of a similar nature, or any order of administrative supervision (or any other form of order that has substantially the same effect) is entered with respect to Reinsurer;

(iv) upon giving thirty (30) calendar days' prior written notice to Reinsurer if Reinsurer's delegee or subcontractor materially breaches the terms of Exhibit A in connection with the provision of administrative services under this Reinsurance Agreement, but only if during thirty (30) day period Reinsurer has not formulated and begun implementation of a plan, reasonably acceptable to Ceding Company, to cure such material breach or breaches;

(v) upon giving thirty (30) calendar days' prior written notice to Reinsurer for any breach by Reinsurer of its obligations under this Reinsurance Agreement, the Reinsurance Trust Agreement or the Supplemental Trust Agreement, if the breach is not cured during such period; or

(vi) upon giving thirty (30) calendar days' prior written notice to Reinsurer for non-payment of amounts due by Reinsurer to Ceding Company under this Reinsurance Agreement (provided that the amounts due are not *de*

minimis), unless the unpaid amounts are the subject of a good-faith dispute, if full payment of such amounts is not made within such period.

(c) Termination by Reinsurer. Reinsurer may terminate this Reinsurance Agreement upon giving thirty (30) calendar days' prior written notice to Ceding Company for non-payment of amounts due by Ceding Company to Reinsurer under this Reinsurance Agreement (provided that the amounts due are not *de minimis*), unless the unpaid amounts are the subject of a good-faith dispute, if full payment of such amounts is not made within such period.

Section 9.3 Effect of Termination. On and after the effective date of the termination of this Reinsurance Agreement, Ceding Company shall recapture all liabilities previously ceded to Reinsurer under this Reinsurance Agreement, (ii) Ceding Company shall reassume responsibility for the administration of the Insurance Policies under Section 3.1 and Ceding Company and Reinsurer shall cooperate with each other and use their reasonable best efforts to effect an orderly transition and conversion of such administrative services, (iii) Reinsurer's liability under this Reinsurance Agreement in connection with the recaptured risks will terminate (subject to Reinsurer's satisfaction of subsections (v), (vi) and (vii) hereof, (iv) Ceding Company shall pay to Reinsurer any amounts owed by Ceding Company to Reinsurer under this Reinsurance Agreement as of the date of recapture, (v) Reinsurer shall pay to Ceding Company any amounts owed by Reinsurer to Ceding Company under this Reinsurance Agreement as of the date of recapture, (vi) Reinsurer shall pay to Ceding Company cash or admitted invested assets having a fair market value equal to the statutory reserves attributable to the liability being recaptured, and (vii) Reinsurer shall refund to Ceding Company a proportionate amount of the Negative Ceding Commission as set forth on Schedule 9.3 on the date of recapture.

Article X
Miscellaneous Provisions

Section 10.1 Arbitration.

(a) Except as otherwise provided in this Reinsurance Agreement, all disputes or differences between the Parties arising under or relating to this Reinsurance Agreement upon which an amicable understanding cannot be reached shall be decided by arbitration pursuant to the terms of this Section. Except as otherwise provided in this Reinsurance Agreement, the arbitration proceeding shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association.

(b) The court of arbitration provided for herein shall place a liberal construction upon this Reinsurance Agreement in light of the prevailing customs and practices for reinsurance in the life and health insurance industry.

(c) The court of arbitrators shall consist of three (3) arbitrators who must be officers or retired officers of life and health insurance or reinsurance companies (other than the Parties to this Reinsurance Agreement or their Affiliates). Each arbitration under this

Reinsurance Agreement shall be held in the City of New York, New York, unless a different location is mutually agreed upon by the Parties.

(d) Within thirty (30) calendar days of written demand of any Party to arbitrate any dispute, Ceding Company and Reinsurer shall each appoint an arbitrator and notify the other Party of the name and address of their arbitrator. The two (2) arbitrators so appointed shall thereupon select a third (3rd) arbitrator. If either Party shall fail to appoint an arbitrator as herein provided, or should the two (2) arbitrators so named fail to select a third (3rd) arbitrator within thirty (30) calendar days of their appointment, then in either event, either Party may request the American Arbitration Association to appoint the third (3rd) arbitrator. The three (3) arbitrators so selected shall constitute the court of arbitrators.

(e) A decision of a majority of said court shall be final and binding and there shall be no appeal therefrom. The court shall not be bound by legal rules of procedure and may receive evidence in such a way as to do justice between the Parties. The court shall enter an award which shall do justice between the Parties and the award shall be supported by written opinion.

(f) The cost of arbitration, including the fees of the arbitrators, shall be borne equally by the Parties unless the court of arbitrators shall decide otherwise.

(g) Either Party may seek to enforce an arbitration award in the State of New York, United States of America, in state or federal court. Toward that end, Ceding Company and Reinsurer agree to submit to the non-exclusive jurisdiction of such courts and waive any objection which they may have to the laying of venue of any such proceeding brought in such courts and any claim that such proceeding was brought in an inconvenient forum. In addition, Ceding Company and Reinsurer hereby consent to service of process out of such courts at the addresses set forth in Section 10.9.

Section 10.2 Assignment and Delegation. This Reinsurance Agreement may not be assigned, and the duties and obligations hereunder may not be delegated, by any Party unless such assignment or delegation is agreed to in advance in writing by both Parties hereto. This Reinsurance Agreement shall be binding on the Parties, their permitted assignees, delegees and successors (including, without limitation, any liquidator, rehabilitator, receiver or conservator of a Party).

Section 10.3 Confidentiality. The Parties shall comply with all applicable state and federal privacy laws and requirements. In addition, each Party (i) shall keep the business, policy and other records of the other Party confidential, (ii) shall not disclose or reveal such records to anyone and (iii) shall not use the records for any purpose whatsoever, other than performing its responsibilities under this Reinsurance Agreement, unless (iv) the Party is legally required to disclose or reveal the information contained in such records. In that event, the information shall be disclosed only to the extent legally required and only after giving ten (10) calendar days' prior notice to the other Party.

Section 10.4 Construction. The headings of Articles and Sections in this Reinsurance Agreement are provided for convenience only and shall not affect its construction or interpretation. All references to "Articles" and "Sections" refer to the corresponding Articles and Sections of this Reinsurance Agreement. All words used in this Reinsurance Agreement shall be construed to be of such gender or number as the circumstances require. Unless otherwise expressly provided, the word "including" does not limit the preceding words or terms.

Section 10.5 Counterparts. This Reinsurance Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original copy of this Reinsurance Agreement and all of which, when taken together, shall be deemed to constitute one and the same agreement. The exchange of copies of this Reinsurance Agreement and of signature pages by facsimile or other electronic transmission shall constitute effective execution and delivery of this Reinsurance Agreement as to the Parties and may be used in lieu of the original agreement for all purposes. Signatures of the Parties transmitted by facsimile or other electronic transmission shall be deemed to be their original signatures for all purposes.

Section 10.6 Entire Agreement. This Reinsurance Agreement, the Reinsurance Trust Agreement and the Supplemental Trust Agreement supersede all prior agreements, whether written or oral, between the Parties with respect to its subject matter and constitutes (along with the exhibits, schedules and other documents delivered pursuant to this Reinsurance Agreement, the Reinsurance Trust Agreement and the Supplemental Trust Agreement) a complete and exclusive statement of the terms of the agreement between the Parties with respect to its subject matter. This Reinsurance Agreement may not be amended, supplemented or otherwise modified except by a written agreement that identifies itself as an amendment to this Reinsurance Agreement executed by the Parties.

Section 10.7 Governing Law. This Reinsurance Agreement shall be construed in accordance with the laws of the State of Indiana without giving effect to the principles of conflicts of law thereof.

Section 10.8 Interpretations. No uncertainty or ambiguity in this Reinsurance Agreement shall be construed or resolved against any Party whether under any rule of construction or otherwise. No Party to this Reinsurance Agreement shall be considered the draftsman. The Parties acknowledge and agree this Reinsurance Agreement has been negotiated, reviewed and accepted by all Parties and their attorneys and shall be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of all Parties hereto.

Section 10.9 Notices. All notices and other communications required or permitted by this Reinsurance Agreement shall be in writing and shall be effective, and any applicable time period shall commence when (a) delivered to the following address by hand or by internationally recognized overnight courier service (cost prepaid) or (b) transmitted electronically to the following facsimile numbers or e-mail addresses with confirmation of receipt of transmission, in each case marked to the attention of the respective person (by name or title) designated below (or to such other address, facsimile number, e-mail address or person as a Party may designate by notice to the other Parties):

(a) If to Ceding Company:

CNO Financial Group, Inc.
Attention: Matthew J. Zimpfer
Executive Vice President and General Counsel
11825 N. Pennsylvania Street
Carmel, IN 46032
Telephone No.: (317) 817-2889
Facsimile No.:
E-mail Address: Matt.Zimpfer@CNOinc.com

With a copy to:

Faegre Baker Daniels LLP
Attention: Scott M. Kosnoff
300 North Meridian Street, Suite 2700
Indianapolis, Indiana 46204
Telephone No.: (317) 237-1201
Facsimile No.: (317) 231-1000
E-mail Address: scott.kosnoff@faegrebd.com

(b) If to Reinsurer:

Beechwood Re Ltd
Attention: Scott Taylor
President
Building 3, 2nd Floor, Governors Square
23 Lime Tree Avenue
Grand Cayman KY1- 1108
Telephone No.: (345) 949-7966
Facsimile No.:
E-mail Address: staylor@beechwoodreinsurance.com

With a copy to:

Edwards Wildman Palmer LLP
750 Lexington Avenue
New York, New York 10022
Attention: Nick Pearson
Telephone No.: (212) 912-2798
Facsimile No.:
E-mail Address: npearson@edwardswildman.com

Section 10.10 Offset. Any debts or credits, matured or unmatured, liquidated or unliquidated, regardless of when they arose or were incurred, in favor of or against either Ceding Company or Reinsurer with respect to this Reinsurance Agreement are deemed mutual debts or credits, as the case may be, and shall be set off, and only the balance shall be allowed or paid.

Section 10.11 Other Instruments. Ceding Company and Reinsurer shall promptly execute and deliver all additional instruments and shall promptly take all reasonable actions in order to carry out the purposes of this Reinsurance Agreement.

Section 10.12 Severability. If any provision of this Reinsurance Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Reinsurance Agreement shall remain in full force and effect. Any provision of this Reinsurance Agreement held invalid or unenforceable only in part or degree shall remain in full force and effect to the extent not held invalid or unenforceable.

Section 10.13 Subrogation. With respect to any payment made by Reinsurer under this Reinsurance Agreement, Reinsurer shall be subrogated to all of Ceding Company's rights to recover such payment against any person or organization, and Ceding Company shall execute and deliver any required documents or instruments and do whatever is necessary to preserve and secure such rights. Any recovery made by Ceding Company shall be paid to Reinsurer to the extent of payment made by Reinsurer under this Reinsurance Agreement.

Section 10.14 Waiver of Breach. Neither the failure nor any delay on the part of Ceding Company or Reinsurer to exercise any right, remedy, power or privilege under this Reinsurance Agreement shall operate as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege shall preclude the further exercise of that right, remedy, power or privilege or the exercise of any other right, remedy, power or privilege. No waiver of any right, remedy, power or privilege with respect to any occurrence shall be construed as a waiver of that right, remedy, power or privilege with respect to any other occurrence. No waiver shall be effective unless it is in writing and signed by the Party granting the waiver.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;
SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have caused this Reinsurance Agreement to be executed by their respective duly authorized officers, as of the dates indicated below.

REINSURER:

BEECHWOOD RE LTD

By: _____ President Date: _____
[Name, Title]

CEDING COMPANY:

WASHINGTON NATIONAL INSURANCE COMPANY

By: _____ Date: _____
Mark E. Billingsley, Senior Vice President

IN WITNESS WHEREOF, the Parties have caused this Reinsurance Agreement to be executed by their respective duly authorized officers, as of the dates indicated below.

REINSURER:

BEECHWOOD RE LTD

By: _____ Date: _____
[Name, Title]

CEDING COMPANY:

WASHINGTON NATIONAL INSURANCE COMPANY

By: _____ Date: 2-10-14
Mark E. Billingsley, Senior Vice President

Exhibit 2

WILLKIE FARR & GALLAGHER LLP

787 Seventh Avenue
New York, NY 10019-6099
Tel: 212 728 8000
Fax: 212 728 8111

September 29, 2016

VIA EMAIL

Scott Taylor
Beechwood Re Ltd
Building 3, 2nd Floor, Governors Square
23 Lime Tree Avenue
Grand Cayman KY1- 1108

Re: Notice of Termination of Reinsurance Agreements

Dear Mr. Taylor:

This firm represents Washington National Insurance Company ("WNIC") and Bankers Conseco Life Insurance Company ("BCLIC"). WNIC and BCLIC hereby terminate, effective immediately, (i) the Indemnity Reinsurance Agreement by and between WNIC and Beechwood Re Ltd ("Beechwood") and (ii) the New York Indemnity Reinsurance Agreement by and between BCLIC and Beechwood (collectively, the "Reinsurance Agreements") pursuant to Section 9.2(b)(v) of the Reinsurance Agreements.[1]

Section 9.2(b)(v) authorizes WNIC and BCLIC to terminate their respective Reinsurance Agreements if Beechwood breaches any of its obligations under certain contracts, including the Reinsurance Agreements. Beechwood has breached the terms of the Reinsurance Agreements—including, without limitation, Sections 3.3, 4.1, 4.2, 4.3, and 4.5—and, because its breaches cannot be cured, WNIC and BCLIC's termination of the Reinsurance Agreements is effective immediately.

First, the Reinsurance Agreements required Beechwood to deposit and maintain in the WNIC and BCLIC reinsurance trust accounts Qualifying Trust Assets with an aggregate fair market value of 102 percent of the statutorily required reserves (*i.e.*, policy liabilities) as collateral for Beechwood's

[1] Pursuant to Section 5.1(b) the Supplemental Trust Agreement between WNIC, Beechwood, and Wilmington Trust, National Association ("Wilmington"), and Section 5.1(b) of the New York Supplemental Trust Agreement between BCLIC, Beechwood, and Wilmington, (collectively, the Supplemental Trust Agreements), the termination of the Reinsurance Agreements terminates the Supplemental Trust Agreements, too.

obligation to pay future claims on the reinsured policies. (Reinsurance Agreements §§ 4.1, 4.2(a), 4.2(g).) The Reinsurance Agreements defined Qualifying Trust Assets to include (a) cash, (b) certificates of deposit, and (c) certain other types of investments, provided those investments (i) were not issued by any party's parent, subsidiary, or affiliate and (ii) were acceptable to the Indiana Department of Insurance (in the case of investments for the WNIC reinsurance trust account) or the New York State Department of Financial Services (in the case of investments for the BCLIC reinsurance trust account). (Reinsurance Agreements § 4.2(c).) Assets that did not meet these criteria could not be Qualifying Trust Assets and therefore could not count toward the 102-percent threshold established by the Reinsurance Agreements.

It cannot be disputed that Beechwood consistently deposited non-Qualifying Trust Assets in the reinsurance trust accounts. The New York Department of Financial Services ("NYDFS") conducted a "detailed analysis" of the BCLIC reinsurance trust account and concluded that "a substantial portion of the current assets held within the Trust are not in compliance with the standards set under 11 NYCRR § 126 (Insurance Regulation 114), which is also required under the express terms of the [BCLIC Reinsurance Agreement]." The NYDFS also "observed that certain assets within the Trust were removed subsequent to the Department's approval of the reinsurance treaty and replaced with assets that do not comply with 11 NYCRR § 126(a)(2), which states that 'assets deposited in the trust account shall be valued according to their current fair market value, and shall consist only of cash (United States legal tender), certificates of deposit (issued by a United States bank and payable in United States legal tender), and investments of the types specified in paragraphs (1), (2), (3), (8) and (10) of subsection (a) of section 1404 of the New York Insurance Law.'" The NYDFS has "directed [BCLIC] to remediate this deficiency within ten days . . . by ensuring the assets held within the Trust meet the requirements of Insurance Regulation 114" and threatened to deny reserve credit and impose disciplinary action if BCLIC fails to do so. By definition, the assets implicated by the NYDFS regulatory demand letter—which have been deemed unacceptable by the NYDFS—cannot be Qualifying Trust Assets. (*See* BCLIC Reinsurance Agreement § 4.2(c).)

The Indiana Department of Insurance ("IDOI") likewise examined the assets in the WNIC reinsurance trust account and concluded that "[a]t least some of the Level 3 Trust assets cannot be reliably valued," as a result of which any withdrawal from the trust by Beechwood is "based on unreliable valuations." The IDOI threatened to deny WNIC credit for the reinsurance ceded under the WNIC Reinsurance Agreement "unless corrective measures, satisfactory to the IDOI, are taken immediately." By definition, the assets deemed unacceptable by the IDOI cannot be Qualifying Trust Assets. (*See* WNIC Reinsurance Agreement § 4.2(c).)

Because the assets deemed unacceptable by NYDFS and IDOI are not Qualifying Trust Assets, the aggregate fair market value of the Qualifying Trust Assets in each reinsurance trust account is less than 102 percent of the Trust Amount (as defined in the Reinsurance Agreements). When the aggregate fair market value of the Qualifying Trust Assets in the reinsurance trusts falls below 102 percent of the Trust Amount, Beechwood is required to deposit "such additional Qualifying Trust Assets as are necessary to ensure that the aggregate fair market value of the Qualifying Trust Assets maintained in" the relevant trust account "is no less than one hundred two percent (102%) of the Trust Amount."

Beechwood has failed to deposit additional Qualifying Trust Assets as needed and has thus breached Section 4.1 and Section 4.2(g) of each of the Reinsurance Agreements.

Furthermore, a number of the assets in the trust accounts are not Qualifying Trust Assets because they were investments issued by or obtained from Beechwood affiliates. Beechwood's extensive ties to Platinum Partners LP and its principals, Mark Nordlicht and Murray Huberfeld are now—finally, after years of deception by Beechwood—known to all parties:

- Nordlicht (reportedly under investigation by the United States Attorney's Office) and Huberfeld (indicted and charged with paying bribes to a union official who, in turn, invested union funds in Platinum) co-founded Beechwood and, until last month, owned approximately 35 percent of Beechwood through various family trusts. According to published reports, Beechwood provided Nordlicht and Huberfeld up-to-the-minute information concerning Beechwood. Beechwood only acknowledged Nordlicht and Huberfeld's ownership interest in Beechwood after that information appeared in the *Wall Street Journal*.

- The individuals presented to WNIC and BCLIC as Beechwood's chief operating officer, chief technology officer, general counsel, and senior secured collateralized loans portfolio manager at an early pitch meeting were, in fact, all Platinum employees.

- Huberfeld's nephew, David Levy, was Beechwood's first chief investment officer. Levy worked at Platinum before Beechwood hired him. Levy invested heavily in Platinum's funds and, among other things, purchased from Platinum a substantial loan to George Levin, a principal in Rothstein Rosenfeldt Adler PA (later revealed to be a Ponzi scheme). Contrary to Beechwood's prior representations, Levy held an equity stake in Beechwood—with voting rights—until last month.

- Beechwood deposited junk bonds issued by Black Elk Energy LLC, an oil company, in the WNIC and BCLIC reinsurance trust accounts. With Black Elk in financial distress following an oil rig explosion and on the verge of selling its principal assets for $149 million, Platinum—which owned a majority interest in the company—asked the holders of $150 million of Black Elk's high-yield junk bonds to allow Platinum to receive the proceeds of the asset sale ahead of bondholders and other secured creditors. Beechwood voted the WNIC and BCLIC trusts' bonds in favor of subordinating their interests to Platinum's—contrary to the WNIC and BCLIC trusts' interests—the measure passed, and Platinum received all of the proceeds of the asset sale.

- Levy loaned Newel Trading, which is owned by Platinum, tens of millions of dollars from the WNIC and BCLIC reinsurance trust accounts. The short-term loans were never appropriately valued, rated or reported, and therefore breached the express terms of Section 4.5 of the Reinsurance Agreements.

- Prior to his indictment, Huberfeld maintained an office at Beechwood, and the Federal Bureau of Investigation raided Beechwood's offices on the day of Huberfeld's arrest.

- Huberfeld's son-in-law, a former Platinum employee, is currently an employee of Beechwood affiliate B Asset Manager.

- Beechwood owes Nordlicht, Huberfeld, and others approximately $6 million pursuant to the terms of a $25 million demand note.

- According to the *Wall Street Journal*, in 2015, Beechwood lent Platinum substantial sums of money and purchased portions of Platinum's portfolio so Platinum could fund redemptions to investors that it otherwise could not pay back. Platinum reportedly "ended up owing Beechwood around $70 million."

Despite Platinum's extensive relationship with, interest in, and control over Beechwood, Beechwood entered into a number of transactions with other companies that Platinum and its principals owned or controlled—*i.e.*, other Platinum affiliates—or acquired investments concerning these companies from Platinum, including, without limitation:

- Agera Energy LLC;

- ALS Capital Ventures, LLC;

- Golden Gate Oil LLC;

- Implant Sciences Corp.;

- Milberg, LLP;

- Pedevco Corp.; and

- Platinum Partners Credit Opportunities Master Fund, LP.

These affiliate investments do not constitute Qualifying Trust Assets. Without them, even accepting the Beechwood-Duff & Phelps valuations as of June 30, 2016, at face value, the total values of the Qualifying Trust Assets in the WNIC and BCLIC reinsurance trust accounts were only $253,392,816 and $223,180,229—just 83.6 percent and 95.4 percent of the respective statutorily required reserves. Because it has failed to deposit additional Qualifying Trust Assets to meet the 102-percent threshold set forth in the Reinsurance Agreements, Beechwood has breached Section 4.1 and Section 4.2(g) of the Reinsurance Agreements.

Affiliate investments are also barred by the investment guidelines that govern the assets deposited in the supplemental trust accounts. Without the assets identified above, the total values of the assets in the WNIC and BCLIC supplemental trust accounts are only $11,638,696 and $9,581,938—both of which amounts are below the minimum threshold prescribed by the Reinsurance Agreements. (*See* Reinsurance Agreements § 4.3(g).) Because it has failed to deposit additional assets to meet the threshold set forth in the Reinsurance Agreements, Beechwood has breached Section 4.1 and Section 4.3(g) of the Reinsurance Agreements.

Beechwood also breached its duty under Section 4.5 of the Reinsurance Agreements to provide quarterly written reports setting forth the aggregate fair market value of the Qualifying Trust Assets in the trust accounts and the assets in the supplemental trust accounts. (*See* Reinsurance Agreements § 4.5) Beechwood has incurably breached this section of the Reinsurance Agreements for each quarter during which it provided a report because the valuations it provided were erroneous and indefensible.[2] The Beechwood-Duff & Phelps valuations do not account for, among other things, Beechwood's under-collateralization and cross-collateralization of many of the investments that have been deposited in the reinsurance trusts and Platinum's effect on the value of the assets.

The resulting valuations are indefensible on their face. For example:

- The most recent valuation of Agera Energy—$260 million to $330 million as of June 30, 2016—represents a 46 percent increase in the company's enterprise value in just three weeks. Agera Energy's last-twelve-months revenue and EBITDA growth do not support this substantial increase in the purported value of the company. Beechwood and Duff & Phelps used EBITDA multiples that are not adequately supported by data concerning companies comparable to Agera Energy and made assumptions regarding Agera Energy's growth rate and cost of debt that lack any support.

- The valuations of the ALS Capital Ventures investments—based on certain life insurance policies—presume that there is sufficient collateral (in the form of the so-called fair value of life insurance policies) to cover the investments, when the evidence available demonstrates such policies are sold at a substantial discount to the values assigned to them by ALS.

- The valuation of Golden Gate Oil relies on the assumptions that oil will sell for $90 per barrel and that a significant percentage of Golden Gate Oil's wells will be developed and will produce tens of thousands of barrels of oil per day. In reality, oil is trading for less than $50 per barrel, less than two percent of the wells at issue have been developed—despite Golden Gate Oil's (failed) efforts to reach the reserves in 2014—and, based on its financials, Golden Gate Oil appears to be producing approximately thirty barrels of oil per day.

- The valuation of the Milberg, LLP investments relies entirely on the accuracy of Milberg's self-serving case estimates, which, to date, have not been accurate.

- The valuation of Pedevco—arrived at using a market value of capital invested approach—is inappropriate for a distressed firm. Furthermore, Beechwood and Duff & Phelps have not considered all of Pedevco's obligations and have uncritically accepted Pedevco's valuation of certain reserves and acreage.

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[2] Duff & Phelps drafted the quarterly valuation reports that Beechwood provided to WNIC and BCLIC. Beechwood recently declared that WNIC and BCLIC were not entitled to rely upon these reports, in which case Beechwood breached its duty under the Reinsurance Agreements to provide WNIC and BCLIC the quarterly valuation reports in the first place. (*See* Reinsurance Agreements §4.5(a).)

- Beechwood and Duff & Phelps's valuation for the Viveros investment is based on the list prices for certain islands, rather than actual transaction prices. The valuations used as comparables have not been updated in more than a year, and the islands used as comparables have not sold in more than a year, suggesting that the list prices are too high or that the market for Panamanian islands is illiquid. In either case, the comparables used by Beechwood and Duff & Phelps are improper and inflate the value of the Viveros investment. Likewise, Beechwood and Duff & Phelps appear to overestimate the likelihood that Viveros will retain control of all five of the plots serving as collateral for the WNIC and BCLIC trusts' investments.

- Beechwood and Duff & Phelps value the outstanding portion of the investment in Platinum Partners Credit Opportunities Master Fund at or around face value, despite the FBI's raid of Platinum's offices and evidence that suggests Platinum is a Ponzi scheme.

Thus, even if the assets were Qualifying Trust Assets, Beechwood would nevertheless have breached its obligations under the Reinsurance Agreements because it has substantially overstated the value of these assets.

Second, Beechwood has represented that it lacks the capital necessary to promptly replace the non-Qualifying Trust Assets identified above with Qualifying Trust Assets and thus cure its breaches under the Reinsurance Agreements. WNIC and BCLIC need not provide Beechwood an empty opportunity to cure its breaches of the Reinsurance Agreements. Accordingly, WNIC and BCLIC are terminating the Reinsurance Agreements effective immediately.

Third, Beechwood has breached its obligation to timely provide WNIC and BCLIC copies of its Annual Statement and, in WNIC's case, copies of its audited financial statements. (*See* Reinsurance Agreements § 3.3, Schedule 3.3.) Beechwood's time to produce these documents has expired, and its breaches of Section 3.3 of the Reinsurance Agreements cannot be cured.

WNIC and BCLIC expect Beechwood will cooperate with WNIC and BCLIC's recapture of the insurance obligations ceded to Beechwood and provide all information in its possession concerning the assets that were in the WNIC and BCLIC reinsurance trust accounts and supplemental trust accounts.

Copies of this letter are being provided to the Indiana Department of Insurance and the New York State Department of Financial Services.

Sincerely,

Todd G. Cosenza

cc: Matt Zimpfer
David B. Young
Nick Pearson
Steven Whitmer

Exhibit 3

Submitted Under Seal

Exhibit 4

CNO FINANCIAL GROUP

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September 29, 2016

CNO Financial Group Announces Termination of Long-Term Care Reinsurance Agreements with Beechwood Re and Recapture of Assets, Liabilities and Policyholder Administration

CARMEL, Ind., Sept. 29, 2016 /PRNewswire/ -- CNO Financial Group, Inc. (NYSE: CNO) announced today that its subsidiaries, Bankers Conseco Life Insurance Company (BCLIC) and Washington National Insurance Company (WNIC), are terminating reinsurance agreements with Beechwood Re (BRe) and recapturing approximately $550 million of closed block long-term care liabilities.

As previously disclosed in a Form 8-K that was filed on August 1, 2016, CNO had commenced an independent third party audit of approximately $116 million (1) of Level 3 investments that were held in trusts on behalf of BCLIC and WNIC. Based on the information obtained in the audit, CNO, along with the New York Department of Financial Services (NYDFS) and the Indiana Department of Insurance (IDOI), have concluded that a significant portion of the investments do not comply with applicable regulatory requirements for assets supporting the reinsurance agreements. As such, the NYDFS and IDOI directed BCLIC and WNIC, respectively, to remedy the resultant deficiency.

In order to protect the interests of CNO, BCLIC, WNIC and their respective stakeholders, the CNO companies have taken the following actions:

- BCLIC and WNIC sent written notice to Wilmington Trust, N.A. (Wilmington), as trustee to the reinsurance trusts, that BCLIC and WNIC exercised their rights to immediately withdraw all assets from the trusts, and instructed Wilmington to deliver the assets to custodial accounts of BCLIC and WNIC.
- BCLIC and WNIC gave written notice to BRe that they are terminating their reinsurance agreements with BRe, effective immediately.
- BCLIC and WNIC recently expanded the scope of the audit to include additional Level 3 investments with a reported amount of approximately $90 million.
- BCLIC and WNIC commenced an arbitration proceeding and demanded emergency relief, specifically, that BRe provide immediate access to certain documents and information regarding the trust assets, which will allow the audit of the aforementioned Level 3 investments to be concluded. BCLIC and WNIC are also seeking compensatory, consequential and punitive damages from BRe as part of the arbitration.
- BCLIC and WNIC have also commenced litigation against current and former individual principals of BRe (Mark Feuer, Scott Taylor and David Levy) for the damages caused by their actions.
- The CNO companies are resuming responsibility for all aspects of policyholder administration. We expect no impact to policyholders as a result of these actions.

A recapture of this business requires CNO to revalue the assets and liabilities based on valuation methodologies that are consistent with the methodologies used by CNO to value its own investments and insurance liabilities. While the audit of certain Level 3 investments is still in progress, preliminary information indicates that CNO would record an after-tax charge of approximately $55 million, calculated on a pro forma basis as if a recapture of this business had occurred on June 30, 2016. The pro forma estimated impacts of a recapture are summarized below (dollars in millions):

Pro forma estimated loss:	
Estimated market value adjustments related to:	
Investments included in the initial scope of the audit	$(50)
Other Level 3 investments	(30)
Write-off of estimated receivables due from BRe	(18)
Increase in insurance liabilities consistent with CNO valuation assumptions (primarily related to interest rates)	(60)

Media Contacts

Valerie Dolenga
(312) 396-7688
Valerie.Dolenga@CNOinc.com

Susan Villalobos
(312) 396-7678
Susanjudith.Villalobos@C...

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Expenses incurred	(7)
Reported amount of assets held in trusts in excess of liabilities	95
Estimated loss before income tax benefit	(70)
Estimated income tax benefit	15
Estimated pro forma net loss	$(55)

The estimated pro forma net loss is based on numerous assumptions, including our current best estimate of the fair value of investments and the amount of insurance liabilities expected to be received as a result of the recapture. These estimated values are based on information currently available to us and may change based on, among other factors: (i) additional information we may obtain; (ii) the actual fair value of the related investments on the recapture date; and (iii) actual assumptions used to value the insurance liabilities.

After the adjustments summarized above, the remaining value of the Level 3 investments is $200 million (1) (including $67 million of investments included in the initial scope of the audit, $65 million included in the additional scope of the audit, and $68 million of other investments).

As a result of the recapture, related charge and additional capital required to support the assets and liabilities of this business, CNO will contribute approximately $200 million to its insurance subsidiaries. Approximately one-half of this contribution is attributable to the expected reduction in statutory surplus reflecting the charge recognized upon the recapture of the business; and approximately one-half is attributable to the expected increase in risk-based capital primarily affecting the additional credit and investment concentration risk associated with the trust assets. After giving effect to this contribution, CNO expects to have approximately $175 million of cash and investments at the holding company as of September 30, 2016, and expects its consolidated risk-based capital ratio to be approximately 450%.

In order to increase its excess capital position at the holding company, CNO has suspended its share repurchase program for the remainder of 2016. As of September 29, 2016, CNO had repurchased $203.0 million of common stock in 2016 at an average price of $17.37 per share. A recapture of the business is not expected to have a material impact to the ongoing free cash flow generation of the company, which is currently estimated at $75 million per quarter.

About CNO Financial Group
CNO Financial Group, Inc. (NYSE: CNO) is a holding company. Our insurance subsidiaries – principally Bankers Life and Casualty Company, Colonial Penn Life Insurance Company and Washington National Insurance Company – primarily serve middle-income pre-retiree and retired Americans by helping them protect against financial adversity and provide for a more secure retirement. For more information, visit CNO online at www.CNOinc.com.

NOTE

(1) Based on information obtained subsequent to the filing of our August 1, 2016 Form 8-K, we have determined that the reported amount of the Level 3 investments subject to the audit was $116 million (rather than the $126 million reported in our previous Form 8-K). In addition, we determined that $58 million, $253 million and $280 million of the investments in the trust at June 30, 2016 consisted of Level 1, Level 2 and Level 3 investments, respectively (rather than the $58 million, $231 million and $302 million of Level 1, Level 2 and Level 3 investments, respectively, reported in our previous Form 8-K). After the pro forma market value adjustments of $80 million described above, the remaining value of the Level 3 investments is $200 million ($280 million minus $80 million).

Cautionary Statement Regarding Forward-Looking Statements. *Our statements, trend analyses and other information contained in this press release relative to markets for CNO Financial's products and trends in CNO Financial's operations or financial results, as well as other statements, contain forward-looking statements within the meaning of the federal securities laws and the Private Securities Litigation Reform Act of 1995. Forward-looking statements typically are identified by the use of terms such as "anticipate," "believe," "plan," "estimate," "expect," "project," "intend," "may," "will," "would," "contemplate," "possible," "attempt," "seek," "should," "could," "goal," "target," "on track," "comfortable with," "optimistic," "guidance," "outlook" and similar words, although some forward-looking statements are expressed differently. You should consider statements that contain these words carefully because they describe our expectations, plans, strategies and goals and our beliefs concerning future business conditions, our results of operations, financial position, and our business outlook or they state other "forward-looking" information based on currently available information. Assumptions and other important factors that could cause our actual results to differ materially from those anticipated in our forward-looking*

statements include, among other things: (i) changes in or sustained low interest rates causing reductions in investment income, the margins of our fixed annuity and life insurance businesses, and sales of, and demand for, our products; (ii) expectations of lower future investment earnings may cause us to accelerate amortization, write down the balance of insurance acquisition costs or establish additional liabilities for insurance products; (iii) general economic, market and political conditions, including the performance and fluctuations of the financial markets which may affect the value of our investments as well as our ability to raise capital or refinance existing indebtedness and the cost of doing so; (iv) the ultimate outcome of lawsuits filed against us and other legal and regulatory proceedings to which we are subject; (v) our ability to make anticipated changes to certain non-guaranteed elements of our life insurance products; (vi) our ability to obtain adequate and timely rate increases on our health products, including our long-term care business; (vii) the receipt of any required regulatory approvals for dividend and surplus debenture interest payments from our insurance subsidiaries; (viii) mortality, morbidity, the increased cost and usage of health care services, persistency, the adequacy of our previous reserve estimates and other factors which may affect the profitability of our insurance products; (ix) changes in our assumptions related to deferred acquisition costs or the present value of future profits; (x) the recoverability of our deferred tax assets and the effect of potential ownership changes and tax rate changes on their value; (xi) our assumption that the positions we take on our tax return filings will not be successfully challenged by the Internal Revenue Service; (xii) changes in accounting principles and the interpretation thereof; (xiii) our ability to continue to satisfy the financial ratio and balance requirements and other covenants of our debt agreements; (xiv) our ability to achieve anticipated expense reductions and levels of operational efficiencies including improvements in claims adjudication and continued automation and rationalization of operating systems, (xv) performance and valuation of our investments, including the impact of realized losses (including other-than-temporary impairment charges); (xvi) our ability to identify products and markets in which we can compete effectively against competitors with greater market share, higher ratings, greater financial resources and stronger brand recognition; (xvii) our ability to generate sufficient liquidity to meet our debt service obligations and other cash needs; (xviii) our ability to maintain effective controls over financial reporting; (xix) our ability to continue to recruit and retain productive agents and distribution partners; (xx) customer response to new products, distribution channels and marketing initiatives; (xxi) our ability to achieve additional upgrades of the financial strength ratings of CNO Financial and our insurance company subsidiaries as well as the impact of our ratings on our business, our ability to access capital and the cost of capital; (xxii) regulatory changes or actions, including those relating to regulation of the financial affairs of our insurance companies, such as the payment of dividends and surplus debenture interest to us, regulation of the sale, underwriting and pricing of products, and health care regulation affecting health insurance products; (xxiii) changes in the Federal income tax laws and regulations which may affect or eliminate the relative tax advantages of some of our products or affect the value of our deferred tax assets; (xxiv) availability and effectiveness of reinsurance arrangements, as well as any defaults or failure of reinsurers to perform; (xxv) the performance of third party service providers and potential difficulties arising from outsourcing arrangements; (xxvi) the growth rate of sales, collected premiums, annuity deposits and assets; (xxvii) interruption in telecommunication, information technology or other operational systems or failure to maintain the security, confidentiality or privacy of sensitive data on such systems; (xxviii) events of terrorism, cyber attacks, natural disasters or other catastrophic events, including losses from a disease pandemic; (xxix) ineffectiveness of risk management policies and procedures in identifying, monitoring and managing risks; and (xxx) the risk factors or uncertainties listed from time to time in our filings with the Securities and Exchange Commission. Other factors and assumptions not identified above are also relevant to the forward-looking statements, and if they prove incorrect, could also cause actual results to differ materially from those projected. All written or oral forward-looking statements attributable to us are expressly qualified in their entirety by the foregoing cautionary statement. Our forward-looking statements speak only as of the date made. We assume no obligation to update or to publicly announce the results of any revisions to any of the forward-looking statements to reflect actual results, future events or developments, changes in assumptions or changes in other factors affecting the forward looking statements.

SOURCE CNO Financial Group, Inc.

For further information: Media: Barbara Ciesemier, 312-396-7461, barbara.ciesemier@cnoinc.com; Investors: Adam Auvil, 317-817-6310, adam.auvil@cnoinc.com

Exhibit 5

In the matter of arbitration between:

BANKERS CONSECO LIFE INSURANCE COMPANY and WASHINGTON NATIONAL INSURANCE COMPANY, Claimants, v. BEECHWOOD RE LIMITED, Respondents.	**CLAIMANTS' DEMAND FOR ARBITRATION, STATEMENT OF CLAIM, AND REQUEST FOR EMERGENCY RELIEF**

Claimants Bankers Conseco Life Insurance Company ("BCLIC") and Washington National Insurance Company ("WNIC"), by and through their counsel, hereby allege as follows for their Demand for Arbitration, Statement of Claim and Request for Emergency Relief against Respondent:

NATURE OF THE ACTION

1. This action emanates from the widely-publicized Platinum fraud. To date, the Platinum fraud has resulted in a criminal prosecution against one scheme participant, and other co-conspirators remain under investigation by multiple federal agencies of the federal government. Claimants are victims of that fraud.

2. For years, Platinum Partners, LP has managed investment funds – also bearing the name "Platinum" (Platinum Partners, LP, the Platinum funds and their affiliates shall be referred to as "Platinum" in the Demand) – that reported outsized returns, purportedly by investing in high-risk and speculative investments. Those investments were often with disreputable principals and companies. Platinum was owned and managed by Murray Huberfeld and Mark Nordlicht, each of whom have checkered pasts. Huberfeld, for example, has a criminal record.

3. Institutional investors such as insurance companies typically would not make significant (or any) investments in high-risk funds like Platinum. However, Platinum sought new investors and especially institutional investors for their funds.

4. In 2012 and 2013, Platinum's founders, Huberfeld and Nordlicht, stepped up their efforts to acquire funds from institutional investors with the goal to continue the Platinum fraud. Platinum, however, could not successfully and credibly seek investments directly from institutional investors, so Huberfeld and Nordlicht hatched a plan to obtain institutional investor capital through fraudulent means.

5. Specifically, and hidden from Claimants until recently, Huberfeld and Nordlicht partnered and conspired with Moshe M. Feuer, Scott Taylor and David Levy (Huberfeld's nephew) to form a reinsurance company, Beechwood Re Ltd ("Beechwood"). The co-conspirators established Beechwood with the objective of entering into one or more reinsurance treaties with insurance companies, so that they could take control of reinsurance trust fund assets and use those assets to benefit Platinum, thereby enriching Platinum's and Beechwood's owners.

6. On September 17, 2016, the *Wall Street Journal* reported ("9/17 *WSJ* Article")[1] that "[f]or years, Platinum had little success attracting insurance-company money and considered starting a reinsurer to do so . . . . It didn't proceed, but after Feuer and Taylor opened Beechwood Re, more than 40% of Beechwood's equity was held by family-member trusts of Platinum's founders as well as by a former Platinum employee."

7. Also reported in the 9/17 *WSJ* Article was that "Feuer had long known some at Platinum, whose executives were active in the same religious community on New York's Long

[1] *Adviser With Ties to Hedge Fund Platinum Put Client Funds in It*, WSJ, Sept. 17, 2016, available at http://www.wsj.com/articles/adviser-with-ties-to-hedge-fund-platinum-put-client-funds-in-it-1473997753. *See* Exh. H.

Island. He and Huberfeld served at a charity together, and Feuer's sister went to the same school as Platinum co-founder Mark Nordlicht . . . ." The ties between them ran deep.

8. At the time that the co-conspirators established Beechwood, Huberfeld already had a criminal background, and Nordlicht had an entrenched reputation for making speculative investments with unsavory companies. Platinum's funds likewise enjoyed the same disreputable reputation as its founders.

9. Upon information and belief, the co-conspirators agreed that (a) Platinum's founders would own a significant part of Beechwood and provide it with capital and employees to further the scheme, and (b) Platinum's control over Beechwood would remain a closely-guarded secret, while Feuer, Taylor and Levy served as the front men.

10. In 2013, Claimants went to the reinsurance marketplace to seek reinsurance for certain long term care blocks of business. Several reinsurers were interested in the business, including Beechwood.

11. At the time, Beechwood was a start-up company with no other reinsurance business. Pursuant to its founders' fraud scheme, Beechwood sought Claimants' business based upon the sterling reputations of Feuer and Taylor. Accordingly, Feuer and Taylor made numerous verbal and written promises to Claimants indicating that they would expertly administer policy claims and prudently invest trust assets for the protection of policyholders and Claimants. Relying upon Respondent's representations, and the representations from Respondent's paid advisors and professional consultants, Claimants selected Beechwood as their reinsurer.

12. As part of their design to induce Claimants to enter into reinsurance agreements with Beechwood, representatives of Beechwood repeatedly told Claimants that Beechwood was

owned by Feuer and Taylor, who represented themselves as two upstanding professionals, who capitalized Beechwood with family money and the fortunes earned during their professional careers, with a third principal, David Levy.

13. Due to Feuer and Taylor's representations, it was carefully and intentionally hidden from Claimants for over two years that Beechwood was actually largely capitalized with a $100 million note from a series of trusts owned or controlled by Nordlicht, his family and other confederates. In fact, Claimants were only made aware of this after (a) Huberfeld was arrested, (b) Claimants commenced an audit and investigation of the trusts, (c) the Platinum-Beechwood alliance received scrutiny in the *Wall Street Journal* and other publications, and (d) repeated requests for information from the New York State Department of Financial Services.

14. During a series of meetings in late 2013, when Claimants were selecting a reinsurer, Beechwood consistently misrepresented Platinum employees as being senior officers of Beechwood. As Claimants later learned, every single purported senior officer of Beechwood was actually an employee of Platinum, with only one exception other than Feuer and Taylor.

15. Moreover, numerous individuals who would work for Beechwood after Claimants entered into the reinsurance agreements, including employees who directed Claimants' reinsurance trust assets, were former Platinum employees, Platinum employees seconded to Beechwood from Platinum, or relatives of the co-conspirators. For example, Huberfeld's nephew, David Levy, Huberfeld's son, and Huberfeld's son-in-law all held positions at Beechwood at some time. Until very recently, Beechwood's Chief Investment Officers were all former Platinum employees. Beechwood's Chief Underwriting Officer was a Platinum secondment.

16. The substantial overlap between the workforces of Beechwood and Platinum hidden from Claimants enabled the Respondent and their co-conspirators to invest reinsurance trust assets in Platinum and Platinum-related entities, without any scrutiny from other senior level executives who might otherwise question such transactions.

17. During the negotiation of the reinsurance agreements, Feuer and Taylor advised Claimants that there was a $100 million demand note capitalizing Beechwood. Despite Claimants requests that Beechwood disclose the identity of the backers of the demand note, Beechwood refused, citing "confidentiality agreements."

18. Unbeknownst to Claimants until very recently, those investors were the founders of Platinum and trusts in the names of their families and confederates.

19. The parties entered into the reinsurance agreements in February 2014 ("Reinsurance Agreements"). According to the 9/17 *WSJ* Article, Feuer and Taylor contacted Huberfeld and Nordlicht within ten minutes of the arrival of the reinsurance trust funds at Beechwood upon the closing of the transaction.[2] The scheme to attract institutional investors in the Platinum funds had succeeded: Claimants gave Beechwood the keys to a $550 million reinsurance trust, without ever suspecting that they were in reality doing business with Platinum.

20. After entering into the Reinsurance Agreements and taking control of the trust assets, Beechwood, which owed fiduciary duties to Claimants, immediately began using the trust funds to aid Platinum. Among other things, Beechwood (a) invested directly in the Platinum funds, which would help Platinum meet investor redemption demands in further aid of the Platinum fraud scheme; (b) entered into transactions with known criminals who were friends and

[2] "Less than 10 minutes after Beechwood received word that money for its first transaction had arrived, Beechwood's founders notified Nordlicht and Huberfeld, documents reviewed by the Journal show." *See* 9/17 *WSJ* Article.

associates of Huberfeld and Nordlicht; and (c) loaned money to or entered into other transactions with at least a dozen entities controlled by Platinum that any reasonable investment manager would pass on because they were too risky for reinsurance trusts. Indeed, these transactions were in violation of state laws pertaining to the investment of reinsurance trust assets, as well as the express terms of the Reinsurance Agreement's investment guidelines. Collectively these transactions accounted for more than $150 million of the trust assets.

21. Shortly after effectuating the Reinsurance Agreements, Platinum also proceeded to use Beechwood as Platinum's piggybank. For example, throughout 2014, Beechwood made short-term loans to an investment company owned by Platinum, without having those loans valued and rated as required by the Reinsurance Agreements.

22. Under the Reinsurance Agreements, Beechwood is required to submit quarterly reports that demonstrate the actual value of assets in the reinsurance trusts. The Reinsurance Agreements also required that non-conventional investments such as loans and real estate, among others, be independently valued and independently rated. If the assets in the trust fell below a certain amount, Beechwood was required to top up the trusts with its own funds. If the assets in the trust exceeded that amount, Beechwood could take surplus amounts as profits.

23. In order to conceal their fraudulent scheme, Beechwood submitted quarterly reports that contained inflated, and in some cases actually fraudulent, valuations. Respondent then used these erroneous valuations of trust assets to support its removal of $134 million from the trusts as purported "surplus." However, unknown to Claimants at the time, the trusts were undervalued at all times Beechwood submitted reports, or, given the facts and circumstances of many trust investments, valuations could not be verified sufficiently to allow any surplus withdrawals.

24. In mid-to-late 2014, Claimants learned that Beechwood had invested trust assets in the Platinum funds, and brought to Feuer and Taylor's attention that these investments were not suitable. Feuer and Taylor represented to Claimants that these improper investments were the work of Levy (Huberfeld's nephew), who had left Platinum to become the Chief Investment Officer ("CIO") of Beechwood. They conceded that these investments were not suitable for the reinsurance trusts. Around December 2014, they also told Claimants that Levy had left Beechwood. Levy immediately returned to Platinum, after having breached his fiduciary duties by serving Platinum's interests while he was Beechwood's CIO.

25. Respondent also told Claimants that the reinsurance trusts' Platinum investments would be unwound and that, by dint of Levy's resignation, Beechwood's ties to Platinum had been cut. That statement was false because, unknown by Claimants until recently, numerous Platinum employees still worked directly for Beechwood; Platinum routinely consulted with Beechwood; and Huberfeld, Levy and Nordlicht still owned 40% of Beechwood, between themselves and their family trusts. These significant ties between Beechwood and Platinum meant that Platinum could influence Beechwood's operations, including the investment of reinsurance trust assets. Platinum continued to do so even after Levy returned to Platinum.

26. Throughout the life of the reinsurance relationship, Respondent and their paid advisors and consultants submitted false valuation reports to Claimants purporting to show that the trusts' Platinum-related investments were performing well and that the reinsurance trusts were adequately funded.

27. During this time, Beechwood continually hid its deep ties to Platinum, and removed $134 million from the trusts as purported "surplus," while continually misrepresenting to Claimants that Beechwood would unwind investments made to Platinum-related entities.

28. In fact, Beechwood did not unwind the trusts' Platinum investments as promised, but rather continued to make massive additional Platinum investments. This continued even after Huberfeld was arrested in June 2016.

29. Beechwood and its paid advisors and consultants also continued to submit false quarterly valuations to Claimants in order to declare surpluses and support further depletion of the trusts.

30. Moreover, Beechwood continued to hide its true connections to Platinum, including the fact that Huberfeld, Nordlicht and Levy owned 40% of Beechwood and that its professional staff, including those in charge of investments, were serving Platinum.

31. The scheme to defraud Claimants began to unravel on June 8, 2016, when Huberfeld was arrested and charged with bribing a union official to make a $20 million investment in one of Platinum's funds. In connection with Huberfeld's arrest, Beechwood's offices were raided by the FBI. Moreover, and unbeknownst to Claimants, it was reported by the media at that time that Huberfeld maintained an office at Beechwood.

32. Over the summer of 2016, the *Wall Street Journal* and other publications exposed Beechwood's deep ties to Platinum, and these publications reported that Huberfeld and Nordlicht used Beechwood to attract institutional investors for the Platinum funds. The United States Attorneys for both the Eastern and Southern Districts of New York are currently investigating Platinum and its founders.

33. Claimants, alarmed by the trusts' continued deep investments with Platinum-related entities, the raid of Beechwood's offices, Huberfeld's arrest, and media reports concerning the same, began their own audit of the trust's investments with the aid of counsel and an independent financial consultant, Cornerstone Research ("Cornerstone").

34. The audit and investigation, which is ongoing, revealed that Beechwood, the Respondent and their paid advisors and consultants overvalued the trusts' assets and that, as a result of the co-conspirators' self-dealing, conflicts of interest and non-arm's length transactions, many assets had been improperly valued.

35. The audit and investigation also revealed that Respondent and their co-conspirators engaged in a continuous stream of misrepresentations since the inception of the relationship, concerning Beechwood's ownership structure, the nature and value of assets in the trusts, Beechwood's relationship with Platinum, and Respondent's knowledge of, and participation, in the fraud.

36. On September 29, 2016, state insurance departments in New York (where BCLIC is domiciled) and Indiana (where WNIC is domiciled), after a lengthy investigation of the reinsurance trusts (in which Beechwood and two of its law firms participated), concluded that many assets in the trusts were "not compliant" with the conservative investment guidelines prescribed by applicable state law.

37. The state regulator in New York gave Claimants ten days to bring the trust into compliance, but that will not be possible given the structure of the assets and, Beechwood advised that it would take months if not years to unwind all of the trusts' Platinum-related investments.

38. As a result of Beechwood's material breaches of the Reinsurance Agreements, as well as the regulatory directives Claimants received from two state insurance departments, Claimants initiated the termination of the reinsurance agreements on September 29, 2016. At the same time, Claimants advised the trustee, Wilmington Trust, to return all trust assets to Claimants as required by the relevant agreements. Claimants also initiated the process to take

control of all claims administration and commenced arbitration against Beechwood seeking money damages and emergent relief enforcing Claimants' audit and inspection rights under the relevant terms of the Reinsurance Agreements.

39. As stated in the 9/17 *WSJ* Article, "Platinum's fund investors have been largely concentrated in a tight-knit group of observant Jewish businesspeople. Exposure to Platinum reached a far wider realm as a result of Beechwood's having directed insurance-client money into Platinum funds and related investments." The co-conspirators' plan to bring institutional investor money into Platinum succeeded, by having Feuer and Taylor serve as the front men to induce insurance companies to unwittingly invest in Platinum. But the co-conspirators' success has caused immense damage to Claimants.

40. According to the 9/17 *WSJ* Article, "Since early 2014, Beechwood has put more than $200 million of client money in Platinum-linked investments, according to public filings and people familiar with the matter." The 9/17 *WSJ* Article reported that this $200 million came from Claimants and another insurance company, Senior Health Insurance Co. of Pennsylvania ("SHIP"), which was formerly affiliated with Claimants before being spun off years ago.

41. Also according to the 9/17 *WSJ* Article, "The CEO of Beechwood, Mark Feuer, said he didn't tell SHIP and other clients about his firm's ties to Platinum because the ownership stakes were passive and didn't come with a management role." But the real reason that Feuer did not reveal Beechwood's ties to Platinum is that no insurance company would invest in Platinum or enter into a reinsurance agreement with a reinsurer tied to Platinum, and Feuer and Taylor were in cahoots with Platinum to bring institutional investor money to Platinum without the institutional investors' knowledge of Beechwood's Platinum ties.

42. That is, Beechwood's massive and risky investments with reinsurance trust fund assets in Platinum and Platinum-related entities was not some grand coincidence, or the result of an analytical process in which investment professionals decided that, among many thousands if not millions of different investment opportunities available to the reinsurance trusts, investing in Platinum-related companies represented the best and most prudent investments. To the contrary, Beechwood's massive and risky investments with Platinum and Platinum-related entities was the *goal* of the fraud scheme, which was to bamboozle institutional investors like Claimants out of their money by tricking them into indirectly investing with Platinum.

43. Claimants now bring this arbitration to recover damages against Respondent for their participation in the fraud scheme.

THE NEED FOR EMERGENCY ARBITRAL RELIEF

44. BCLIC and WNIC require emergent relief to protect themselves and their thousands of policyholders from further damage by Beechwood. Specifically, Claimants seek an award under Rules 37 and 38 of the American Arbitration Association Commercial Arbitration Rules and Mediation Procedures ("AAA Commercial Rules") mandating that Beechwood open its books and records to inspection by BCLIC and WNIC and provide BCLIC and WNIC with the documents and information set forth in Exh. A hereto. BCLIC and WNIC are entitled to this relief for multiple reasons.

45. *First*, BCLIC and WNIC have extensive auditing rights under the Reinsurance Agreements. *See* Reinsurance Trust Agreements §§ 3.4, 4.5(b). Those extensive auditing rights must be subject to a "liberal construction" by the arbitrator. *Id*., § 10.1(b). Here, given these extraordinary circumstances, and amounts at issue, no reason exists to deny Claimants their contractual audit rights.

46. *Second*, the emergency arbitrator is empowered to provide this relief under several AAA Commercial Rules, which are incorporated into the Reinsurance Agreements. R-38 allows for broad emergency relief, and R-37 specifically vests the arbitrator with authority to "take *whatever* interim measures he or she deems necessary, including injunctive relief and measures for the protection or conservation of property." (emphasis added). A full audit of the Trusts will aid Claimants' efforts to protect and conserve assets for the benefit of their policyholders. Moreover, R-22 permits the arbitrator to order extensive discovery in large, complex cases; thus, the arbitrator can order the audit and inspection of records within the context of its plenary authority to control discovery.

47. *Third*, the arbitration clause itself grants the arbitrator with vast authority to control the proceedings. *Id.* at § 10.1(e) (the arbitrator "shall not be bound by legal rules of procedure and may receive evidence in such a way to do justice between the Parties."). The emergency arbitrator is expressly permitted to craft the proceedings as justice requires. Here, justice requires, at minimum, a complete and thorough audit of Beechwood so that the full extent of its wrongdoing can be swiftly uncovered.

48. Significantly, BCLIC and WNIC need the requested award in order to fully and accurately report to their respective state insurance regulators in New York and Indiana the level of harm that Beechwood inflicted upon their closely-regulated Trust assets. Those regulators have *already* determined that many assets in the Trust are not qualified assets, and have taken action requiring Claimants to act expeditiously. In addition, the award is essential to the ability of CNO Financial Group, Inc. ("CNO"), Claimants' parent holding company, to fully and accurately report this harm to its public shareholders.

49. BCLIC and WNIC will also require all of the requested documents and information because they have terminated the Reinsurance Agreements and need all documents pertaining to Trust assets, so they can appropriately manage them. Finally, without this relief, it is exceedingly unlikely that BCLIC and WNIC will be able to take control of this business without incurring further damage to themselves, as well as to their policyholders and to the shareholders of their parent company

FACTUAL BACKGROUND

A. Origin Of The Reinsurance Agreements.

50. BCLIC is an insurance company domiciled in New York. WNIC is an insurance company domiciled in Indiana. Both are indirect subsidiaries of CNO Financial Group, Inc. ("CNO"), a publicly traded insurance holding company.

51. In 2013, BCLIC and WNIC turned to the reinsurance marketplace to explore transferring certain long term care liabilities to a qualified reinsurer. As part of that process, Rick Hodgdon and Michael Kaster of Willis Re Inc. ("Willis Re"), a reinsurance subsidiary of Willis Group Holdings plc, introduced Claimants to Beechwood.

52. Kaster had formerly worked for CNO companies, and thus he had some familiarity with the lines of business to be ceded. Kaster was known to be a credible insurance professional. Hodgdon purportedly joined Beechwood while Claimants were evaluating competing reinsurance proposals. However, in another recent admission of truth, Respondent admitted that Hodgdon was actually a Platinum employee seconded to Beechwood during this time period.

53. At that time, Beechwood was a new reinsurance company with no existing business. Feuer and Taylor advised Claimants that Beechwood was founded by two reputable businessmen, attorney Feuer, who had been the Chief Executive Officer of Marsh USA Inc., and

Taylor, who at different times had been an executive of Marsh & McLennan and Chief Operating Officer for Merrill Lynch Wealth Management's Private Banking and Investments Group.

54. Beechwood's pitch for BCLIC's and WNIC's business was twofold. *First*, Feuer and Taylor represented that they had strategies to more effectively manage claims, which they learned from their stints at prior companies. *Second*, they were experienced investment professionals, who would bring superior management of trust assets, allowing for greater returns.

55. Beechwood's written materials, which were prepared by Respondent, promised its investment team had "extensive experience" with "strong risk management processes." These written materials also stated, "Beechwood Re Must Deploy a Responsible Investment Strategy Capable of Generating Adequate Returns." The written materials also promised that, "Beechwood Re's management team has extensive experience utilizing credit-based investment strategies to generate returns while using strong risk management processes."

56. Respondent recognized that Claimants would not select Beechwood as reinsurer unless it made "responsible" investments, as the reinsurance trust funds would secure policyholder claims.

57. Respondent repeatedly advised Claimants, verbally and in writing, that the reinsurance trust assets would be managed responsibly, with proper risk management, for the benefit of protecting policyholders.

58. Between improving policyholder morbidities and increasing investment returns, Beechwood, under the guidance of these seasoned professionals, represented that it would be able to effectively manage the transferred blocks of business.

59. In 2013, Feuer and Taylor, on behalf of Beechwood, sent Claimants a document titled "Beechwood Re/Discussion Document/June 2013." In that document, Beechwood

represented to Claimants that Beechwood "is capitalized with over $100MM in capital, with access and intent to fund up to $500 million additional over coming years." Respondent wanted Claimants to believe that Beechwood brought to the table significant capital to shoulder the burden and risk of a reinsurance relationship.

60. Throughout June, July, August and September of 2013, Feuer and Taylor represented to Claimants that Beechwood was owned by just three individuals, with no connection to any private equity investors, and that they had initial "non-redeemable capital" of over $100 million.

61. In November 2013, Beechwood sent a team to meet with Claimants. In connection with that meeting, Hodgdon, at the direction of Respondent, sent Claimants an email dated November 5, 2013, identifying the representatives from Beechwood who would be attending the meeting. Hodgdon, by this time, had left Willis Re to work for Platinum, but Respondent deceitfully advised Claimants that Hodgdon worked for Beechwood.

62. Beechwood, through Hodgdon, advised Claimants that the following Beechwood personnel would join the meeting: Feuer and Taylor; Will Slota, who was designated as the "COO" of Beechwood; Paul Poteat, who was designated as the "CTO" of Beechwood; David Ottensoser, who was designated as the "General Counsel" of Beechwood; Dan Small, who was designated as the "Senior Secured Collateralized Loans PM" of Beechwood; and David Leff, who was designated as the "US Fixed Income PM" of Beechwood.

63. In fact, unknown to Claimants but now recently discovered, Slota, Poteat, Ottensoser and Small *were at that time employees of Platinum, not Beechwood*. Only Leff appears to have been an actual Beechwood employee. Hence, Beechwood misrepresented to Claimants that individuals who were employed by Platinum were actually Beechwood

employees. Respondent were aware of this misrepresentation at the time it was made, directed it and intentionally concealed it.

64. As discussions between Beechwood and Claimants progressed in November 2014, Claimants began their due diligence on Beechwood. Claimants made several inquiries about Beechwood's ownership structure and capitalization. Beechwood repeatedly told Claimants that Beechwood was mostly owned by Feuer and Taylor, as well as Levy, and that they had capitalized Beechwood with their families' investments and with monies earned during their successful careers.

65. Claimants recently learned that those representations were false. Beechwood was in substantial part owned by a series of family trusts owned by individuals other than Feuer and Taylor. When Feuer and Taylor asked Beechwood about these family trusts, Beechwood refused to identify the investors, citing to "confidentiality agreements." Feuer and Taylor also represented to Claimants that these minority interests represented purely "passive" investments.

66. Unknown to Claimants at that time, but recently discovered, Beechwood was in substantial part owned by a series of family trusts in the names of Huberfeld and Nordlicht, as well as their family members (including spouses and children). Levy and his family trusts owned another 5%. Together, Huberfeld and Nordlicht controlled over 35% of Beechwood's equity, and with Levy's interest, they controlled 40%.

67. Upon information and belief, Feuer, Taylor, Huberfeld, Nordlicht and Levy formed Beechwood for the purpose of entering into reinsurance agreements in which they would take control of trust assets and use them to benefit Platinum and enrich themselves. In fact, according to published reports, Feuer and Taylor notified Huberfeld and Nordlicht that the trust

assets were available to invest less than ten minutes after receiving the news that the funds had arrived.

68. Most institutional investors like insurance companies would not ordinarily invest in Platinum, which made investments in unscrupulous companies and which engaged in unscrupulous acts.

69. Seeking additional investments from institutional investors to further fund their fraud scheme, Huberfeld and Nordlicht sought conspirators to form a reinsurance or other seemingly legitimate company for the purpose of obtaining large amounts of money to pilfer for the benefit of Platinum and the co-conspirators.

70. Ultimately, they found Feuer and Taylor, two professionals with excellent reputations who could serve as the front men for a purported reinsurance company and which could, through reinsurance agreements, obtain control of trust assets for the benefit of furthering the Platinum fraud scheme and enriching scheme participants. That company was Beechwood.

71. While Feuer and Taylor were nominally in charge of Beechwood, it was actually controlled by Platinum, its founders and its employees, including Levy, who left Platinum to become the CIO of Beechwood, and then returned to Platinum. Beechwood proceeded to use the reinsurance trust assets to benefit Platinum.

B. The Reinsurance Agreements.

72. BCLIC and WNIC are cedents under two reinsurance agreements with reinsurer Beechwood. Under the Reinsurance Agreements (copies of which are attached hereto as Exhs. B and C), BCLIC and WNIC transferred certain long term care liabilities to Beechwood and paid Beechwood over $42 million as a negative ceding commission (that is, BCLIC and WNIC paid Beechwood $42 million to enter into the Reinsurance Agreements).

73. Beechwood assumed control over claims administration, and BCLIC and WNIC deposited approximately $550 million into reinsurance trusts ("Trusts") to be invested and managed by Beechwood, subject to investment guidelines prescribed by the Reinsurance Agreements and the insurance laws of New York and Indiana. The assets in the Trusts were intended to serve as reliable (*i.e.*, safe and liquid) collateral for Beechwood's obligations to reimburse Claimants for claims on the transferred liabilities, and for Claimants to obtain reserve credits.

74. Pursuant to the Reinsurance Agreements, Beechwood was required to deposit assets into the reinsurance Trust accounts with an aggregate fair market value of 102% of the statutorily required reserves (*i.e.*, policy liabilities) as collateral for Beechwood's obligation to pay future claims on the reinsured policies. For purposes of this calculation, only Trust assets in compliance with the Reinsurance Agreements' investment guidelines qualified as countable. The Reinsurance Agreements define Qualifying Trust Assets to include cash, certificates of deposit, or specific kinds of investments permitted under New York and Indiana insurance laws, not including investments in which either party or its affiliates has an interest, or investments in insolvent entities.

75. Thereafter, the Reinsurance Agreements empower Beechwood to direct the Trustee to invest or reinvest the Trust assets in accordance with the Reinsurance Agreements' conservative investment guidelines.

76. The Reinsurance Agreements require Beechwood to top-up the Trusts in the event that the market value of the assets in the Trusts fall below 102% of the amount of the statutory liabilities ceded to Beechwood. Beechwood's promise to preserve the value of, and properly and

prudently manage, the Trust assets was essential to BCLIC's and WNIC's agreement to reinsure the transferred business with Beechwood.

77. The Reinsurance Agreements also allow Beechwood to remove from the Trusts for their benefit money as surplus if the Trusts' assets are greater than a threshold amount.

78. The Reinsurance Agreements require Beechwood, at the end of each quarter, to provide written reports to BCLIC and WNIC that describe the fair market value of qualifying Trust assets. The reports must contain supporting detail and other information necessary for BCLIC and WNIC to verify that the assets are Qualifying Trust Assets and that the investment guidelines have been followed.

79. If the aggregate fair market value of qualifying Trust assets is determined to exceed 102% of the statutorily required reserves at the end of a quarter and the aggregate fair market value of the assets in the supplemental Trust accounts exceeds 5% of the Trust amount and above the "Supplemental Trust Amount," the Reinsurance Agreements provide that Beechwood may ask BCLIC and WNIC to withdraw the excess amounts.

80. If, however, the aggregate fair market value of the qualifying Trust assets is determined to be less than 102% of the statutorily required reserves at the end of a quarter, then Beechwood is required to make deposits into the Trusts to bring the aggregate fair market value of qualifying Trust assets to no less than 102% of the statutorily required reserves.

81. Thus, to determine if Beechwood needed to add money to the Trusts or could withdraw money from the Trusts, the Reinsurance Agreements provide that Beechwood would provide quarterly reports of assets in the Trusts, with proper valuations.

82. The Reinsurance Agreements also establish supplemental Trust accounts to be maintained as overcollateralization of Beechwood's obligations. Under the Reinsurance

Agreements, the supplemental Trusts must contain assets with an aggregate fair market value equal to the greater of 5% of the Trust Amounts and the Supplemental Trust Amount. Both the BCLIC and the WNIC supplemental Trust accounts are governed by investment guidelines very similar to or the same as the investment guidelines governing the WNIC Trust.

83. With respect to the supplemental Trust accounts, Beechwood may ask BCLIC and WNIC to withdraw assets from the supplemental Trusts if, at the end of a quarter, the market value of the assets in the supplemental Trusts exceed the greater of 5% of the Trust amounts and the Supplemental Trust Amounts, and the value of Qualifying Trust Assets is determined to exceed 102% of the statutorily required reserves. If, however, the market value of the assets in the supplemental Trusts are less than the greater of 5% of the Trust amounts and the Supplemental Trust Amounts at the end of a quarter, then Beechwood is required to make deposits into the supplemental Trusts to bring the aggregate fair market value of supplemental Trust assets to no less than the greater of 5% of the Trust amounts and the Supplemental Trust Amount.

C. In 2014, BCLIC and WNIC Object To Certain Investments, Including Transactions With Suspect Individuals And With Platinum.

84. As Levy began investing the Trust assets in 2014, BCLIC and WNIC began receiving quarterly reports from Beechwood. Upon receiving these reports, BCLIC and WNIC began questioning a number of the investments into which Beechwood directed Trust assets. Among other things, BCLIC and WNIC learned that Beechwood:

- purchased a loan to George Levin, who was a principal in the Rothstein Rosenfeldt Adler PA Ponzi scheme (the "Rothstein Ponzi scheme"). Platinum apparently obtained a large judgment against Levin, forcing him into bankruptcy.

BCLIC and WNIC did not know at the time of the 2014 quarterly reports, and just recently learned, that Beechwood purchased the loan to Levin from Platinum;

- loaned money to a Platinum-controlled entity which was run by Moshe Oratz and Aaron Elbogen. Oratz was jailed in connection with a gambling ring, and Elbogen settled charges brought by the Securities Exchange Commission ("SEC") over fraudulent trade executions; and
- loaned money to Cashcall Inc., which was sued by the Consumer Financial Protection Bureau and 17 states for violating consumer protection and usury laws providing interest-rate caps.

85. These investments were objectionable to Claimants because they are not suitable investments for reinsurance trust funds, which should be conservative investments to ensure that there are sufficient assets to pay policyholder claims. Additionally, for reputational reasons, Claimants could not possibly be seen as doing business with such disreputable firms and individuals.

86. In addition, Beechwood had directly invested tens of millions of dollars of Trust assets in certain of Platinum's funds. At the time, the Platinum funds were known to make aggressive investments in distressed and disreputable companies, and such investments were not consistent with the Reinsurance Agreements' investment guidelines or with Claimants' business strategies and reputation.

87. BCLIC and WNIC also raised questions concerning how Beechwood characterized and valued assets in the Trusts. For example, Beechwood made numerous investments of Trust assets in notes collateralized not by assets, but rather by the borrowers' equity or other borrowers' debt instruments. Yet, Beechwood inflated the value of these tenuous

forms of collateral to conclude that the Trusts were over-collateralized. In addition, Beechwood had invested assets in risky businesses, including start-up and severely distressed companies.

88. At no time during all of the 2013 and 2014 discussions between Claimants and Respondent, did anyone advise Claimants of the significant interests that Platinum and its principals, Huberfeld and Nordlicht, had in Beechwood, that Huberfeld had an office at Beechwood, that Huberfeld's son-in-law worked at Beechwood affiliate and asset manager, B Asset Manager ("BAM"), or that Huberfeld's son interned at BAM. Nor did Feuer and Taylor advise Claimants of the significant number of Platinum employees who worked for Beechwood, who were seconded to Beechwood, or who were advising Beechwood.

89. Instead, Respondent, and others at Beechwood, kept all of these connections secret and represented to Claimants that these high-risk investments were appropriate and properly valued.

D. The Black Elk Investment; Levy Leaves Beechwood And Returns To Platinum.

90. According to a special report by Reuters,[3] Platinum obtained the majority interest in Black Elk Energy LLC ("Black Elk"), a Houston-based company that purchased unproductive oil wells, sometime after 2009. In 2012, an explosion on a Black Elk rig off the Louisiana coast killed three workers, seriously injured another three workers, and spilled oil into the Gulf of Mexico. Prior to this incident, the rig received hundreds of safety citations from the U.S. Department of the Interior's Bureau of Safety and Environmental Enforcement, and after an investigation, the same agency concluded that the safety culture on the rig was "poor at best."

[3] *See* Lawrence Delevingne, *The Top-Performing Hedge Fund Manager That's Too Hot For Big Money To Handle*, Reuters, Apr. 13, 2016, available at http://www.reuters.com/investigates/special-report/usa-hedgefunds-platinum. *See* Exh. I.

Eventually, the U.S. Department of Justice announced criminal charges against Black Elk. Black Elk was forced into bankruptcy in August 2015.

91. In or around February, 2014, immediately upon closing the transaction, however, before Black Elk entered bankruptcy, Beechwood invested $27 million of Trust assets in Black Elk high-yield junk bonds. Also before going into bankruptcy, however, Black Elk sold its main assets to a third party for $149 million. The majority of the proceeds from this sale went to a subsidiary of Platinum, and not to the senior creditors that included Beechwood. Black Elk's remaining assets were also sold to a different Platinum subsidiary. Not long after, Black Elk's secured creditors demanded to know how, in light of their first priority status, Platinum was paid from the asset sale before payment was made to them.

92. In fact, Platinum managed to subordinate the interests of the secured creditors through trickery. Just prior to the first asset sale, Platinum used a consent solicitation to ask bondholders of $150 million of Black Elk's high-yield junk bonds to approve a measure that would let Platinum receive proceeds of the asset sale ahead of bondholders and other secured creditors. The bondholders approved this absurd request – to strip themselves and secured creditors of their priority – because of varying methods of control Huberfeld and Nordlicht's fund exerted over 70% of the bonds. Levy, then at Beechwood, exploited his role as Beechwood's CIO to approve the consent on behalf of the junk bonds Beechwood had purchased with Respondent' Trust assets (in addition to bonds Beechwood had purchased while managing others' funds).

93. In short, Beechwood, in the person of David Levy, voted the Beechwood-purchased bonds, including the Trusts' bonds, against the interests of the Trusts and Beechwood, and in favor of subordinating them to Platinum's interests, even though this vote meant that the

Trusts' bonds would be exposed to greater risk of loss, because all the value of Black Elk's assets was paid to Platinum.

94. Feuer and Taylor offered no justification for the vote. Instead, they pinned all of Beechwood's actions to assist Platinum on Levy. Levy left Beechwood to immediately return to Platinum, where he and others could continue to direct the Trusts' investments through their control of numerous Platinum employees who worked at Beechwood, who were seconded to Beechwood, or who were consulting with Beechwood employees on a regular basis.

E. Feuer and Taylor Promise To Cut The Ties Between Beechwood And Platinum, But They Do Just The Opposite.

95. In late 2014, Feuer and Taylor promised Claimants that Beechwood would begin to unwind Beechwood's significant investments in companies controlled by Platinum. Claimants were thus led to believe that Beechwood would take steps to divest itself of such investments. Beechwood partially redeemed its direct investments in the Platinum funds, but found other ways to support Platinum, namely, by investing in companies that Platinum owned or controlled.

96. To lull Claimants into a false sense of security, Feuer and Taylor represented to Respondent in late 2014 that Beechwood's ties to Platinum had been "cut" with Levy's departure. Thus, Claimants were led to believe that Beechwood, under the supervision of Feuer and Taylor and a dedicated team of investment professionals, would unwind and properly value the questionable investment of Trust assets, and replace such investments with suitable investments.

97. That did not occur. According to the 9/16 *WSJ* Article, Beechwood has invested more than $200 million of client funds with Platinum-linked entities since 2014. And Beechwood made investments with Trust assets throughout 2015 and 2016 totaling tens of

millions of dollars in Platinum-related companies, including after Huberfeld was arrested. In 2016, Beechwood again invested Trust assets directly into Platinum's funds.

98. Moreover, as Claimants learned recently, Beechwood hid troubling facts concerning Huberfeld's and Nordlicht's involvements with Beechwood. Huberfeld and Nordlicht owned much of Beechwood's equity, and without their investments, Beechwood would not have had the capital to top-up the Trusts, as required by the Reinsurance Agreements, in the event of a shortfall. Beechwood never disclosed this conflict to Claimants.

99. Instead, Beechwood advised Claimants in 2013, when Claimants were in the process of selecting a reinsurer, that it had a demand note in the amount of $100 million for extra security in case a top-up of the Trusts was necessary, and access to an additional $500 million in capital. As Claimants recently learned, however, the issuer of that note was none other than Nordlicht, and trusts created substantially for his benefit and related parties.[4]

100. And, in May 2014, the demand note was reduced, without explanation or disclosure, to $25 million, an amount wholly insufficient given the magnitude of the Trusts' assets then. Moreover, the additional $500 million in capital simply does not exist.

101. Beechwood recently has advised Claimants it is about to run out of cash and that Feuer and Taylor will have to fund operations with their own money. Feuer and Taylor have complained about the strain of that economic burden, and are now seeking additional surplus funds from the Trusts to fund Beechwood's operations. Thus, Feuer and Taylor's representations to Claimants in 2013 concerning its access to capital were false and misleading.

[4] Some portion of the Note was also guaranteed by trusts in the name of David Bodner and his family members. Bodner, who also has a criminal record, had long and deep ties to Huberfeld and Nordlicht.

F. Beechwood's Significant Ties With Platinum.

102. In addition to Beechwood being owned in substantial part by Platinum's principals (and their trusts), Huberfeld having an office at Beechwood, Beechwood employing Huberfeld's nephew (Levy) as its CIO, and Huberfeld's son and son-in-law working for Beechwood and BAM, many of Platinum's employees (in addition to Levy) left Platinum to work for Beechwood, or consulted with Beechwood about significant matters. For example:

a. Rick Hodgdon was seconded to Beechwood by Platinum and serves as Beechwood's Chief Underwriting Officer;

b. Daniel Saks, a former Platinum employee, served as BAM's CIO after Levy "resigned";

c. Naftali Manela, an employee of Platinum, provided consulting services to Beechwood related to general operations; and

d. Eli Rakower, an employee of Platinum, provided consulting services to Beechwood related to interaction with valuation firms that would value Trust assets.

103. The individuals set forth above were either aware that Platinum was engaging in a fraud against Claimants, or were willfully blind to it, and in any event were sent to work at Beechwood, or consulted with Beechwood, on Platinum's behalf, to facilitate the fraud.

G. Huberfeld Is Arrested; Nordlicht Is Investigated For Fraud; The Platinum Funds Begin Liquidating.

104. According to published reports, on June 8, 2016, the U.S. Attorney for the Southern District of New York arrested Huberfeld and announced that criminal charges were

being brought against him and Platinum in connection with bribing a union official to make a $20 million investment in a fund owned and operated by Platinum.[5]

105. Both Huberfeld and Platinum have a long history of unscrupulous conduct. In 1992, for example, Huberfeld pled guilty to a misdemeanor for sending an imposter to take his Series 7 brokerage licensing exam.[6] He was sentenced to two years' probation and paid a substantial fine to the SEC.[7] Just a few years later, in 1998, Huberfeld and another co-founder of Platinum, David Bodner (who is also one of the investors in Beechwood through his participation in the $100 million capitalization), settled civil allegations that they sold more than 513,000 shares of restricted stock in a particular company.[8] Huberfeld made an even larger payment to the SEC, in addition to the fine imposed on his then-fund.[9]

106. Several years later, in 2012, Platinum and Nordlicht's other fund, Centurion, entered into a sizeable settlement with the Chapter 11 Trustee of the Rothstein Ponzi scheme in relation to fraudulent transfers made to the funds.[10] And Platinum's subsidiary, BDL Manager,

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[5] *See* Jody Godoy, *NYC Fund Manager, Union Head Accused of $20M Fraud*, Law360, June 8, 2016, available at http://www.law360.com/articles/804854/ nyc-fund-manager-union-head-accused-of-20m-fraud. *See* Exh. J.

[6] *See* Zeke Faux, *No Blow Up Is Big Enough to Tarnish Platinum Partners' Returns*, Bloomberg, Oct. 21, 2015, available at http://www.bloomberg.com/ news/articles/2015-10-21/no-blow-up-is-big-enough-to-tarnish-platinum-partners-returns. *See* Exh. K.

[7] *Id*.

[8] *See* Lorena Mongelli and Bruce Golding, *Hedgie Accused of Bribing Union Boss Has Criminal Past*, NY Post, June 8, 2016, available at http://nypost.com/2016/06/08/hedgie-accused-of-bribing-union-boss-has-criminal-past. *See* Exh. L.

[9] *Id*.

[10] *See* Sindhu Sundar, *Fund Managers Put Up $32M To End Rothstein Trustee Claims*, Law360, available at http://www.law360.com/articles/359744/fund-managers-put-up-32m-to-end-rothstein-trustee-claims. *See* Exh. M.

entered into yet another settlement with the SEC in 2014 in connection with a scheme to profit from the imminent deaths of terminally ill patients in nursing homes and hospice care.[11] Specifically, BDL Manager's brokers tricked dying patients into providing personal information that the brokers then used to make risky investments in variable annuities, which paid benefits to BDL Manager when the patients died.[12]

107. Nordlicht, Huberfeld's longtime partner and co-founder of Platinum, likewise has a checkered past. According to published reports, both Huberfeld and Nordlicht and their wives were sued in connection with the Rothstein Ponzi scheme. In addition, one of Nordlicht's previous funds, Optionable Inc., collapsed in a trading scandal in 2007 when another of its co-founders, Kevin Cassidy, was arrested for deliberately misstating the value of natural gas derivatives.[13] Cassidy, who served two prior stints in prison, was sentenced to another 30 months.[14] When he was released, Platinum hired him as the managing director of Agera Energy, a distressed company that Platinum had taken over and in which David Levy, while serving as Beechwood's Chief Investment Officer, had invested Trust assets in its high-risk debt.[15]

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[11] *See* SEC Press Release: SEC Announces Charges Against Brokers, Adviser, and Others Involved in Variable Annuities Scheme to Profit From Terminally Ill, Mar. 13, 2014, available at https://www.sec.gov/News/PressRelease/Detail /PressRelease/1370541121951. *See* Exh. N.

[12] *Id.*

[13] *See* SEC Press Release: SEC Charges Banker and Brokerage Executives With Multi-Million Dollar Financial Fraud, Nov. 18, 2008, available at https://www.sec.gov/news/press/2008/2008-274.htm. *See* Exh. O.

[14] *See* Bill Singer, *Commodities CEO Gets 30 Months in Prison in Mark to Market Scheme*, Forbes, Apr. 26, 2012, available at http://www.forbes.com /sites/billsinger /2012/04/26/commodities-ceo-gets-30-months-in-prison-in-mark-to-market-scheme/#62116c652089. *See* Exh. P.

[15] *Id.*

108. According to published reports, Nordlicht is currently under investigation along with Platinum. On June 22, 2016, the FBI and the U.S. Postal Inspection Service raided Platinum.[16] According to the *New York Post*, the FBI is "expected to look at Platinum's valuation of its hard-to-value illiquid assets."[17]

109. According to a July 25, 2016 article in the *Wall Street Journal* ("7/25 *WSJ* Article"),[18] the government has launched a "fraud investigation" against Platinum. Platinum had for years boasted of its outsized returns on investments, but those returns are likely fictitious and designed to induce others to invest money in the Platinum scheme.

110. As explained in the 7/25 *WSJ* Article, Platinum began borrowing money to repay investors starting in 2012, when investors began asking for their money back. The 7/25 *WSJ* Article reported that Platinum has recently suspended all redemptions from its funds and could not commit to investors that the Platinum funds would pay investors "cash matching the full investment gains the firm has reported." In other words, the money Platinum represented was in the Platinum funds is not actually there.

111. The government, according to the 7/25 *WSJ* Article, is investigating whether "Platinum had been paying some reported investment gains to existing investors with money from incoming ones." The 7/25 *WSJ* Article also reported that Nordlicht is a target of the

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[16] *See* Kaja Whitehouse and Josh Kosman, *FBI Raids Hedge Fund Linked to Union Head's Kickback Probe*, NY Post, June 22, 2016, available at http://nypost.com/ 2016/06/22/fbi-raids-hedge-fund-linked-to-union-heads-kickback-probe/. *See* Exh. Q.

[17] *Id*.

[18] *See* Rob Copeland, *Fraud Probe Ricochets through Platinum Partners, a Hedge Fund With Ties to Jewish Community*, available at http://www.wsj.com/articles/fraud-investigation-ricochets-through-hedge-fund-known-for-ties-to-jewish-community-1469439181. *See* Exh. R.

investigation, along with Huberfeld, who, as noted above, has a criminal record and is presently under indictment for bribing a union official.

112. Due to its ties to Platinum, government agents also raided Beechwood's offices on the morning of Huberfeld's arrest. As explained in the 7/25 *WSJ* Article – but which was news to Claimants at the time of its publication – Huberfeld and Nordlicht had started and funded Beechwood.

113. According to the 7/25 *WSJ* Article, and contrary to Respondent' assertions preceding the execution of the Reinsurance Agreements that the company was "owned by three individuals," Huberfeld maintained an office at Beechwood and his son and son-in-law worked at a Beechwood affiliate, BAM. His nephew, Levy, controlled Beechwood's investments for over a year and funneled Trust assets into numerous Platinum-related schemes, investments and entities.

114. Claimants would not have entered into the Reinsurance Agreements if they had known of Beechwood's ties to Platinum, Huberfeld and Nordlicht. Indeed, no insurance company would knowingly invest its assets backing policyholder liabilities with such unscrupulous characters, and insurance regulators would not have knowingly permitted insurers to do anything of the kind.

115. According to the 7/25 *WSJ* Article, Platinum began running out of cash in 2015 as Platinum investors began increasing redemption requests. To fund those redemptions, Beechwood lent money to Platinum and purchased parts of Platinum's portfolio, so that "Platinum ended up owing Beechwood around $70 million." Beechwood appears to have been funding Platinum's redemptions to defrauded investors who were demanding an exit from Platinum funds.

116. This is further confirmed by an article appearing in the *New York Observer* on June 23, 2016.[19] The *Observer* reported that Platinum lacked funds in November 2015 to meet redemption demands. The *Observer* reported that the Fruchthandler family (real estate moguls whose holdings include the Woolworth Building) could not redeem $600,000 from the Platinum Funds and filed a complaint with the SEC.

117. Tellingly, the *Observer* reprinted a letter written by the Fruchthandler family's attorney to the General Counsel of Platinum, David Ottensoser – *the same person Beechwood told Claimants in November 2013 was the General Counsel of Beechwood.* The *Observer* also reported that Platinum could not come up with $7.5 million in November 2015 to satisfy a put to New Mountain Finance Corporation.

118. Around the same time, in October 2015, New Zealand's Parris Investments Ltd. ("Parris Investments") submitted a redemption request to Platinum, asking for the return of its funds. Platinum failed to return the money to Parris Investments by the end of December, which was the due date specified by the parties' agreement. According to Parris Investments' court filings, Platinum then made a series of promises over the next several months, indicating it would return the funds. It never did, and in July 2016, Parris Investments filed a complaint against Platinum in the Cayman Islands where Platinum is domiciled. A month later, the Cayman Islands judge issued an order that validated concerns about Platinum's inability to repay

[19] *See* Ken Lurson, *Exclusive: Bribe Suspect Huberfeld Accused of Stiffing Previous Platinum Investors*, Observer, June 23, 2016, available at http://observer.com/2016/06/exclusive-bribe-suspect-huberfeld-stiffed-previous-platinum-investors/. *See* Exh. S.

investors.[20] The order turned over the international unit of Platinum's main fund to court-appointed liquidators.

H. The Cornerstone Investigation And BCLIC And WNIC's Realization That Trust Assets Are Overvalued

119. Claimants invoked the audit provisions of the Reinsurance Trust Agreements shortly after Huberfeld's arrest in June 2016. In light of the arrest and related press coverage, Claimants specified that the audit would encompass (1) whether the investment of Trust assets complied with the terms of the Reinsurance Agreements and associated investment guidelines, (2) Beechwood's valuation of those assets, and (3) Beechwood's relationship with Platinum.

120. Claimants hired Cornerstone Research ("Cornerstone") to perform the audit of the investments. Cornerstone's work consisted of analyzing (1) the transactions and interconnections between Beechwood's investments of Trust assets and any Platinum related entities; (2) potential sources for conflict of interest between Beechwood and BAM, on the one hand, and Platinum, on the other; (3) whether the terms of Beechwood's investments of Trust assets were economically reasonable; and (4) the valuations of the Trust assets performed by Duff & Phelps on behalf of Beechwood.

121. By August 2016, Claimants had determined that approximately $280 million of the $591 million assets held in Trust are Level 3 assets, which is the category of most-difficult-to-value assets, and approximately *$116 million* of the $302 million of Level 3 assets are inextricably intertwined with Platinum.[21]

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[20] *See* Kaja Whitehouse, *Hedge Fund Linked to Prison Guards' Union Goes to 'Liquidators,'* NY Post, Aug. 24, 2016, available at http://nypost.com/2016/08/24/hedge-fund-linked-to-prison-guards-union-goes-to-liquidators/. *See* Exh. T.

[21] *See Fitch Places CNO Financial Group on Rating Watch Negative*, Reuters, Aug. 3, 2016, available at www.reuters.com/article/idUSFit969502. *See* Exh. U.

122. Cornerstone also uncovered significant problems with the valuation reports that Duff & Phelps prepared and that Beechwood submitted to Respondent. For example, their valuations (a) generally provided no explanations or evidence to support the valuations, (b) were often based on unsubstantiated, incorrect and sometimes irrelevant assumptions and questionable methodologies, (c) ignored evidence that the transactions were not at arm's-length, and (d) ignored the extensive dealings between Beechwood and Platinum that illustrated Beechwood's conflicts of interest. Claimants believe that their reinsurance Trusts are underfunded.

123. Claimants recently learned through the audit that many investments of Trust assets Beechwood made were with Platinum-linked companies, and that Beechwood and Duff & Phelps have improperly valued such investments. These include at least the following:

a. Agera Energy. Agera Energy was owned by a Platinum, which had purchased its assets from a distressed company. Beechwood initially invested trust assets in Agera. Later, on June 9, 2016, one day after Huberfeld was indicted for bribing a union official to invest the union's funds with Platinum, Beechwood invested more of the Trusts' assets in loans to Agera as part of a restructuring. Platinum brought the transaction to Beechwood, informing it that Platinum needed cash and was hoping Beechwood would assist it by arranging a deal to provide it. Beechwood acceded to Platinum's request by agreeing to a deal to cash out Platinum's interest in Agera. To justify these loans, Beechwood claimed that Agera's enterprise value had increased by 550% between Platinum's 2014 acquisition of Agera and June 2016. In June 2016 alone, Beechwood and Duff & Phelps reported that Agera's enterprise valuation had increased by 46% *in just 3 weeks*. The Agera restructuring was represented by Feuer and Taylor to

Claimants as mechanism to allow the Trusts to divest other bad Platinum-related investments. In fact, the June 9 restructuring was a continuation of the pattern of using the Trusts to benefit Platinum because the Trusts put in new money which was used to cash out Platinum-related investments.

b. Newel Trading. Beechwood made tens of millions of dollars of short term loans to Newel Trading, a company owned by Platinum, using trust assets, but Beechwood failed to value these loans in its quarterly reports to Claimants. Beechwood was using the trust funds as Platinum's piggybank.

c. LC Energy Operations. LC Energy Operations is owned by Platinum. Beechwood invested trust assets in a loan to LC Energy that was used to retire Platinum's preferred securities. Many of Beechwood's investments of Trust assets have been used to retire Platinum securities or cash out Platinum's positions.

d. Implant Sciences Corp. Platinum owns enough of the convertible debt of Implant Sciences Corp. to obtain a majority stake in the company. Implant Sciences' business consists of an explosive trace detection product, but it has announced plans to sell that business and transition to jet-powered hoverboards. Implant Sciences is a distressed company and was de-listed from the New York Stock Exchange in 2009. In March 2015, Beechwood loaned Implant Sciences money from the Trusts, the proceeds of which were used to reduce a Platinum loan. The loan's maturity date has repeatedly been extended due to Implant Sciences inability to pay. The Trusts' current exposure to this investment is just under $7 million. Beechwood and Respondent continue to value this investment at par.

e. China Horizon Investment Group. Platinum was a significant shareholder in China Horizon Investments Group. Beechwood invested Trust assets in a loan to it, the proceeds of which were used to repay "shareholder loans."

f. Golden Gate Oil LLC. Platinum had a significant equity stake in Golden Gate Oil LLC. Beechwood used Trust assets for a loan to it, the proceeds of which were used to purchase Platinum's loan. Beechwood's valuation of Golden Gate relies on an assumption that oil will sell for $90 per barrel and that Golden Gate's wells will be productive, when oil is currently selling for $50 per barrel and less than 2% of Golden Gate's wells have been developed. It is producing 30 barrels per day. Beechwood and Respondent still value this asset at par.

g. Northstar GOM LLC. Platinum has a significant equity stake in Northstar GOM LLC. Beechwood invested Trust assets in a loan in which the proceeds were used to fund Platinum's purchase of the company.

h. ALS Capital Ventures/Credit Strategies. Credit Strategies is a non-operating entity owned by Platinum. Credit Strategies owns 83% of ALS Capital Ventures ("ALS"), a life insurance settlement fund that owns life insurance policies. ALS pays the premiums on the policies and depends on death benefits to make profits. Beechwood invested Trust assets in loans to Credit Strategies, the non-operating company owned by Platinum, presumably to allow ALS to continue to make premium payments on the policies. As of August 31. 2016, Beechwood's loan of Trust assets to Credit Strategies has created an exposure of more than $10 million for the Trusts. This loan is nothing more than a manner of using Trust assets to subsidize Credit Strategies' indirect investment in life insurance policies. The

2014 audited financial statements for ALS show that, in 2014, ALS' "members" withdrew $26.3 million in "capital," or equity, while the Trusts' loan remains unpaid.

i. Pedevco: Pedevco is another distressed oil and gas development company, similar to GGO, discussed above. Like GGO, Pedevco has numerous interrelationships with Platinum. Platinum owns 100% of Pedevco's Series A preferred, along with 9.9% of its common stock. Platinum also holds tranches A & B of Pedevco's senior secured debt and a Platinum representative sits on the Pedevco board of directors. Beechwood invested millions of dollars of Trust assets in Pedevco's tranche B notes.

j. PPCO: In March 2016, a year and a half after Respondent advised Claimants that Respondent would unwind the Trusts' investments with Platinum and Platinum-related entities, Beechwood directly invested Trust assets with PPCO, a Platinum fund. This fund is now in liquidation, and the Trusts' exposure to PPCO is approximately $6.8 million. Beechwood's investment of Trust assets in PPCO occurred within a couple of months of the June 9, 2016 Agera transaction, which was initiated when Platinum informed Beechwood of Platinum's need for liquidity and its desire to obtain that liquidity from Beechwood. Beechwood and Respondent continue to value this investment at or near par, that is, in the range of $6.725 million to $6.86 million. Given that PPCO is in liquidation and has suspended redemptions, that the FBI has raided Platinum's office, that Platinum is under federal investigation and that one of Platinum's founders is now under

indictment for bribing a union official to invest union funds in Platinum, the Trusts' may suffer a considerable loss in this Platinum-related investment.

k. Black Elk: Beechwood invested Trust assets in junk bonds issued by Black Elk Energy LLC, an oil company. With Black Elk in financial distress following an oil rig explosion, it sought to sell its principal assets. Platinum, which owned a majority interest in the company, asked owners of the junk bonds to subordinate their interests and allow Platinum to receive the proceeds of the asset sales. Beechwood voted the Trusts' shares of its junk bond in favor of self-subordination to Platinum, contrary to the interests of the Trusts. Platinum succeeded in obtaining all proceeds of the asset sales.

I. Feuer and Taylor Admit They Hid Huberfeld And Nordlicht's Interests In Beechwood.

124. In August 2016, after Huberfeld was indicted, Feuer and Taylor admitted with feigned disdain that they discovered Levy was using Trust assets to provide liquidity and profits to Platinum. Feuer and Taylor stated that they were "surprised" by how Levy used the Trust assets and that they "woke up to a new reality" that Levy was actually using the Trusts' funds to benefit Platinum. Feuer and Taylor admitted that Levy had loaned Trust assets to "highly questionable parties." Feuer and Taylor nonetheless replaced Levy as CIO with another employee of Platinum and continued to direct that Trust assets be used to aid Platinum.

125. In another surprise bout of honesty, Feuer and Taylor recently (just this month) explained to Claimants that they have been associates of Huberfeld for many years. According to Feuer and Taylor, Huberfeld learned that they were starting a reinsurance company, and Huberfeld and Nordlicht then invested in Beechwood, taking a significant stake in the company. Once Huberfeld and Nordlicht became part of Beechwood, they used Beechwood to benefit

Platinum. Feuer and Taylor also admitted that Huberfeld and his family still owned preferred shares in Beechwood and that they are also creditors of Beechwood.

J. The Regulatory Orders.

126. On September 29, 2016, the New York State Department of Financial Services ("NYDFS") and the Indiana Department of Insurance (IDOI) sent letters concerning BCLIC and WNIC, respectively, declaring that, after their investigation of the Trusts' assets, "a substantial portion of the current assets held within the Trust[s] are not in compliance" with state law.

127. The NYDFS required Claimants to remediate this deficiency within ten days, and the IDOI directed that corrective actions be taken immediately.

128. The letter from the NYDFS (Exh. D) states, in pertinent part:

> The New York State Department of Financial Services (the "Department") has conducted a review of the New York Insurance Regulation 114 Trust (the "Trust"), established pursuant to 11 NYCRR 126, which collateralizes the reinsurance treaty between Bankers Conseco Life Insurance Company ("Bankers Conseco") and Beechwood Re, Ltd. ("Beechwood Re").
>
> As a result of this review, which included a detailed analysis of assets and multiple rounds of communication between the Department, Bankers Conseco and Beechwood Re, ***the Department has concluded that a substantial portion of the current assets held within the Trust are not in compliance with the standards set under 11 NYCRR § 126 (Insurance Regulation 114), which is also required under the express terms of the reinsurance treaty.*** The Department observed that certain assets within the Trust were removed subsequent to the Department's approval of the reinsurance treaty and replaced with assets that do not comply with 11 NYCRR § 126(a)(2) …
>
> ***Bankers Conseco is hereby directed to remediate this deficiency within ten days*** of the date of this letter by ensuring the assets held within the Trust meet the requirements of Insurance Regulation 114. Failure to bring the Trust into compliance may result in the denial of reserve credit and disciplinary action from the Department.

- (emphasis added)

129. The letter from IDOI states (Exh. E), in pertinent part:

> The Indiana Department of Insurance ("IDOI") has reviewed the above referenced Reinsurance Agreement and related trust funds ("Trust") as part of its Confidential Target Examination of WNIC, Appointment # 3920 ("Exam").
>
> ***The Reinsurance Agreement and related Trust are not in compliance with 760 IAC 1-55-4 ("Rule 55") … At least some of the Level 3 Trust assets cannot be relied upon***. …
>
> ***Additionally, BRE is in violation of IC 27-6-10-11 (a).*** That section of the Indiana Code requires BRE to report annually to the Indiana Commissioner substantially the same information as that required to be reported by licensed insurers on the National Association of Insurance Commissioners' annual statement form. ***BRE has failed to file any such reports…***
>
> Credit for reinsurance ceded under the Reinsurance Agreement shall not be allowed WNIC, for all of the above reasons, unless corrective measures, satisfactory to the IDOI, ***are taken immediately***...
>
> WNIC, BRE, and the Trustee, are subject to potential disciplinary action, based on the above violations.
>
> - (emphasis added).

130. Feuer and Taylor have advised Claimants that the non-qualified assets cannot be liquidated for months or perhaps years, given that, for example, PPCO is in liquidation and redemptions have been suspended, and due to the structure of many investments. Hence, Claimants were required by their regulators to recapture the business or else face disciplinary action, including the loss of its reinsurance credit for the ceded risks.

K. BCLIC and WNIC Terminate The Reinsurance Agreements.

131. On September 29, 2016, Claimants issued a Notice of Termination to Beechwood, immediately terminating all Reinsurance Agreements between the parties. Claimants terminated

the agreements due to Beechwood's numerous incurable breaches of the Reinsurance Agreements and fraud upon Claimants since the inception of the relationship, among other reasons.

L. BCLIC and WNIC Exercise Their Contractual Right To Take Control Of Trust Assets.

132. On September 29, 2016, Claimants issued a notice to Wilmington Trust, the trustee of the Trusts, to transfer all Trust assets to Claimants. Upon information and belief, Wilmington Trust is in the process of effectuating that transfer.

DEMAND FOR ARBITRATION

133. Pursuant to Section 10.1(d) of the Reinsurance Agreements, Claimants demand that Beechwood select its party-appointed arbitrator and provide Claimants with notice of the same within thirty (30) days of the date of this Demand for Arbitration and Statement of Claim. All party-appointed arbitrators must satisfy the qualifications set forth in the Reinsurance Agreements, which stipulate that the "arbitrators … must be officers or retired officers of life and health insurance or reinsurance companies (other than the Parties to this New York Reinsurance Agreement or their Affiliates)."

STATEMENT OF VENUE

134. Pursuant to Section 10(c) of the Reinsurance Agreements, the arbitration "shall be held in the City of New York, New York, unless a different location is mutually agreed upon by the Parties."

REQUEST FOR EMERGENCY RELIEF

135. BCLIC and WNIC request, pursuant to Rules 37 and 38 of the AAA Commercial Rules, that the Arbitrator issue an award for emergency relief by ordering that Beechwood open its books and records to inspection and copying by BCLIC and WNIC, and provide BCLIC and

WNIC with the documents and information set forth in Exh. A hereto. Claimants are entitled to such relief.

136. Pursuant to the comprehensive auditing rights provided under the Reinsurance Agreements, the Claimants requested through its counsel, Willkie Farr & Gallagher LLP ("Willkie Farr"), certain documents and information from Beechwood on August 3, 2016. Exh. F, Ltr. from T. Cosenza to R. Coan, dated Aug. 3, 2016. Willkie Farr stated that the documents and information would help address Claimants' concerns regarding valuations of the Trust assets and their questions about Beechwood's longstanding relationship with Platinum and its principals. *Id.* Many of the documents on the list specifically related to the investments identified by Cornerstone as linked with Platinum. *Id.*

137. Instead of undertaking efforts to make these documents available, however, Locke Lord, counsel for Beechwood, ignored Claimants' concerns regarding the valuations performed by Beechwood and Duff & Phelps and asked that Claimants prioritize their requests, eliminating any with purported limited value or relevance. Beechwood continued to dodge Claimants' requests throughout the remainder of the month. Counsel for Beechwood suggested that Claimants' requests concerning valuations of Trust assets and Beechwood's relationships with an apparent fraud scheme somehow did not relate to the Reinsurance Agreements or the insurance policies subject to them. Locke Lord then narrowed Claimants' requests to just five categories deemed acceptable to Beechwood, even though there is no provision in the Reinsurance Agreements empowering Beechwood to reconfigure Claimants' audit. Exh. G, Ltr. from S. Whitmer to T. McGinn, dated Aug. 11, 2016.

138. Counsel from Beechwood next raised confidentiality concerns, obstructing Claimants' access to documents and information by demanding that Claimants sign

confidentiality/non-reliance agreements, instead of simple confidentiality agreements that do not entail a waiver of rights by Claimants. Counsel for Beechwood then compounded this obstruction by attempting to claw back documents already produced to Claimants on the basis that Claimants had not signed the confidentiality/non-reliance agreements.

139. To date, Claimants have been unable to obtain the documents and information necessary for it to complete its audit, despite the robust auditing rights conferred on them by the Reinsurance Agreements. For a number of reasons, the arbitrator has the authority to, and should, immediately compel Beechwood to provide these documents.

140. *First*, the Reinsurance Agreements confer broad auditing rights on the parties in the interest of transparency. Specifically, Section 3.4 of the Reinsurance Agreements states that the parties have the right to "audit, examine and copy (at such Party's own expense), during regular business hours, at the home office of the other Party, any and all books, records, statements, correspondence, reports and other documents that relate to . . . Insurance Policies" or the Reinsurance Agreements. The party subject to the audit must "cooperate fully and faithfully" and "disclose the existence of and produce any and all materials reasonably requested to be produced."[22]

[22] Additionally, Section 4.5 of the Reinsurance Agreements mandates that Beechwood "shall prepare written reports on a quarterly basis (the 'Quarterly Reports') setting forth, among others, the aggregate fair market value of the Qualifying Trust Assets maintained in the Reg 114 Trust Account and the assets maintained in the Supplemental Trust Account (both on an asset-by-asset basis and a cumulative basis, but by trust account), together with supporting detail, and such other information reasonably necessary to verify the compliance of the assets with all Investment Guidelines." To the extent that there is a dispute regarding the contents of the Quarterly Reports, Section 4.5(b) provides a mechanism for a Third Party Accountant to review the reports and to resolve the dispute. Section 4.5(b) states that Beechwood "shall permit [WNIC or BCLIC] and/or the Third Party Accountant to audit its records in order to perform their respective reviews. Reinsurer shall cooperate fully with such audit."

141. On June 16, 2016, the Claimants invoked their contractual right to audit Beechwood. Despite Beechwood's contractual obligation to "cooperate fully and faithfully" with Claimants' audit and to provide access to "any and all" materials "reasonably requested" "that relate to" the agreements or the underlying policies, Beechwood has repeatedly stymied Claimants attempts to obtain pertinent information. Even though the law is plain that the phrase "relate to" is exceptionally broad,[23] Beechwood has adopted an exceedingly narrow interpretation of the audit provision and has claimed, without basis, that the requests for information concerning the valuation of the Trust assets and Beechwood's connections to Platinum do not "relate to" the Reinsurance Agreements or the insurance policies. But of course they do, in the following ways, among others: (1) the Trusts are created by the Reinsurance Agreements, and hence anything that relates to Trust investments necessarily "relate to" the Reinsurance Agreements, including whether, among other things, Trust assets were invested with affiliated parties, which necessarily requires knowing the ownership structure of Beechwood,[24] and why Beechwood made so many Platinum-related investments; (2) many of the Trusts' investments are with Platinum or Platinum-owned entities, and thus those investments certainly "relate to" the Reinsurance Agreements; (3) Beechwood is the Reinsurer under the Reinsurance Agreements and thus the issue of what Beechwood is and who owns it "relates to" the Reinsurance Agreement; (4) the ownership of Beechwood is a direct trigger of certain rights and actions under the Reinsurance Agreements (e.g., § 4.6); (5) Claimants are entitled to terminate

[23] *See, e.g., Coregis Ins. Co. v. American Health Foundation, Inc.*, 241 F.3d 123 (2d Cir. 2001) ("The term 'related to' is typically defined more broadly and is not necessarily tied to the concept of a causal connection. Webster's Dictionary defines 'related' simply as 'connected by reason of an established or discoverable relation.'").

[24] The last page of Exhibit C of the Reinsurance Agreements broadly prohibits investments with affiliated entities (like Platinum, which would appear to be an affiliated company given the common equity owned by Nordlicht and Huberfeld). Exhs. A and B.

the Reinsurance Agreements in the event of any breach (§ 9.2(b)(v)), and hence whether any breach occurred "relates to" the Reinsurance Agreement, including whether there were improperly valued assets, whether transactions occurred with affiliates, or whether Trust assets were otherwise misused or appropriated; (6) whether the Quarterly Reports (§ 4.5) are complete and accurate; and (7) whether Beechwood's Platinum and Platinum-related assets were arm's-length transactions or affiliated transactions (precluded by the Reinsurance Agreements), which necessarily involving examining the Beechwood-Platinum relationship, including common ownership.

142. Besides all of that, it is galling for Beechwood to narrowly interpret these broad audit rights when the cat is out of the bag on the fraud it perpetrated against Claimants. Given that Beechwood owes fiduciary duties to Claimants, now is the time for honesty and inspection, not even more secrecy and misdirection. It must not be forgotten that Claimants entrusted Beechwood with more than *$550 million* in funds to invest to protect policyholders, and nothing is more disturbing than a fiduciary that continues to stymie the parties to whom it owes fiduciary duties from learning the truth.

143. *Second*, the emergency arbitrator is empowered to provide this relief under several AAA Commercial Rules, which are incorporated into the Reinsurance Agreements. R-38 allows for broad emergency relief, and R-37 specifically vests the arbitrator with authority to "take *whatever* interim measures he or she deems necessary, including injunctive relief and measures for the protection or conservation of property." (emphasis added). A full audit of the Trusts will aid Claimants' efforts to protect and conserve assets being withdrawn from the Trust. Indeed, Claimants are not even sure of the true value of many of the Trust assets, and only by

uncovering the truth can Claimants adequately protect and conserve the Trust property and protect policyholders.

144. Significantly, the Reinsurance Agreements' arbitration provision and the AAA Commercial Rules (R-22) afford the Arbitrator broad discretion and the authority to control the timing and scope of discovery. The emergency Arbitrator can thus order this audit and inspection under the express grant of authority set forth in R-22.

145. *Third*, the arbitration clause itself grants the arbitrator vast authority to control the proceedings. *Id*. at § 10(e) (arbitrator "shall not be bound by legal rules of procedure and may receive evidence in such a way to do justice between the Parties."). The emergency arbitrator is expressly permitted to craft the proceedings as justice requires. Here, justice requires, at a minimum, a complete and thorough audit of Beechwood so that the full extent of its wrongdoing can be uncovered.

146. WNIC and BCLIC, and its thousands of policyholders, will suffer immediate and irreparable loss or damage in the absence of the requested emergency relief. As set forth in greater detail above, there exists strong evidence that Beechwood made improper investments of Claimants' Trust assets (as two state regulators have *already* concluded) and that the Trusts are underfunded. BCLIC and WNIC also require all of the requested documents and information now that it has terminated the Reinsurance Agreements and must itself manage Trust assets. Additionally, without the necessary information, BCLIC and WNIC may not be able to accurately report to state insurance regulators the magnitude of injury inflicted by Beechwood on their assets, and may not be able to comply with the regulatory directives from the NYSDFS and IDOI. Likewise, without all of the requested information, CNO may be unable to satisfy its obligation to its shareholders to report the financial harm inflicted on the company by

Beechwood. Accordingly, the emergency relief is necessary to avoid irreparable harm to WNIC and BCLIC, and Claimants request that the arbitrator hold Beechwood to its contractual audit obligations and to finally be up front with WNIC and BCLIC.

DEMAND FOR RELIEF

147. Claimants contemplate filing an Amended Statement of Claim once they obtain the necessary documents and information requested in their Request for Emergency Relief, should the Emergency Arbitrator grant that request. At present, however, Claimants state the following for their Demand for Relief:

A. Claimants seek compensatory, consequential and punitive damages against Beechwood, based upon Beechwood's incurable material breaches of the Reinsurance Agreements, and breaches of fiduciary duties and the obligation to deal honestly and in good faith, and conversion and fraud, including without limitation: (a) violating the Reinsurance Agreements' investment guidelines by investing in below investment-grade instruments; (b) providing false and misleading valuations and credit ratings to many investments Beechwood made for the Trusts, including but not limited to the Trusts' investments in the Platinum funds and other Trust investments related to the Platinum funds and shoring up the Platinum fraud scheme; (c) failing to top up the Trusts pursuant to the Reinsurance Agreements based on the accurate and true valuations for the Platinum funds and other Platinum-related investments; (d) withdrawing $134 million from the Trusts as purported gains belonging to Beechwood when in fact the Trusts had losses using proper accounting and valuations and excluding non-qualified assets, as a result of Beechwood's use of Trust assets to support Platinum and its fraud scheme to the detriment of the Claimants and the Trusts; and (e) failing to provide Claimants with accurate information, including deliberately lying to Claimants concerning Beechwood's ties to Platinum and materially breaching the audit provisions of the Reinsurance Agreements by failing to

provide accurate and complete information, and in the case of the WNIC Reinsurance Agreement, failing to provide an annual report for 2015.

B. Claimants seek compensatory, consequential and punitive damages against Beechwood, based upon Beechwood's fraudulent activities, conversions, intentional and negligent misrepresentations, as described above, including, without limitation and by way of example only, (a) fraudulently inducing Claimants to enter into the Reinsurance Agreements by failing to disclose the true owners of Beechwood and misrepresenting its true owners, and by misrepresenting to Claimants that numerous professionals were officers of Beechwood when they in fact worked for Platinum, and misrepresenting the source of its capitalization; (b) fraudulently or negligently investing Trust assets to support the Platinum fraud scheme, including but not limited to direct Trust investments into the fraud scheme; (c) fraudulently or negligently misrepresenting to Claimants the true value of Trust assets in order to avoid having to make shortfall payments and to instead pilfer the Trust assets for its own ill-gotten gains, in the amount of at least $134 million; and (d) failing to provide Claimants with accurate information, including deliberately lying to Claimants concerning its ties to Platinum, ownership structure, and the true status of its employees.

C. Claimants seek compensatory, consequential and punitive/treble damages against Beechwood for its participation in a civil conspiracy, as well as its violations of the Racketeer Influenced and Corrupt Organizations Act ("RICO") 18 U.S.C. §1961 et seq., in which Beechwood, along with other co-conspirators, including, but hardly limited to, Platinum and Nordlicht, Huberfeld, Levy, Feuer and Taylor, conspired and coordinated an effort to convert and apply Claimants' assets, including but not limited to the Trust funds and the negative ceding commission, to support an illegal fraud scheme.

Claimants reserve the right to supplement this Statement of Claim, particularly as its investigation into the fraud develops. Moreover, Claimants shall seek an award of interim security as soon as practicable.

Dated: New York, New York
September 29, 2016

WINSTON & STRAWN LLP

By: /s/ Adam J. Kaiser

Adam J. Kaiser
John A. Aerni
Matthew A. Stark
akaiser@winston.com
jaerni@winston.com
mstark@winston.com
WINSTON & STRAWN LLP
200 Park Avenue
New York, New York 10166
(212) 294-6700
(212) 294-4700 (fax)

Attorneys for Claimants

Exhibit 6

Submitted Under Seal

Exhibit 7

Submitted Under Seal

Exhibit 8

Submitted Under Seal

Exhibit 9

Submitted Under Seal

Exhibit 10

Submitted Under Seal

Exhibit 11

IN THE MATTER OF THE ARBITRATION BETWEEN

BANKERS CONSECO LIFE INSURANCE COMPANY and WASHINGTON NATIONAL INSURANCE COMPANY,

Claimants / Counterclaim Respondents,

v. **AAA Case No. 01-16-0004-2510**

BEECHWOOD RE LIMITED,

Respondent / Counterclaimant.

THIRD ORDER REGARDING CLAIMANTS' MOTION FOR INTERIM SECURITY

Having considered the Claimant's Motion For Interim Security, Beechwood's Response to CNO's Motion For Interim Security, Claimant's Reply Brief In Further Support of Their Motion For Interim Security, numerous exhibits, declarations and authorities supporting the Parties' briefs; having heard oral argument on August 18, 2017, as well as numerous additional email submissions of the parties subsequent to this Panel's two prior Orders on this motion,

THE PANEL HEREBY FINDS:

1. This Panel entered an Order on August 22, 2017, requiring Beechwood Re to provide interim security to Claimants; ordering Beechwood's Controller to produce a financial report to the Panel on or before September 1, 2017; and ordering the parties to meet and confer in an attempt to agree on the amount of security to be provided;

2. This Panel entered a second Order on September 14, 2017, requiring Claimants to prepare an estimate of the amount it will cost to pursue this arbitration against Beechwood; directing both parties to give serious consideration to ways in which this matter can be streamlined/expedited; and requiring the parties to again meet and confer;

3. The parties have reported back to the Panel with respect to the Panel's September 14, 2017 Order. The Claimants estimate that it will cost (conservatively) $5 million in attorneys' fees plus $3 million in expert fees from now until submittal of post-

hearing briefs. Claimants have also requested that their previously incurred attorneys' fees and expert fees of $5 million be included in the interim security award for a total of $13 million. Because they understandably want to ensure collection of some amount of their award should they prevail, Claimants have requested that additional interim security be provided beyond the $13 million. There is some indication that Beechwood could provide a letter of credit in the amount of $2.5 million within 30 days and an additional amount, perhaps $2.5 million, at some future point in time;

4. The parties have made no progress with respect to the Panel's request that they give serious consideration regarding ways to streamline/expedite the arbitration, nor have they reached any agreement with respect to the amount of security to be provided by Beechwood;

5. As stated in the Panel's September 14, 2017 Order, the Panel remains willing to enter a default judgment in the event that its Orders for interim security are not met by Beechwood. The Panel also noted in the same Order that it believes that justice is not best-served in this matter by striking Beechwood's counterclaim and defenses and proceeding to a default judgment and hearing on damages;

6. Although Claimants are understandably frustrated by Beechwood's essentially insolvent financial condition, making any potential judgment they obtain of questionable value, it is Beechwood's financial status that has put Claimants in that position, not this Panel. What this Panel can and will strive to achieve is a fair and full presentation of the issues in dispute in a streamlined and expedited manner by ordering a phased approach to interim security; working closely with counsel to impose streamlined procedures and processes on the parties; imposing discovery expectations and limitations upon the parties; and monitoring the expenditure of attorneys' fees and costs.

THE PANEL HEREBY ORDERS:

1. Beechwood shall provide security in the amount of $2.5 million no later than thirty (30) days from the date of this Order;

2. Beechwood shall provide security in the target amount of an additional $2.5 million by a target date of one hundred twenty (120) days from the date of this Order;

3. Within seven (7) days, the parties shall provide the Panel with availability on January 17th or 18th, 2018 for a second organizational meeting, in person in New

York City, at which the parties shall be prepared to discuss the specifics of the discovery that each party wishes to pursue, including depositions, subpoenas and document discovery. The Panel plans at that time to specify dates by which discovery will be complete and will impose restrictions, if necessary, on the amount and type of discovery that will be permitted with the intent of streamlining and expediting this matter;

4. The parties will provide the Panel with suggested status conferences monthly thereafter and updates on subsequent orders to be issued by the Panel;

5. The Panel will monitor the expenditure of attorneys' fees and costs in this matter as well as the ongoing financial condition of Beechwood, through anticipated reports of Beechwood's Controllers, and adjust or increase any interim security as appropriate throughout the pendency of this proceeding.

Ordered this 23rd day of October 2017.

Debra J. Hall, Chair
Susan S. Claflin
Caleb Fowler

Exhibit 12

IN THE MATTER OF THE ARBITRATION BETWEEN

BANKERS CONSECO LIFE INSURANCE COMPANY and WASHINGTON NATIONAL INSURANCE COMPANY,

Claimants / Counterclaim Respondents,

v. **AAA Case No. 01-16-0004-2510**

BEECHWOOD RE LIMITED,

Respondent / Counterclaimant.

ORDER REGARDING INTERIM SECURITY

Having received and reviewed the Claimant's Motion and Brief in Support of Their Motion For Interim Security, Beechwood's Response to CNO's Motion For Interim Security, Claimant's Reply Brief In Further Support Of Their Motion For Interim Security, numerous exhibits, declarations and authorities supporting the Parties' briefs; having heard oral argument on August 18, 2017; and having considered all of the foregoing;

THE PANEL HEREBY FINDS:

1. New York Insurance Law §1213 and Indiana Law §27-4-4-4 apply to reinsurance contracts and to arbitration proceedings and are part of the regulatory framework of those States. As such, Beechwood Re may be ordered to post pre-hearing security sufficient to secure the payment of any final judgment in this proceeding:

2. Pre-hearing security is intended, in large part to ensure that the arbitration process results in a final and binding outcome. However, the current financial condition of Beechwood Re, as reported in Exhibit D to Beechwood Re's Response brief, indicates that minimal funds currently exist to achieve that result. As Claimants note, even if an award is ultimately entered against Beechwood Re, there may be insufficient assets to fund the award (Claimant's Reply brief at p.5-6);

3. With the July 25, 2017, appointment of Controllers, the Panel expects more certainty soon with respect to Beehwood Re's current financial condition and eventually with respect to any potential causes of action that may be pursued on behalf of Beechwood Re, including asset recovery actions and collection of outstanding receivables;

4. The Parties' extensive submissions reveal that the passage of time from the

September 29, 2016, date of recapture, the March 31, 2017 valuation date of the various investments, and the filing of Claimants' financial statements, up to and including the present has resulted in changes to the amount of Claimant's potential loss. The Panel anticipates that further changes will occur as assets continue to be liquidated.

THE PANEL HREBY ORDERS:

5. Beechwood Re shall provide pre-hearing security to Claimants;

6. Given the fluid nature of Beechwood Re's financial status, and the fact that erosion of assets is not likely due to the involvement of the Controllers, the Panel hereby reserves judgment on the quantum of pre-hearing security it will award until after it has had the opportunity to review the Controller's report on Beechwood Re's financial condition which the Panel understands is due on or about August 31, 2017;

7. The Controller is hereby ordered to produce to the Panel the above-referenced report on or before September 1, 2017 to assist the Panel in determining the amount of pre-hearing security to be provided;

8. The Parties are hereby ordered to meet and confer and report back to the Panel by September 8, 2017 whether they have been able to agree to an amount of pre-hearing security. Their failure to agree will result in the Panel determining the amount of pre-hearing security to be awarded.

Ordered this 22nd day of August, 2017.

Debra J. Hall, Chair
Susan S. Claflin
Caleb Fowler

Exhibit 13

IN THE MATTER OF THE ARBITRATION BETWEEN

BANKERS CONSECO LIFE INSURANCE COMPANY and WASHINGTON NATIONAL INSURANCE COMPANY,

Claimants / Counterclaim Respondents,

v. **AAA Case No. 01-16-0004-2510**

BEECHWOOD RE LIMITED,

Respondent / Counterclaimant.

ORDER REGARDING INTERIM SECURITY

Having received and reviewed the Claimant's Motion and Brief in Support of Their Motion For Interim Security, Beechwood's Response to CNO's Motion For Interim Security, Claimant's Reply Brief In Further Support Of Their Motion For Interim Security, numerous exhibits, declarations and authorities supporting the Parties' briefs; having heard oral argument on August 18, 2017; and having considered all of the foregoing;

THE PANEL HEREBY FINDS:

1. This Panel entered an order on August 22, 2017 requiring Beechwood Re to provide interim security to Claimants; ordering Beechwood's Controller to produce a financial report to the Panel on or before September 1, 2017; and ordering the parties to meet and confer in an attempt to agree on the amount of security to be provided;

2. The Controllers did produce a financial report to the Panel and the parties failed to agree on the amount of interim security to be provided to Claimants;

3. The amount of interim security is within the discretion of the Panel. Although there is case law that supports the Panel ordering the full amount requested by Claimants, and the Panel could so order without regard to any analysis with respect to the merits of Claimant's case, to do so here would not make any eventual order any more "final and binding" due to Beechwood's lack of funds, and would therefore, only result in striking Beechwood's counterclaim and any defenses;

4. The Panel hereby exercises the discretion afforded it by AAA Commercial Procedures R-37 and finds that ordering pre-hearing security in the amount requested by Claimants will not afford a just result as too many questions remain open:

5. If Beechwood were not in a dire financial position, the Panel's analysis might have been different but would likely not have been for the full amount requested by Claimants. While Claimants suggest they have suffered loss exceeding $137 Million, Beechwood suggests that the losses, if any are $25 Million and that CNO holds security for nearly twice that amount. In reality, assets continue to be liquidated and a difference in discount rates is likely to be the largest determining factor with respect to damages, if any. One view of the discount rate supports Claimant's request and the other view suggests that CNO is currently over-collateralized;

6. The Panel is not convinced that either party has sufficiently made their case, and they are not required to at this point in time, which is why the Panel believes that justice requires a full hearing on this matter rather than a default judgment with a determination of damages;

7. On the other hand, the Panel does not believe that CNO should be required to pursue this arbitration without even the potential recovery of their own fees and costs. This is not to say that the Panel is suggesting that fees and costs will be awarded against Beechwood but that if CNO prevails, and is unable to collect on any judgment awarded in their favor, they should at least be able to recoup the amount that was required to pursue the arbitration.

THE PANEL HREBY ORDERS:

8. CNO shall prepare an estimate of the amount they expect it will cost to pursue this arbitration against Beechwood Re with the intent that Beechwood Re will be required to post that amount in pre-hearing security;

9. In preparing this estimate and in assessing how the parties wish to proceed in this matter, the Panel suggests that serious consideration be given to the ways in which this matter can be expedited, including the possibility of summary judgment on various issues; submission of testimony through affidavits with cross examination reserved for a hearing; elimination of the need for deposition testimony;

10. Given the financial condition of Beechwood Re, the Panel believes that a hearing will be the best course of action to do justice and get to a "final and binding" result, to the extent possible. However, if Beechwood Re is unable or unwilling to provide

interim security consistent with paragraph 8 of this Order, the Panel reserves its right to order same and, if Beechwood Re fails to comply, move to a default judgment with a hearing on damages;

11. The Parties are hereby ordered to meet and confer and report back to the Panel by September 21, 2017 with respect to the matters set forth in paragraph 8 and 9 of this Order.

Ordered this 14th day of September, 2017.

Debra J. Hall, Chair
Susan S. Claflin
Caleb Fowler

Exhibit 14

From: Debra J. Hall <debrahallgr@gmail.com>
Sent: Tuesday, November 14, 2017 6:53 AM
To: Kaiser, Adam; Whitmer, Steven; ssybersma@deloitte.com; JBUCKLEY@sillscummis.com; Sugden, Will; MPenner@deloitte.com; repstein@sillscummis.com; Falk, Alyssa; iral@lipsiuslaw.com; Knuckey, Ashlee; Young, Julie; Main, Daniella; Aerni, John
Cc: MicheliG@adr.org; claflin.arbs@gmail.com; caleb@calebfowlerarbitrator.com; Debra J. Hall
Subject: CNO v. Beechwood -- Order Regarding the Form of Interim Security

Counsel
The Panel has reviewed the submissions of the parties with respect to the form of interim security that the Panel required on October 23, 2017 to be provided by November 22, 2017. The Panel is in agreement with Claimants that Beechwood's proposed escrow agreement does not provide the security required by the Panel.

Beechwood is hereby ordered to post a Letter of Credit to satisfy the Panel's October 23, 2017 Order. In the event that the LOC cannot be posted by November 22, 2017:

1. Counsel shall provide the Panel, by November 17, 2017, with an adequate explanation why the November 22, 2017 deadline cannot be met and further advise the Panel the earliest date by which the LOC can be in place;
2. Counsel shall provide the Panel, by November 17, 2017, the form of the LOC for review by the Panel and by Claimants' counsel;
3. Beechwood shall, by November 22, 2017, escrow the funds, in cash, with Locke Lord, such funds not to be released absent an Order by this Panel.

Ordered
Susan Claflin
Caleb Fowler
Debra Hall, Umpire

Exhibit 15

Submitted Under Seal

Exhibit 16

Submitted Under Seal

Exhibit 17

Submitted Under Seal

Exhibit 18

COMMERCIAL

Commercial

Arbitration Rules and Mediation Procedures

Including Procedures for Large, Complex Commercial Disputes

AMERICAN ARBITRATION ASSOCIATION®

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Rules Amended and Effective October 1, 2013

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States: Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, Virginia
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Vice President
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Email: BakerJ@adr.org

States: Oklahoma, Texas
Andrew Barton
Vice President
Phone: 210.998.5750
Email: BartonA@adr.org

States: Alabama, Georgia
John M. Bishop
Vice President
Phone: 404.320.5150
Email: BishopJ@adr.org

States: City of Houston, Louisiana, Mississippi
Ingeuneal C. Gray, Esq.
Vice President
Phone: 832.308.7893
Email: GrayI@adr.org

States: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont
Karen Jalkut
Vice President
Phone: 617.695.6062
Email: JalkutK@adr.org

States: Alaska, California, Oregon, Washington
Aaron Gothelf, Esq.
Vice President
Phone: 415.671.4053
Email: GothelfA@adr.org

States: Indiana, Kentucky, North Carolina, Ohio, South Carolina, Tennessee, West Virginia
Michelle M. Skipper
Vice President
Phone: 704.643.8605
Email: SkipperM@adr.org

States: Florida
Rebecca Storrow, Ph.D.
Vice President
Phone: 954.372.4341
Email: StorrowR@adr.org

States: Arizona, Colorado, Kansas, Hawaii, Idaho, Montana, Nebraska, Nevada, New Mexico, Utah, Wyoming
Lance K. Tanaka
Vice President
Phone: 303.831.0824
Email: TanakaL@adr.org

States: Arkansas, Illinois, Iowa, Michigan, Minnesota, Missouri, North Dakota, South Dakota, Wisconsin
A. Kelly Turner, Esq.
Vice President
Phone: 312.361.1116
Email: TurnerK@adr.org

States: New York
Jeffrey T. Zaino, Esq.
Vice President
Phone: 212.484.3224
Email: ZainoJ@adr.org

Case Management Vice Presidents and Assistant Vice President

Jeffrey Garcia
Vice President
Phone: 559.490.1860
Email: GarciaJ@adr.org
Administers cases in: AK, AZ, CA, CO, HI, ID, MT, NV, NM, OR, UT, WA, WY

John M. Bishop
Vice President
Phone: 404.320.5150
Email: BishopJ@adr.org
Administers cases in: AL, DC, FL, GA, IN, KY, MD, NC, OH, SC, TN, VA

Rod Toben
Vice President
Phone: 972.774.6923
Email: TobenR@adr.org
Administers Cases in: AR, IL, IA, KS, LA, MN, MS, MO, NE, ND, OK, SD, TX, WI

Yvonne Baglini
Assistant Vice President
Phone: 866.293.4053
Email: BagliniY@adr.org
Administers cases in: CT, DE, MA, ME, MI, NH, NJ, NY, PA, RI, VT, WV

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Commercial Arbitration Rules and Mediation Procedures

(Including Procedures for Large, Complex Commercial Disputes)

Important Notice

These rules and any amendment of them shall apply in the form in effect at the time the administrative filing requirements are met for a demand for arbitration or submission agreement received by the AAA®. To ensure that you have the most current information, see our web site at **www.adr.org.**

Introduction

Each year, many millions of business transactions take place. Occasionally, disagreements develop over these business transactions. Many of these disputes are resolved by arbitration, the voluntary submission of a dispute to an impartial person or persons for final and binding determination. Arbitration has proven to be an effective way to resolve these disputes privately, promptly, and economically.

The American Arbitration Association® (AAA), a not-for-profit, public service organization, offers a broad range of dispute resolution services to business executives, attorneys, individuals, trade associations, unions, management, consumers, families, communities, and all levels of government. Services are available through AAA headquarters in New York and through offices located in major cities throughout the United States. Hearings may be held at locations convenient for the parties and are not limited to cities with AAA offices. In addition, the AAA serves as a center for education and training, issues specialized publications, and conducts research on various forms of alternative dispute resolution.

Standard Arbitration Clause

The parties can provide for arbitration of future disputes by inserting the following clause into their contracts:

> *Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.*

Arbitration of existing disputes may be accomplished by use of the following:

> *We, the undersigned parties, hereby agree to submit to arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules the following Controversy: (describe briefly). We further agree that the above controversy be submitted to (one) (three) arbitrator(s). We further agree that we will faithfully observe this agreement and the rules, that we will abide by and perform any award rendered by the arbitrator(s), and that a judgment of any court having jurisdiction may be entered on the award.*

The services of the AAA are generally concluded with the transmittal of the award. Although there is voluntary compliance with the majority of awards, judgment on the award can be entered in a court having appropriate jurisdiction if necessary.

Administrative Fees

The AAA charges a filing fee based on the amount of the claim or counterclaim. This fee information, which is included with these rules, allows the parties to exercise control over their administrative fees. The fees cover AAA administrative services; they do not cover arbitrator compensation or expenses, if any, reporting services, or any post-award charges incurred by the parties in enforcing the award.

Mediation

Subject to the right of any party to opt out, in cases where a claim or counterclaim exceeds $75,000, the rules provide that the parties shall mediate their dispute upon the administration of the arbitration or at any time when the arbitration is pending. In mediation, the neutral mediator assists the parties in

reaching a settlement but does not have the authority to make a binding decision or award. Mediation is administered by the AAA in accordance with its Commercial Mediation Procedures. There is no additional filing fee where parties to a pending arbitration attempt to mediate their dispute under the AAA's auspices.

Although these rules include a mediation procedure that will apply to many cases, parties may still want to incorporate mediation into their contractual dispute settlement process. Parties can do so by inserting the following mediation clause into their contract in conjunction with a standard arbitration provision:

> *If a dispute arises out of or relates to this contract, or the breach thereof, and if the dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration, litigation, or some other dispute resolution procedure.*

If the parties want to use a mediator to resolve an existing dispute, they can enter into the following submission agreement:

> *The parties hereby submit the following dispute to mediation administered by the American Arbitration Association under its Commercial Mediation Procedures. (The clause may also provide for the qualifications of the mediator(s), method of payment, locale of meetings, and any other item of concern to the parties.)*

Large, Complex Cases

Unless the parties agree otherwise, the procedures for Large, Complex Commercial Disputes, which appear in this pamphlet, will be applied to all cases administered by the AAA under the Commercial Arbitration Rules in which the disclosed claim or counterclaim of any party is at least $500,000 exclusive of claimed interest, arbitration fees and costs. The key features of these procedures include:

- A highly qualified, trained Roster of Neutrals;
- A mandatory preliminary hearing with the arbitrators, which may be conducted by teleconference;
- Broad arbitrator authority to order and control the exchange of information, including depositions;
- A presumption that hearings will proceed on a consecutive or block basis.

Commercial Arbitration Rules

R-1. Agreement of Parties*

(a) The parties shall be deemed to have made these rules a part of their arbitration agreement whenever they have provided for arbitration by the American Arbitration Association (hereinafter AAA) under its Commercial Arbitration Rules or for arbitration by the AAA of a domestic commercial dispute without specifying particular rules. These rules and any amendment of them shall apply in the form in effect at the time the administrative requirements are met for a Demand for Arbitration or Submission Agreement received by the AAA. Any disputes regarding which AAA rules shall apply shall be decided by the AAA. The parties, by written agreement, may vary the procedures set forth in these rules. After appointment of the arbitrator, such modifications may be made only with the consent of the arbitrator.

(b) Unless the parties or the AAA determines otherwise, the Expedited Procedures shall apply in any case in which no disclosed claim or counterclaim exceeds $75,000, exclusive of interest, attorneys' fees, and arbitration fees and costs.

Parties may also agree to use these procedures in larger cases. Unless the parties agree otherwise, these procedures will not apply in cases involving more than two parties. The Expedited Procedures shall be applied as described in Sections E-1 through E-10 of these rules, in addition to any other portion of these rules that is not in conflict with the Expedited Procedures.

(c) Unless the parties agree otherwise, the Procedures for Large, Complex Commercial Disputes shall apply to all cases in which the disclosed claim or counterclaim of any party is at least $500,000 or more, exclusive of claimed interest, attorneys' fees, arbitration fees and costs. Parties may also agree to use the procedures in cases involving claims or counterclaims under $500,000, or in nonmonetary cases. The Procedures for Large, Complex Commercial Disputes shall be applied as described in Sections L-1 through L-3 of these rules, in addition to any other portion of these rules that is not in conflict with the Procedures for Large, Complex Commercial Disputes.

(d) Parties may, by agreement, apply the Expedited Procedures, the Procedures for Large, Complex Commercial Disputes, or the Procedures for the Resolution of Disputes through Document Submission (Rule E-6) to any dispute.

(e) All other cases shall be administered in accordance with Sections R-1 through R-58 of these rules.

* *Beginning October 1, 2017, AAA will apply the Employment Fee Schedule to any dispute between an individual employee or an independent contractor (working or performing as an individual and not incorporated) and a business or organization and the dispute involves work or work-related claims, including any statutory claims and including work-related claims under independent contractor agreements. A dispute arising out of an employment plan will be administered under the AAA's Employment Arbitration Rules and Mediation Procedures. A dispute arising out of a consumer arbitration agreement will be administered under the AAA's Consumer Arbitration Rules.*

R-2. AAA and Delegation of Duties

When parties agree to arbitrate under these rules, or when they provide for arbitration by the AAA and an arbitration is initiated under these rules, they thereby authorize the AAA to administer the arbitration. The authority and duties of the AAA are prescribed in the agreement of the parties and in these rules, and may be carried out through such of the AAA's representatives as it may direct. The AAA may, in its discretion, assign the administration of an arbitration to any of its offices. Arbitrations administered under these rules shall only be administered by the AAA or by an individual or organization authorized by the AAA to do so.

R-3. National Roster of Arbitrators

The AAA shall establish and maintain a National Roster of Arbitrators ("National Roster") and shall appoint arbitrators as provided in these rules. The term "arbitrator" in these rules refers to the arbitration panel, constituted for a particular case, whether composed of one or more arbitrators, or to an individual arbitrator, as the context requires.

R-4. Filing Requirements

(a) Arbitration under an arbitration provision in a contract shall be initiated by the initiating party ("claimant") filing with the AAA a Demand for Arbitration, the administrative filing fee, and a copy of the applicable arbitration agreement from the parties' contract which provides for arbitration.

(b) Arbitration pursuant to a court order shall be initiated by the initiating party filing with the AAA a Demand for Arbitration, the administrative filing fee, and a copy of any applicable arbitration agreement from the parties' contract which provides for arbitration.

- **i.** The filing party shall include a copy of the court order.
- **ii.** The filing fee must be paid before a matter is considered properly filed. If the court order directs that a specific party is responsible for the filing fee, it is the responsibility of the filing party to either make such payment to the AAA and seek reimbursement as directed in the court order or to make other such arrangements so that the filing fee is submitted to the AAA with the Demand.
- **iii.** The party filing the Demand with the AAA is the claimant and the opposing party is the respondent regardless of which party initiated the court action. Parties may request that the arbitrator alter the order of proceedings if necessary pursuant to R-32.

(c) It is the responsibility of the filing party to ensure that any conditions precedent to the filing of a case are met prior to filing for an arbitration, as well as any time requirements associated with the filing. Any dispute regarding whether a condition precedent has been met may be raised to the arbitrator for determination.

(d) Parties to any existing dispute who have not previously agreed to use these rules may commence an arbitration under these rules by filing a written submission agreement and the administrative filing fee. To the extent that the parties' submission agreement contains any variances from these rules, such variances should be clearly stated in the Submission Agreement.

(e) Information to be included with any arbitration filing includes:

- **i.** the name of each party;
- **ii.** the address for each party, including telephone and fax numbers and e-mail addresses;
- **iii.** if applicable, the names, addresses, telephone and fax numbers, and e-mail addresses of any known representative for each party;
- **iv.** a statement setting forth the nature of the claim including the relief sought and the amount involved; and
- **v.** the locale requested if the arbitration agreement does not specify one.

(f) The initiating party may file or submit a dispute to the AAA in the following manner:

- **i.** through AAA WebFile, located at **www.adr.org;** or
- **ii.** by filing the complete Demand or Submission with any AAA office, regardless of the intended locale of hearing.

(g) The filing party shall simultaneously provide a copy of the Demand and any supporting documents to the opposing party.

(h) The AAA shall provide notice to the parties (or their representatives if so named) of the receipt of a Demand or Submission when the administrative filing requirements have been satisfied. The date on which the filing requirements are satisfied shall establish the date of filing the dispute for administration. However, all disputes in connection with the AAA's determination of the date of filing may be decided by the arbitrator.

(i) If the filing does not satisfy the filing requirements set forth above, the AAA shall acknowledge to all named parties receipt of the incomplete filing and inform the parties of the filing deficiencies. If the deficiencies are not cured by the date specified by the AAA, the filing may be returned to the initiating party.

R-5. Answers and Counterclaims

(a) A respondent may file an answering statement with the AAA within 14 calendar days after notice of the filing of the Demand is sent by the AAA. The respondent shall, at the time of any such filing, send a copy of any answering statement to the claimant and to all other parties to the arbitration. If no answering statement is filed within the stated time, the respondent will be deemed to deny the claim. Failure to file an answering statement shall not operate to delay the arbitration.

(b) A respondent may file a counterclaim at any time after notice of the filing of the Demand is sent by the AAA, subject to the limitations set forth in Rule R-6. The respondent shall send a copy of the counterclaim to the claimant and all other parties to the arbitration. If a counterclaim is asserted, it shall include a statement setting forth the nature of the counterclaim including the relief sought and the amount involved. The filing fee as specified in the applicable AAA Fee Schedule must be paid at the time of the filing of any counterclaim.

(c) If the respondent alleges that a different arbitration provision is controlling, the matter will be administered in accordance with the arbitration provision submitted by the initiating party subject to a final determination by the arbitrator.

(d) If the counterclaim does not meet the requirements for filing a claim and the deficiency is not cured by the date specified by the AAA, it may be returned to the filing party.

R-6. Changes of Claim

(a) A party may at any time prior to the close of the hearing or by the date established by the arbitrator increase or decrease the amount of its claim or counterclaim. Written notice of the change of claim amount must be provided to the AAA and all parties. If the change of claim amount results in an increase in administrative fee, the balance of the fee is due before the change of claim amount may be accepted by the arbitrator.

(b) Any new or different claim or counterclaim, as opposed to an increase or decrease in the amount of a pending claim or counterclaim, shall be made in writing and filed with the AAA, and a copy shall be provided to the other party, who shall have a period of 14 calendar days from the date of such transmittal within which to file an answer to the proposed change of claim or counterclaim with the AAA. After the arbitrator is appointed, however, no new or different claim may be submitted except with the arbitrator's consent.

R-7. Jurisdiction

(a) The arbitrator shall have the power to rule on his or her own jurisdiction, including any objections with respect to the existence, scope, or validity of the arbitration agreement or to the arbitrability of any claim or counterclaim.

(b) The arbitrator shall have the power to determine the existence or validity of a contract of which an arbitration clause forms a part. Such an arbitration clause shall be treated as an agreement independent of the other terms of the contract. A decision by the arbitrator that the contract is null and void shall not for that reason alone render invalid the arbitration clause.

(c) A party must object to the jurisdiction of the arbitrator or to the arbitrability of a claim or counterclaim no later than the filing of the answering statement to the claim or counterclaim that gives rise to the objection. The arbitrator may rule on such objections as a preliminary matter or as part of the final award.

R-8. Interpretation and Application of Rules

The arbitrator shall interpret and apply these rules insofar as they relate to the arbitrator's powers and duties. When there is more than one arbitrator and a difference arises among them concerning the meaning or application of these rules, it shall be decided by a majority vote. If that is not possible, either an arbitrator or a party may refer the question to the AAA for final decision. All other rules shall be interpreted and applied by the AAA.

R-9. Mediation

In all cases where a claim or counterclaim exceeds $75,000, upon the AAA's administration of the arbitration or at any time while the arbitration is pending, the parties shall mediate their dispute pursuant to the applicable provisions of the AAA's Commercial Mediation Procedures, or as otherwise agreed by the parties. Absent an agreement of the parties to the contrary, the mediation shall take place concurrently with the arbitration and shall not serve to delay the arbitration proceedings. However, any party to an arbitration may unilaterally opt out of this rule upon notification to the AAA and the other parties to the arbitration. The parties shall confirm the completion of any mediation or any decision to opt out of this rule to the AAA. Unless agreed to by all parties and the mediator, the mediator shall not be appointed as an arbitrator to the case.

R-10. Administrative Conference

At the request of any party or upon the AAA's own initiative, the AAA may conduct an administrative conference, in person or by telephone, with the parties and/or their representatives. The conference may address such issues as arbitrator selection, mediation of the dispute, potential exchange of information, a timetable for hearings, and any other administrative matters.

R-11. Fixing of Locale

The parties may mutually agree on the locale where the arbitration is to be held. Any disputes regarding the locale that are to be decided by the AAA must be submitted to the AAA and all other parties within 14 calendar days from the date of the AAA's initiation of the case or the date established by the AAA. Disputes regarding locale shall be determined in the following manner:

(a) When the parties' arbitration agreement is silent with respect to locale, and if the parties disagree as to the locale, the AAA may initially determine the place of

arbitration, subject to the power of the arbitrator after appointment, to make a final determination on the locale.

(b) When the parties' arbitration agreement requires a specific locale, absent the parties' agreement to change it, or a determination by the arbitrator upon appointment that applicable law requires a different locale, the locale shall be that specified in the arbitration agreement.

(c) If the reference to a locale in the arbitration agreement is ambiguous, and the parties are unable to agree to a specific locale, the AAA shall determine the locale, subject to the power of the arbitrator to finally determine the locale.

The arbitrator, at the arbitrator's sole discretion, shall have the authority to conduct special hearings for document production purposes or otherwise at other locations if reasonably necessary and beneficial to the process.

R-12. Appointment from National Roster

If the parties have not appointed an arbitrator and have not provided any other method of appointment, the arbitrator shall be appointed in the following manner:

(a) The AAA shall send simultaneously to each party to the dispute an identical list of 10 (unless the AAA decides that a different number is appropriate) names of persons chosen from the National Roster. The parties are encouraged to agree to an arbitrator from the submitted list and to advise the AAA of their agreement.

(b) If the parties are unable to agree upon an arbitrator, each party to the dispute shall have 14 calendar days from the transmittal date in which to strike names objected to, number the remaining names in order of preference, and return the list to the AAA. The parties are not required to exchange selection lists. If a party does not return the list within the time specified, all persons named therein shall be deemed acceptable to that party. From among the persons who have been approved on both lists, and in accordance with the designated order of mutual preference, the AAA shall invite the acceptance of an arbitrator to serve. If the parties fail to agree on any of the persons named, or if acceptable arbitrators are unable to act, or if for any other reason the appointment cannot be made from the submitted lists, the AAA shall have the power to make the appointment from among other members of the National Roster without the submission of additional lists.

(c) Unless the parties agree otherwise, when there are two or more claimants or two or more respondents, the AAA may appoint all the arbitrators.

R-13. Direct Appointment by a Party

(a) If the agreement of the parties names an arbitrator or specifies a method of appointing an arbitrator, that designation or method shall be followed. The notice of appointment, with the name and address of the arbitrator, shall be filed with the AAA by the appointing party. Upon the request of any appointing party, the AAA shall submit a list of members of the National Roster from which the party may, if it so desires, make the appointment.

(b) Where the parties have agreed that each party is to name one arbitrator, the arbitrators so named must meet the standards of Section R-18 with respect to impartiality and independence unless the parties have specifically agreed pursuant to Section R-18(b) that the party-appointed arbitrators are to be non-neutral and need not meet those standards.

(c) If the agreement specifies a period of time within which an arbitrator shall be appointed and any party fails to make the appointment within that period, the AAA shall make the appointment.

(d) If no period of time is specified in the agreement, the AAA shall notify the party to make the appointment. If within 14 calendar days after such notice has been sent, an arbitrator has not been appointed by a party, the AAA shall make the appointment.

R-14. Appointment of Chairperson by Party-Appointed Arbitrators or Parties

(a) If, pursuant to Section R-13, either the parties have directly appointed arbitrators, or the arbitrators have been appointed by the AAA, and the parties have authorized them to appoint a chairperson within a specified time and no appointment is made within that time or any agreed extension, the AAA may appoint the chairperson.

(b) If no period of time is specified for appointment of the chairperson, and the party-appointed arbitrators or the parties do not make the appointment within 14 calendar days from the date of the appointment of the last party-appointed arbitrator, the AAA may appoint the chairperson.

(c) If the parties have agreed that their party-appointed arbitrators shall appoint the chairperson from the National Roster, the AAA shall furnish to the party-appointed arbitrators, in the manner provided in Section R-12, a list selected from the National Roster, and the appointment of the chairperson shall be made as provided in that Section.

R-15. Nationality of Arbitrator

Where the parties are nationals of different countries, the AAA, at the request of any party or on its own initiative, may appoint as arbitrator a national of a country other than that of any of the parties. The request must be made before the time set for the appointment of the arbitrator as agreed by the parties or set by these rules.

R-16. Number of Arbitrators

(a) If the arbitration agreement does not specify the number of arbitrators, the dispute shall be heard and determined by one arbitrator, unless the AAA, in its discretion, directs that three arbitrators be appointed. A party may request three arbitrators in the Demand or Answer, which request the AAA will consider in exercising its discretion regarding the number of arbitrators appointed to the dispute.

(b) Any request for a change in the number of arbitrators as a result of an increase or decrease in the amount of a claim or a new or different claim must be made to the AAA and other parties to the arbitration no later than seven calendar days after receipt of the R-6 required notice of change of claim amount. If the parties are unable to agree with respect to the request for a change in the number of arbitrators, the AAA shall make that determination.

R-17. Disclosure

(a) Any person appointed or to be appointed as an arbitrator, as well as the parties and their representatives, shall disclose to the AAA any circumstance likely to give rise to justifiable doubt as to the arbitrator's impartiality or independence, including any bias or any financial or personal interest in the result of the arbitration or any past or present relationship with the parties or their representatives. Such obligation shall remain in effect throughout the arbitration. Failure on the part of a party or a representative to comply with the requirements of this rule may result in the waiver of the right to object to an arbitrator in accordance with Rule R-41.

(b) Upon receipt of such information from the arbitrator or another source, the AAA shall communicate the information to the parties and, if it deems it appropriate to do so, to the arbitrator and others.

(c) Disclosure of information pursuant to this Section R-17 is not an indication that the arbitrator considers that the disclosed circumstance is likely to affect impartiality or independence.

R-18. Disqualification of Arbitrator

(a) Any arbitrator shall be impartial and independent and shall perform his or her duties with diligence and in good faith, and shall be subject to disqualification for:

- **i.** partiality or lack of independence,
- **ii.** inability or refusal to perform his or her duties with diligence and in good faith, and
- **iii.** any grounds for disqualification provided by applicable law.

(b) The parties may agree in writing, however, that arbitrators directly appointed by a party pursuant to Section R-13 shall be non-neutral, in which case such arbitrators need not be impartial or independent and shall not be subject to disqualification for partiality or lack of independence.

(c) Upon objection of a party to the continued service of an arbitrator, or on its own initiative, the AAA shall determine whether the arbitrator should be disqualified under the grounds set out above, and shall inform the parties of its decision, which decision shall be conclusive.

R-19. Communication with Arbitrator

(a) No party and no one acting on behalf of any party shall communicate *ex parte* with an arbitrator or a candidate for arbitrator concerning the arbitration, except that a party, or someone acting on behalf of a party, may communicate *ex parte* with a candidate for direct appointment pursuant to R-13 in order to advise the candidate of the general nature of the controversy and of the anticipated proceedings and to discuss the candidate's qualifications, availability, or independence in relation to the parties or to discuss the suitability of candidates for selection as a third arbitrator where the parties or party-designated arbitrators are to participate in that selection.

(b) Section R-19(a) does not apply to arbitrators directly appointed by the parties who, pursuant to Section R-18(b), the parties have agreed in writing are non-neutral. Where the parties have so agreed under Section R-18(b), the AAA shall as an administrative practice suggest to the parties that they agree further that Section R-19(a) should nonetheless apply prospectively.

(c) In the course of administering an arbitration, the AAA may initiate communications with each party or anyone acting on behalf of the parties either jointly or individually.

(d) As set forth in R-43, unless otherwise instructed by the AAA or by the arbitrator, any documents submitted by any party or to the arbitrator shall simultaneously be provided to the other party or parties to the arbitration.

R-20. Vacancies

(a) If for any reason an arbitrator is unable or unwilling to perform the duties of the office, the AAA may, on proof satisfactory to it, declare the office vacant. Vacancies shall be filled in accordance with the applicable provisions of these rules.

(b) In the event of a vacancy in a panel of neutral arbitrators after the hearings have commenced, the remaining arbitrator or arbitrators may continue with the hearing and determination of the controversy, unless the parties agree otherwise.

(c) In the event of the appointment of a substitute arbitrator, the panel of arbitrators shall determine in its sole discretion whether it is necessary to repeat all or part of any prior hearings.

R-21. Preliminary Hearing

(a) At the discretion of the arbitrator, and depending on the size and complexity of the arbitration, a preliminary hearing should be scheduled as soon as practicable after the arbitrator has been appointed. The parties should be invited to attend the preliminary hearing along with their representatives. The preliminary hearing may be conducted in person or by telephone.

(b) At the preliminary hearing, the parties and the arbitrator should be prepared to discuss and establish a procedure for the conduct of the arbitration that is appropriate to achieve a fair, efficient, and economical resolution of the dispute. Sections P-1 and P-2 of these rules address the issues to be considered at the preliminary hearing.

R-22. Pre-Hearing Exchange and Production of Information

(a) *Authority of arbitrator.* The arbitrator shall manage any necessary exchange of information among the parties with a view to achieving an efficient and economical resolution of the dispute, while at the same time promoting equality of treatment and safeguarding each party's opportunity to fairly present its claims and defenses.

(b) *Documents.* The arbitrator may, on application of a party or on the arbitrator's own initiative:

i. require the parties to exchange documents in their possession or custody on which they intend to rely;

ii. require the parties to update their exchanges of the documents on which they intend to rely as such documents become known to them;

iii. require the parties, in response to reasonable document requests, to make available to the other party documents, in the responding party's possession or custody, not otherwise readily available to the party seeking the documents, reasonably believed by the party seeking the documents to exist and to be relevant and material to the outcome of disputed issues; and

iv. require the parties, when documents to be exchanged or produced are maintained in electronic form, to make such documents available in the form most convenient and economical for the party in possession of such documents, unless the arbitrator determines that there is good cause for requiring the documents to be produced in a different form. The parties should attempt to agree in advance upon, and the arbitrator may determine, reasonable search parameters to balance the need for production of electronically stored documents relevant and material to the outcome of disputed issues against the cost of locating and producing them.

R-23. Enforcement Powers of the Arbitrator

The arbitrator shall have the authority to issue any orders necessary to enforce the provisions of rules R-21 and R-22 and to otherwise achieve a fair, efficient and economical resolution of the case, including, without limitation:

(a) conditioning any exchange or production of confidential documents and information, and the admission of confidential evidence at the hearing, on appropriate orders to preserve such confidentiality;

(b) imposing reasonable search parameters for electronic and other documents if the parties are unable to agree;

(c) allocating costs of producing documentation, including electronically stored documentation;

(d) in the case of willful non-compliance with any order issued by the arbitrator, drawing adverse inferences, excluding evidence and other submissions, and/or making special allocations of costs or an interim award of costs arising from such non-compliance; and

(e) issuing any other enforcement orders which the arbitrator is empowered to issue under applicable law.

R-24. Date, Time, and Place of Hearing

The arbitrator shall set the date, time, and place for each hearing. The parties shall respond to requests for hearing dates in a timely manner, be cooperative in scheduling the earliest practicable date, and adhere to the established hearing schedule. The AAA shall send a notice of hearing to the parties at least 10 calendar days in advance of the hearing date, unless otherwise agreed by the parties.

R-25. Attendance at Hearings

The arbitrator and the AAA shall maintain the privacy of the hearings unless the law provides to the contrary. Any person having a direct interest in the arbitration is entitled to attend hearings. The arbitrator shall otherwise have the power to require the exclusion of any witness, other than a party or other essential person, during the testimony of any other witness. It shall be discretionary with the arbitrator to determine the propriety of the attendance of any other person.

R-26. Representation

Any party may participate without representation (*pro se*), or by counsel or any other representative of the party's choosing, unless such choice is prohibited by applicable law. A party intending to be so represented shall notify the other party and the AAA of the name, telephone number and address, and email address if available, of the representative at least seven calendar days prior to the date set for the hearing at which that person is first to appear. When such a representative initiates an arbitration or responds for a party, notice is deemed to have been given.

R-27. Oaths

Before proceeding with the first hearing, each arbitrator may take an oath of office and, if required by law, shall do so. The arbitrator may require witnesses to testify under oath administered by any duly qualified person and, if it is required by law or requested by any party, shall do so.

R-28. Stenographic Record

(a) Any party desiring a stenographic record shall make arrangements directly with a stenographer and shall notify the other parties of these arrangements at least three calendar days in advance of the hearing. The requesting party or parties shall pay the cost of the record.

(b) No other means of recording the proceedings will be permitted absent the agreement of the parties or per the direction of the arbitrator.

(c) If the transcript or any other recording is agreed by the parties or determined by the arbitrator to be the official record of the proceeding, it must be provided to the arbitrator and made available to the other parties for inspection, at a date, time, and place determined by the arbitrator.

(d) The arbitrator may resolve any disputes with regard to apportionment of the costs of the stenographic record or other recording.

R-29. Interpreters

Any party wishing an interpreter shall make all arrangements directly with the interpreter and shall assume the costs of the service.

R-30. Postponements

The arbitrator may postpone any hearing upon agreement of the parties, upon request of a party for good cause shown, or upon the arbitrator's own initiative.

R-31. Arbitration in the Absence of a Party or Representative

Unless the law provides to the contrary, the arbitration may proceed in the absence of any party or representative who, after due notice, fails to be present or fails to obtain a postponement. An award shall not be made solely on the default of a party. The arbitrator shall require the party who is present to submit such evidence as the arbitrator may require for the making of an award.

R-32. Conduct of Proceedings

(a) The claimant shall present evidence to support its claim. The respondent shall then present evidence to support its defense. Witnesses for each party shall also submit to questions from the arbitrator and the adverse party. The arbitrator has the discretion to vary this procedure, provided that the parties are treated with equality and that each party has the right to be heard and is given a fair opportunity to present its case.

(b) The arbitrator, exercising his or her discretion, shall conduct the proceedings with a view to expediting the resolution of the dispute and may direct the order of proof, bifurcate proceedings and direct the parties to focus their presentations on issues the decision of which could dispose of all or part of the case.

(c) When deemed appropriate, the arbitrator may also allow for the presentation of evidence by alternative means including video conferencing, internet communication, telephonic conferences and means other than an in-person presentation. Such alternative means must afford a full opportunity for all parties to present any evidence that the arbitrator deems material and relevant to the resolution of the dispute and, when involving witnesses, provide an opportunity for cross-examination.

(d) The parties may agree to waive oral hearings in any case and may also agree to utilize the Procedures for Resolution of Disputes Through Document Submission, found in Rule E-6.

R-33. Dispositive Motions

The arbitrator may allow the filing of and make rulings upon a dispositive motion only if the arbitrator determines that the moving party has shown that the motion is likely to succeed and dispose of or narrow the issues in the case.

R-34. Evidence

(a) The parties may offer such evidence as is relevant and material to the dispute and shall produce such evidence as the arbitrator may deem necessary to an understanding and determination of the dispute. Conformity to legal rules of evidence shall not be necessary. All evidence shall be taken in the presence of all of the arbitrators and all of the parties, except where any of the parties is absent, in default, or has waived the right to be present.

(b) The arbitrator shall determine the admissibility, relevance, and materiality of the evidence offered and may exclude evidence deemed by the arbitrator to be cumulative or irrelevant.

(c) The arbitrator shall take into account applicable principles of legal privilege, such as those involving the confidentiality of communications between a lawyer and client.

(d) An arbitrator or other person authorized by law to subpoena witnesses or documents may do so upon the request of any party or independently.

R-35. Evidence by Written Statements and Post-Hearing Filing of Documents or Other Evidence

(a) At a date agreed upon by the parties or ordered by the arbitrator, the parties shall give written notice for any witness or expert witness who has provided a written witness statement to appear in person at the arbitration hearing for examination. If such notice is given, and the witness fails to appear, the arbitrator may disregard the written witness statement and/or expert report of the witness or make such other order as the arbitrator may consider to be just and reasonable.

(b) If a witness whose testimony is represented by a party to be essential is unable or unwilling to testify at the hearing, either in person or through electronic or other means, either party may request that the arbitrator order the witness to appear in person for examination before the arbitrator at a time and location where the witness is willing and able to appear voluntarily or can legally be compelled to do so. Any such order may be conditioned upon payment by the requesting party of all reasonable costs associated with such examination.

(c) If the parties agree or the arbitrator directs that documents or other evidence be submitted to the arbitrator after the hearing, the documents or other evidence shall be filed with the AAA for transmission to the arbitrator. All parties shall be afforded an opportunity to examine and respond to such documents or other evidence.

R-36. Inspection or Investigation

An arbitrator finding it necessary to make an inspection or investigation in connection with the arbitration shall direct the AAA to so advise the parties. The arbitrator shall set the date and time and the AAA shall notify the parties. Any party who so desires may be present at such an inspection or investigation. In the event that one or all parties are not present at the inspection or investigation, the arbitrator shall make an oral or written report to the parties and afford them an opportunity to comment.

R-37. Interim Measures

(a) The arbitrator may take whatever interim measures he or she deems necessary, including injunctive relief and measures for the protection or conservation of property and disposition of perishable goods.

(b) Such interim measures may take the form of an interim award, and the arbitrator may require security for the costs of such measures.

(c) A request for interim measures addressed by a party to a judicial authority shall not be deemed incompatible with the agreement to arbitrate or a waiver of the right to arbitrate.

R-38. Emergency Measures of Protection

(a) Unless the parties agree otherwise, the provisions of this rule shall apply to arbitrations conducted under arbitration clauses or agreements entered on or after October 1, 2013.

(b) A party in need of emergency relief prior to the constitution of the panel shall notify the AAA and all other parties in writing of the nature of the relief sought and the reasons why such relief is required on an emergency basis. The application shall also set forth the reasons why the party is entitled to such relief. Such notice may be given by facsimile or e-mail or other reliable means, but must include a statement certifying that all other parties have been notified or an explanation of the steps taken in good faith to notify other parties.

(c) Within one business day of receipt of notice as provided in section (b), the AAA shall appoint a single emergency arbitrator designated to rule on emergency applications. The emergency arbitrator shall immediately disclose any circumstance likely, on the basis of the facts disclosed on the application, to affect such arbitrator's impartiality or independence. Any challenge to the appointment of the emergency arbitrator must be made within one business day of the communication by the AAA to the parties of the appointment of the emergency arbitrator and the circumstances disclosed.

(d) The emergency arbitrator shall as soon as possible, but in any event within two business days of appointment, establish a schedule for consideration of the application for emergency relief. Such a schedule shall provide a reasonable opportunity to all parties to be heard, but may provide for proceeding by telephone or video conference or on written submissions as alternatives to a formal hearing. The emergency arbitrator shall have the authority vested in the tribunal under Rule 7, including the authority to rule on her/his own jurisdiction, and shall resolve any disputes over the applicability of this Rule 38.

(e) If after consideration the emergency arbitrator is satisfied that the party seeking the emergency relief has shown that immediate and irreparable loss or damage shall result in the absence of emergency relief, and that such party is entitled to such relief, the emergency arbitrator may enter an interim order or award granting the relief and stating the reason therefore.

(f) Any application to modify an interim award of emergency relief must be based on changed circumstances and may be made to the emergency arbitrator until the panel is constituted; thereafter such a request shall be addressed to the panel. The emergency arbitrator shall have no further power to act after the panel is constituted unless the parties agree that the emergency arbitrator is named as a member of the panel.

(g) Any interim award of emergency relief may be conditioned on provision by the party seeking such relief for appropriate security.

(h) A request for interim measures addressed by a party to a judicial authority shall not be deemed incompatible with this rule, the agreement to arbitrate or a waiver of the right to arbitrate. If the AAA is directed by a judicial authority to nominate a special master to consider and report on an application for emergency relief, the AAA shall proceed as provided in this rule and the references to the emergency arbitrator shall be read to mean the special master, except that the special master shall issue a report rather than an interim award.

(i) The costs associated with applications for emergency relief shall initially be apportioned by the emergency arbitrator or special master, subject to the power of the tribunal to determine finally the apportionment of such costs.

R-39. Closing of Hearing

(a) The arbitrator shall specifically inquire of all parties whether they have any further proofs to offer or witnesses to be heard. Upon receiving negative replies or if satisfied that the record is complete, the arbitrator shall declare the hearing closed.

(b) If documents or responses are to be filed as provided in Rule R-35, or if briefs are to be filed, the hearing shall be declared closed as of the final date set by the arbitrator for the receipt of briefs. If no documents, responses, or briefs are to be filed, the arbitrator shall declare the hearings closed as of the date of the last hearing (including telephonic hearings). If the case was heard without any oral hearings, the arbitrator shall close the hearings upon the due date established for receipt of the final submission.

(c) The time limit within which the arbitrator is required to make the award shall commence, in the absence of other agreements by the parties, upon the closing of the hearing. The AAA may extend the time limit for rendering of the award only in unusual and extreme circumstances.

R-40. Reopening of Hearing

The hearing may be reopened on the arbitrator's initiative, or by the direction of the arbitrator upon application of a party, at any time before the award is made. If reopening the hearing would prevent the making of the award within the specific time agreed to by the parties in the arbitration agreement, the matter may not be reopened unless the parties agree to an extension of time. When no specific date is fixed by agreement of the parties , the arbitrator shall have 30 calendar days from the closing of the reopened hearing within which to make an award (14 calendar days if the case is governed by the Expedited Procedures).

R-41. Waiver of Rules

Any party who proceeds with the arbitration after knowledge that any provision or requirement of these rules has not been complied with and who fails to state an objection in writing shall be deemed to have waived the right to object.

R-42. Extensions of Time

The parties may modify any period of time by mutual agreement. The AAA or the arbitrator may for good cause extend any period of time established by these rules, except the time for making the award. The AAA shall notify the parties of any extension.

R-43. Serving of Notice and Communications

(a) Any papers, notices, or process necessary or proper for the initiation or continuation of an arbitration under these rules, for any court action in connection therewith, or for the entry of judgment on any award made under these rules may be served on a party by mail addressed to the party or its representative at the last known address or by personal service, in or outside the state where the arbitration is to be held, provided that reasonable opportunity to be heard with regard to the dispute is or has been granted to the party.

(b) The AAA, the arbitrator and the parties may also use overnight delivery or electronic facsimile transmission (fax), or electronic (e-mail) to give the notices required by these rules. Where all parties and the arbitrator agree, notices may be transmitted by e-mail or other methods of communication.

(c) Unless otherwise instructed by the AAA or by the arbitrator, any documents submitted by any party to the AAA or to the arbitrator shall simultaneously be provided to the other party or parties to the arbitration.

(d) Unless otherwise instructed by the AAA or by the arbitrator, all written communications made by any party to the AAA or to the arbitrator shall simultaneously be provided to the other party or parties to the arbitration.

(e) Failure to provide the other party with copies of communications made to the AAA or to the arbitrator may prevent the AAA or the arbitrator from acting on any requests or objections contained therein.

(f) The AAA may direct that any oral or written communications that are sent by a party or their representative shall be sent in a particular manner. The failure of a party or their representative to do so may result in the AAA's refusal to consider the issue raised in the communication.

R-44. Majority Decision

(a) When the panel consists of more than one arbitrator, unless required by law or by the arbitration agreement or section (b) of this rule, a majority of the arbitrators must make all decisions.

(b) Where there is a panel of three arbitrators, absent an objection of a party or another member of the panel, the chairperson of the panel is authorized to resolve any disputes related to the exchange of information or procedural matters without the need to consult the full panel.

R-45. Time of Award

The award shall be made promptly by the arbitrator and, unless otherwise agreed by the parties or specified by law, no later than 30 calendar days from the date of closing the hearing, or, if oral hearings have been waived, from the due date set for receipt of the parties' final statements and proofs.

R-46. Form of Award

(a) Any award shall be in writing and signed by a majority of the arbitrators. It shall be executed in the form and manner required by law.

(b) The arbitrator need not render a reasoned award unless the parties request such an award in writing prior to appointment of the arbitrator or unless the arbitrator determines that a reasoned award is appropriate.

R-47. Scope of Award

(a) The arbitrator may grant any remedy or relief that the arbitrator deems just and equitable and within the scope of the agreement of the parties, including, but not limited to, specific performance of a contract.

(b) In addition to a final award, the arbitrator may make other decisions, including interim, interlocutory, or partial rulings, orders, and awards. In any interim, interlocutory, or partial award, the arbitrator may assess and apportion the fees, expenses, and compensation related to such award as the arbitrator determines is appropriate.

(c) In the final award, the arbitrator shall assess the fees, expenses, and compensation provided in Sections R-53, R-54, and R-55. The arbitrator may apportion such fees, expenses, and compensation among the parties in such amounts as the arbitrator determines is appropriate.

(d) The award of the arbitrator(s) may include:

- **i.** interest at such rate and from such date as the arbitrator(s) may deem appropriate; and
- **ii.** an award of attorneys' fees if all parties have requested such an award or it is authorized by law or their arbitration agreement.

R-48. Award Upon Settlement—Consent Award

(a) If the parties settle their dispute during the course of the arbitration and if the parties so request, the arbitrator may set forth the terms of the settlement in a "consent award." A consent award must include an allocation of arbitration costs, including administrative fees and expenses as well as arbitrator fees and expenses.

(b) The consent award shall not be released to the parties until all administrative fees and all arbitrator compensation have been paid in full.

R-49. Delivery of Award to Parties

Parties shall accept as notice and delivery of the award the placing of the award or a true copy thereof in the mail addressed to the parties or their representatives at their last known addresses, personal or electronic service of the award, or the filing of the award in any other manner that is permitted by law.

R-50. Modification of Award

Within 20 calendar days after the transmittal of an award, any party, upon notice to the other parties, may request the arbitrator, through the AAA, to correct any clerical, typographical, or computational errors in the award. The arbitrator is not empowered to redetermine the merits of any claim already decided. The other

parties shall be given 10 calendar days to respond to the request. The arbitrator shall dispose of the request within 20 calendar days after transmittal by the AAA to the arbitrator of the request and any response thereto.

R-51. Release of Documents for Judicial Proceedings

The AAA shall, upon the written request of a party to the arbitration, furnish to the party, at its expense, copies or certified copies of any papers in the AAA's possession that are not determined by the AAA to be privileged or confidential.

R-52. Applications to Court and Exclusion of Liability

(a) No judicial proceeding by a party relating to the subject matter of the arbitration shall be deemed a waiver of the party's right to arbitrate.

(b) Neither the AAA nor any arbitrator in a proceeding under these rules is a necessary or proper party in judicial proceedings relating to the arbitration.

(c) Parties to an arbitration under these rules shall be deemed to have consented that judgment upon the arbitration award may be entered in any federal or state court having jurisdiction thereof.

(d) Parties to an arbitration under these rules shall be deemed to have consented that neither the AAA nor any arbitrator shall be liable to any party in any action for damages or injunctive relief for any act or omission in connection with any arbitration under these rules.

(e) Parties to an arbitration under these rules may not call the arbitrator, the AAA, or AAA employees as a witness in litigation or any other proceeding relating to the arbitration. The arbitrator, the AAA and AAA employees are not competent to testify as witnesses in any such proceeding.

R-53. Administrative Fees

As a not-for-profit organization, the AAA shall prescribe administrative fees to compensate it for the cost of providing administrative services. The fees in effect when the fee or charge is incurred shall be applicable. The filing fee shall be advanced by the party or parties making a claim or counterclaim, subject to final apportionment by the arbitrator in the award. The AAA may, in the event of extreme hardship on the part of any party, defer or reduce the administrative fees.

R-54. Expenses

The expenses of witnesses for either side shall be paid by the party producing such witnesses. All other expenses of the arbitration, including required travel and other expenses of the arbitrator, AAA representatives, and any witness and

the cost of any proof produced at the direct request of the arbitrator, shall be borne equally by the parties, unless they agree otherwise or unless the arbitrator in the award assesses such expenses or any part thereof against any specified party or parties.

R-55. Neutral Arbitrator's Compensation

(a) Arbitrators shall be compensated at a rate consistent with the arbitrator's stated rate of compensation.

(b) If there is disagreement concerning the terms of compensation, an appropriate rate shall be established with the arbitrator by the AAA and confirmed to the parties.

(c) Any arrangement for the compensation of a neutral arbitrator shall be made through the AAA and not directly between the parties and the arbitrator.

R-56. Deposits

(a) The AAA may require the parties to deposit in advance of any hearings such sums of money as it deems necessary to cover the expense of the arbitration, including the arbitrator's fee, if any, and shall render an accounting to the parties and return any unexpended balance at the conclusion of the case.

(b) Other than in cases where the arbitrator serves for a flat fee, deposit amounts requested will be based on estimates provided by the arbitrator. The arbitrator will determine the estimated amount of deposits using the information provided by the parties with respect to the complexity of each case.

(c) Upon the request of any party, the AAA shall request from the arbitrator an itemization or explanation for the arbitrator's request for deposits.

R-57. Remedies for Nonpayment

If arbitrator compensation or administrative charges have not been paid in full, the AAA may so inform the parties in order that one of them may advance the required payment.

(a) Upon receipt of information from the AAA that payment for administrative charges or deposits for arbitrator compensation have not been paid in full, to the extent the law allows, a party may request that the arbitrator take specific measures relating to a party's non-payment.

(b) Such measures may include, but are not limited to, limiting a party's ability to assert or pursue their claim. In no event, however, shall a party be precluded from defending a claim or counterclaim.

(c) The arbitrator must provide the party opposing a request for such measures with the opportunity to respond prior to making any ruling regarding the same.

(d) In the event that the arbitrator grants any request for relief which limits any party's participation in the arbitration, the arbitrator shall require the party who is making a claim and who has made appropriate payments to submit such evidence as the arbitrator may require for the making of an award.

(e) Upon receipt of information from the AAA that full payments have not been received, the arbitrator, on the arbitrator's own initiative or at the request of the AAA or a party, may order the suspension of the arbitration. If no arbitrator has yet been appointed, the AAA may suspend the proceedings.

(f) If the arbitration has been suspended by either the AAA or the arbitrator and the parties have failed to make the full deposits requested within the time provided after the suspension, the arbitrator, or the AAA if an arbitrator has not been appointed, may terminate the proceedings.

R-58. Sanctions

(a) The arbitrator may, upon a party's request, order appropriate sanctions where a party fails to comply with its obligations under these rules or with an order of the arbitrator. In the event that the arbitrator enters a sanction that limits any party's participation in the arbitration or results in an adverse determination of an issue or issues, the arbitrator shall explain that order in writing and shall require the submission of evidence and legal argument prior to making of an award. The arbitrator may not enter a default award as a sanction.

(b) The arbitrator must provide a party that is subject to a sanction request with the opportunity to respond prior to making any determination regarding the sanctions application.

Preliminary Hearing Procedures

P-1. General

(a) In all but the simplest cases, holding a preliminary hearing as early in the process as possible will help the parties and the arbitrator organize the proceeding in a manner that will maximize efficiency and economy, and will provide each party a fair opportunity to present its case.

(b) Care must be taken to avoid importing procedures from court systems, as such procedures may not be appropriate to the conduct of arbitrations as an alternative form of dispute resolution that is designed to be simpler, less expensive and more expeditious.

P-2. Checklist

(a) The following checklist suggests subjects that the parties and the arbitrator should address at the preliminary hearing, in addition to any others that the parties or the arbitrator believe to be appropriate to the particular case. The items to be addressed in a particular case will depend on the size, subject matter, and complexity of the dispute, and are subject to the discretion of the arbitrator:

- **(i)** the possibility of other non-adjudicative methods of dispute resolution, including mediation pursuant to R-9;
- **(ii)** whether all necessary or appropriate parties are included in the arbitration;
- **(iii)** whether a party will seek a more detailed statement of claims, counterclaims or defenses;
- **(iv)** whether there are any anticipated amendments to the parties' claims, counterclaims, or defenses;
- **(v)** which
  - **(a)** arbitration rules;
  - **(b)** procedural law; and
  - **(c)** substantive law govern the arbitration;
- **(vi)** whether there are any threshold or dispositive issues that can efficiently be decided without considering the entire case, including without limitation,
  - **(a)** any preconditions that must be satisfied before proceeding with the arbitration;
  - **(b)** whether any claim or counterclaim falls outside the arbitrator's jurisdiction or is otherwise not arbitrable;
  - **(c)** consolidation of the claims or counterclaims with another arbitration; or
  - **(d)** bifurcation of the proceeding.

(vii) whether the parties will exchange documents, including electronically stored documents, on which they intend to rely in the arbitration, and/or make written requests for production of documents within defined parameters;

(viii) whether to establish any additional procedures to obtain information that is relevant and material to the outcome of disputed issues;

(ix) how costs of any searches for requested information or documents that would result in substantial costs should be borne;

(x) whether any measures are required to protect confidential information;

(xi) whether the parties intend to present evidence from expert witnesses, and if so, whether to establish a schedule for the parties to identify their experts and exchange expert reports;

(xii) whether, according to a schedule set by the arbitrator, the parties will

(a) identify all witnesses, the subject matter of their anticipated testimonies, exchange written witness statements, and determine whether written witness statements will replace direct testimony at the hearing;

(b) exchange and pre-mark documents that each party intends to submit; and

(c) exchange pre-hearing submissions, including exhibits;

(xiii) the date, time and place of the arbitration hearing;

(xiv) whether, at the arbitration hearing,

(a) testimony may be presented in person, in writing, by videoconference, via the internet, telephonically, or by other reasonable means;

(b) there will be a stenographic transcript or other record of the proceeding and, if so, who will make arrangements to provide it;

(xv) whether any procedure needs to be established for the issuance of subpoenas;

(xvi) the identification of any ongoing, related litigation or arbitration;

(xvii) whether post-hearing submissions will be filed;

(xviii) the form of the arbitration award; and

(xix) any other matter the arbitrator considers appropriate or a party wishes to raise.

(b) The arbitrator shall issue a written order memorializing decisions made and agreements reached during or following the preliminary hearing.

Expedited Procedures

E-1. Limitation on Extensions

Except in extraordinary circumstances, the AAA or the arbitrator may grant a party no more than one seven-day extension of time to respond to the Demand for Arbitration or counterclaim as provided in Section R-5.

E-2. Changes of Claim or Counterclaim

A claim or counterclaim may be increased in amount, or a new or different claim or counterclaim added, upon the agreement of the other party, or the consent of the arbitrator. After the arbitrator is appointed, however, no new or different claim or counterclaim may be submitted except with the arbitrator's consent. If an increased claim or counterclaim exceeds $75,000, the case will be administered under the regular procedures unless all parties and the arbitrator agree that the case may continue to be processed under the Expedited Procedures.

E-3. Serving of Notices

In addition to notice provided by Section R-43, the parties shall also accept notice by telephone. Telephonic notices by the AAA shall subsequently be confirmed in writing to the parties. Should there be a failure to confirm in writing any such oral notice, the proceeding shall nevertheless be valid if notice has, in fact, been given by telephone.

E-4. Appointment and Qualifications of Arbitrator

(a) The AAA shall simultaneously submit to each party an identical list of five proposed arbitrators drawn from its National Roster from which one arbitrator shall be appointed.

(b) The parties are encouraged to agree to an arbitrator from this list and to advise the AAA of their agreement. If the parties are unable to agree upon an arbitrator, each party may strike two names from the list and return it to the AAA within seven days from the date of the AAA's mailing to the parties. If for any reason the appointment of an arbitrator cannot be made from the list, the AAA may make the appointment from other members of the panel without the submission of additional lists.

(c) The parties will be given notice by the AAA of the appointment of the arbitrator, who shall be subject to disqualification for the reasons specified in Section R-18. The parties shall notify the AAA within seven calendar days of any objection to the arbitrator appointed. Any such objection shall be for cause and shall be confirmed in writing to the AAA with a copy to the other party or parties.

E-5. Exchange of Exhibits

At least two business days prior to the hearing, the parties shall exchange copies of all exhibits they intend to submit at the hearing. The arbitrator shall resolve disputes concerning the exchange of exhibits.

E-6. Proceedings on Documents and Procedures for the Resolution of Disputes Through Document Submission

Where no party's claim exceeds $25,000, exclusive of interest, attorneys' fees and arbitration costs, and other cases in which the parties agree, the dispute shall be resolved by submission of documents, unless any party requests an oral hearing, or the arbitrator determines that an oral hearing is necessary. Where cases are resolved by submission of documents, the following procedures may be utilized at the agreement of the parties or the discretion of the arbitrator:

(a) Within 14 calendar days of confirmation of the arbitrator's appointment, the arbitrator may convene a preliminary management hearing, via conference call, video conference, or internet, to establish a fair and equitable procedure for the submission of documents, and, if the arbitrator deems appropriate, a schedule for one or more telephonic or electronic conferences.

(b) The arbitrator has the discretion to remove the case from the documents-only process if the arbitrator determines that an in-person hearing is necessary.

(c) If the parties agree to in-person hearings after a previous agreement to proceed under this rule, the arbitrator shall conduct such hearings. If a party seeks to have in-person hearings after agreeing to this rule, but there is not agreement among the parties to proceed with in-person hearings, the arbitrator shall resolve the issue after the parties have been given the opportunity to provide their respective positions on the issue.

(d) The arbitrator shall establish the date for either written submissions or a final telephonic or electronic conference. Such date shall operate to close the hearing and the time for the rendering of the award shall commence.

(e) Unless the parties have agreed to a form of award other than that set forth in rule R-46, when the parties have agreed to resolve their dispute by this rule, the arbitrator shall render the award within 14 calendar days from the date the hearing is closed.

(f) If the parties agree to a form of award other than that described in rule R-46, the arbitrator shall have 30 calendar days from the date the hearing is declared closed in which to render the award.

(g) The award is subject to all other provisions of the Regular Track of these rules which pertain to awards.

E-7. Date, Time, and Place of Hearing

In cases in which a hearing is to be held, the arbitrator shall set the date, time, and place of the hearing, to be scheduled to take place within 30 calendar days of confirmation of the arbitrator's appointment. The AAA will notify the parties in advance of the hearing date.

E-8. The Hearing

(a) Generally, the hearing shall not exceed one day. Each party shall have equal opportunity to submit its proofs and complete its case. The arbitrator shall determine the order of the hearing, and may require further submission of documents within two business days after the hearing. For good cause shown, the arbitrator may schedule additional hearings within seven business days after the initial day of hearings.

(b) Generally, there will be no stenographic record. Any party desiring a stenographic record may arrange for one pursuant to the provisions of Section R-28.

E-9. Time of Award

Unless otherwise agreed by the parties, the award shall be rendered not later than 14 calendar days from the date of the closing of the hearing or, if oral hearings have been waived, from the due date established for the receipt of the parties' final statements and proofs.

E-10. Arbitrator's Compensation

Arbitrators will receive compensation at a rate to be suggested by the AAA regional office.

Procedures for Large, Complex Commercial Disputes

L-1. Administrative Conference

Prior to the dissemination of a list of potential arbitrators, the AAA shall, unless the parties agree otherwise, conduct an administrative conference with the parties and/or their attorneys or other representatives by conference call. The conference will take place within 14 calendar days after the commencement of the arbitration. In the event the parties are unable to agree on a mutually acceptable time for the conference, the AAA may contact the parties individually to discuss the issues contemplated herein. Such administrative conference shall be conducted for the following purposes and for such additional purposes as the parties or the AAA may deem appropriate:

(a) to obtain additional information about the nature and magnitude of the dispute and the anticipated length of hearing and scheduling;

(b) to discuss the views of the parties about the technical and other qualifications of the arbitrators;

(c) to obtain conflicts statements from the parties; and

(d) to consider, with the parties, whether mediation or other non-adjudicative methods of dispute resolution might be appropriate.

L-2. Arbitrators

(a) Large, complex commercial cases shall be heard and determined by either one or three arbitrators, as may be agreed upon by the parties. With the exception in paragraph (b) below, if the parties are unable to agree upon the number of arbitrators and a claim or counterclaim involves at least $1,000,000, then three arbitrator(s) shall hear and determine the case. If the parties are unable to agree on the number of arbitrators and each claim and counterclaim is less than $1,000,000, then one arbitrator shall hear and determine the case.

(b) In cases involving the financial hardship of a party or other circumstance, the AAA at its discretion may require that only one arbitrator hear and determine the case, irrespective of the size of the claim involved in the dispute.

(c) The AAA shall appoint arbitrator(s) as agreed by the parties. If they are unable to agree on a method of appointment, the AAA shall appoint arbitrators from the Large, Complex Commercial Case Panel, in the manner provided in the regular Commercial Arbitration Rules. Absent agreement of the parties, the arbitrator(s) shall not have served as the mediator in the mediation phase of the instant proceeding.

L-3. Management of Proceedings

(a) The arbitrator shall take such steps as deemed necessary or desirable to avoid delay and to achieve a fair, speedy and cost-effective resolution of a Large, Complex Commercial Dispute.

(b) As promptly as practicable after the selection of the arbitrator(s), a preliminary hearing shall be scheduled in accordance with sections P-1 and P-2 of these rules.

(c) The parties shall exchange copies of all exhibits they intend to submit at the hearing at least 10 calendar days prior to the hearing unless the arbitrator(s) determines otherwise.

(d) The parties and the arbitrator(s) shall address issues pertaining to the pre-hearing exchange and production of information in accordance with rule R-22 of the AAA Commercial Rules, and the arbitrator's determinations on such issues shall be included within the Scheduling and Procedure Order.

(e) The arbitrator, or any single member of the arbitration tribunal, shall be authorized to resolve any disputes concerning the pre-hearing exchange and production of documents and information by any reasonable means within his discretion, including, without limitation, the issuance of orders set forth in rules R-22 and R-23 of the AAA Commercial Rules.

(f) In exceptional cases, at the discretion of the arbitrator, upon good cause shown and consistent with the expedited nature of arbitration, the arbitrator may order depositions to obtain the testimony of a person who may possess information determined by the arbitrator to be relevant and material to the outcome of the case. The arbitrator may allocate the cost of taking such a deposition.

(g) Generally, hearings will be scheduled on consecutive days or in blocks of consecutive days in order to maximize efficiency and minimize costs.

Administrative Fee Schedules (Standard and Flexible Fees)

FOR THE CURRENT ADMINISTRATIVE FEE SCHEDULE, PLEASE VISIT ***www.adr.org/feeschedule.***

Commercial Mediation Procedures

M-1. Agreement of Parties

Whenever, by stipulation or in their contract, the parties have provided for mediation or conciliation of existing or future disputes under the auspices of the American Arbitration Association or under these procedures, the parties and their representatives, unless agreed otherwise in writing, shall be deemed to have made these procedural guidelines, as amended and in effect as of the date of filing of a request for mediation, a part of their agreement and designate the AAA as the administrator of their mediation.

The parties by mutual agreement may vary any part of these procedures including, but not limited to, agreeing to conduct the mediation via telephone or other electronic or technical means.

M-2. Initiation of Mediation

Any party or parties to a dispute may initiate mediation under the AAA's auspices by making a request for mediation to any of the AAA's regional offices or case management centers via telephone, email, regular mail or fax. Requests for mediation may also be filed online via WebFile at **www.adr.org.**

The party initiating the mediation shall simultaneously notify the other party or parties of the request. The initiating party shall provide the following information to the AAA and the other party or parties as applicable:

(i) A copy of the mediation provision of the parties' contract or the parties' stipulation to mediate.

(ii) The names, regular mail addresses, email addresses, and telephone numbers of all parties to the dispute and representatives, if any, in the mediation.

(iii) A brief statement of the nature of the dispute and the relief requested.

(iv) Any specific qualifications the mediator should possess.

M-3. Representation

Subject to any applicable law, any party may be represented by persons of the party's choice. The names and addresses of such persons shall be communicated in writing to all parties and to the AAA.

M-4. Appointment of the Mediator

If the parties have not agreed to the appointment of a mediator and have not provided any other method of appointment, the mediator shall be appointed in the following manner:

(i) Upon receipt of a request for mediation, the AAA will send to each party a list of mediators from the AAA's Panel of Mediators. The parties are encouraged to agree to a mediator from the submitted list and to advise the AAA of their agreement.

(ii) If the parties are unable to agree upon a mediator, each party shall strike unacceptable names from the list, number the remaining names in order of preference, and return the list to the AAA. If a party does not return the list within the time specified, all mediators on the list shall be deemed acceptable. From among the mediators who have been mutually approved by the parties, and in accordance with the designated order of mutual preference, the AAA shall invite a mediator to serve.

(iii) If the parties fail to agree on any of the mediators listed, or if acceptable mediators are unable to serve, or if for any other reason the appointment cannot be made from the submitted list, the AAA shall have the authority to make the appointment from among other members of the Panel of Mediators without the submission of additional lists.

M-5. Mediator's Impartiality and Duty to Disclose

AAA mediators are required to abide by the *Model Standards of Conduct for Mediators* in effect at the time a mediator is appointed to a case. Where there is a conflict between the *Model Standards* and any provision of these Mediation Procedures, these Mediation Procedures shall govern. The Standards require mediators to (i) decline a mediation if the mediator cannot conduct it in an impartial manner, and (ii) disclose, as soon as practicable, all actual and potential conflicts of interest that are reasonably known to the mediator and could reasonably be seen as raising a question about the mediator's impartiality.

Prior to accepting an appointment, AAA mediators are required to make a reasonable inquiry to determine whether there are any facts that a reasonable individual would consider likely to create a potential or actual conflict of interest for the mediator. AAA mediators are required to disclose any circumstance likely to create a presumption of bias or prevent a resolution of the parties' dispute within the time-frame desired by the parties. Upon receipt of such disclosures, the AAA shall immediately communicate the disclosures to the parties for their comments.

The parties may, upon receiving disclosure of actual or potential conflicts of interest of the mediator, waive such conflicts and proceed with the mediation. In the event that a party disagrees as to whether the mediator shall serve, or in the event that the mediator's conflict of interest might reasonably be viewed as undermining the integrity of the mediation, the mediator shall be replaced.

M-6. Vacancies

If any mediator shall become unwilling or unable to serve, the AAA will appoint another mediator, unless the parties agree otherwise, in accordance with section M-4.

M-7. Duties and Responsibilities of the Mediator

(i) The mediator shall conduct the mediation based on the principle of party self-determination. Self-determination is the act of coming to a voluntary, uncoerced decision in which each party makes free and informed choices as to process and outcome.

(ii) The mediator is authorized to conduct separate or *ex parte* meetings and other communications with the parties and/or their representatives, before, during, and after any scheduled mediation conference. Such communications may be conducted via telephone, in writing, via email, online, in person or otherwise.

(iii) The parties are encouraged to exchange all documents pertinent to the relief requested. The mediator may request the exchange of memoranda on issues, including the underlying interests and the history of the parties' negotiations. Information that a party wishes to keep confidential may be sent to the mediator, as necessary, in a separate communication with the mediator.

(iv) The mediator does not have the authority to impose a settlement on the parties but will attempt to help them reach a satisfactory resolution of their dispute. Subject to the discretion of the mediator, the mediator may make oral or written recommendations for settlement to a party privately or, if the parties agree, to all parties jointly.

(v) In the event a complete settlement of all or some issues in dispute is not achieved within the scheduled mediation session(s), the mediator may continue to communicate with the parties, for a period of time, in an ongoing effort to facilitate a complete settlement.

(vi) The mediator is not a legal representative of any party and has no fiduciary duty to any party.

M-8. Responsibilities of the Parties

The parties shall ensure that appropriate representatives of each party, having authority to consummate a settlement, attend the mediation conference.

Prior to and during the scheduled mediation conference session(s) the parties and their representatives shall, as appropriate to each party's circumstances, exercise their best efforts to prepare for and engage in a meaningful and productive mediation.

M-9. Privacy

Mediation sessions and related mediation communications are private proceedings. The parties and their representatives may attend mediation sessions. Other persons may attend only with the permission of the parties and with the consent of the mediator.

M-10. Confidentiality

Subject to applicable law or the parties' agreement, confidential information disclosed to a mediator by the parties or by other participants (witnesses) in the course of the mediation shall not be divulged by the mediator. The mediator shall maintain the confidentiality of all information obtained in the mediation, and all records, reports, or other documents received by a mediator while serving in that capacity shall be confidential.

The mediator shall not be compelled to divulge such records or to testify in regard to the mediation in any adversary proceeding or judicial forum.

The parties shall maintain the confidentiality of the mediation and shall not rely on, or introduce as evidence in any arbitral, judicial, or other proceeding the following, unless agreed to by the parties or required by applicable law:

(i) Views expressed or suggestions made by a party or other participant with respect to a possible settlement of the dispute;

(ii) Admissions made by a party or other participant in the course of the mediation proceedings;

(iii) Proposals made or views expressed by the mediator; or

(iv) The fact that a party had or had not indicated willingness to accept a proposal for settlement made by the mediator.

M-11. No Stenographic Record

There shall be no stenographic record of the mediation process.

M-12. Termination of Mediation

The mediation shall be terminated:

(i) By the execution of a settlement agreement by the parties; or

(ii) By a written or verbal declaration of the mediator to the effect that further efforts at mediation would not contribute to a resolution of the parties' dispute; or

(iii) By a written or verbal declaration of all parties to the effect that the mediation proceedings are terminated; or

(iv) When there has been no communication between the mediator and any party or party's representative for 21 days following the conclusion of the mediation conference.

M-13. Exclusion of Liability

Neither the AAA nor any mediator is a necessary party in judicial proceedings relating to the mediation. Neither the AAA nor any mediator shall be liable to any party for any error, act or omission in connection with any mediation conducted under these procedures.

M-14. Interpretation and Application of Procedures

The mediator shall interpret and apply these procedures insofar as they relate to the mediator's duties and responsibilities. All other procedures shall be interpreted and applied by the AAA.

M-15. Deposits

Unless otherwise directed by the mediator, the AAA will require the parties to deposit in advance of the mediation conference such sums of money as it, in consultation with the mediator, deems necessary to cover the costs and expenses of the mediation and shall render an accounting to the parties and return any unexpended balance at the conclusion of the mediation.

M-16. Expenses

All expenses of the mediation, including required traveling and other expenses or charges of the mediator, shall be borne equally by the parties unless they agree otherwise. The expenses of participants for either side shall be paid by the party requesting the attendance of such participants.

M-17. Cost of the Mediation

FOR THE CURRENT ADMINISTRATIVE FEE SCHEDULE, PLEASE VISIT ***www.adr.org/feeschedule.***

Regional Vice Presidents

States: Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, Virginia
P. Jean Baker, Esq.
Vice President
Phone: 202.223.7093
Email: BakerJ@adr.org

States: Oklahoma, Texas
Andrew Barton
Vice President
Phone: 210.998.5750
Email: BartonA@adr.org

States: Alabama, Georgia
John M. Bishop
Vice President
Phone: 404.320.5150
Email: BishopJ@adr.org

States: City of Houston, Louisiana, Mississippi
Ingeuneal C. Gray, Esq.
Vice President
Phone: 832.308.7893
Email: GrayI@adr.org

States: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont
Karen Jalkut
Vice President
Phone: 617.695.6062
Email: JalkutK@adr.org

States: Alaska, California, Oregon, Washington
Aaron Gothelf, Esq.
Vice President
Phone: 415.671.4053
Email: GothelfA@adr.org

States: Indiana, Kentucky, North Carolina, Ohio, South Carolina, Tennessee, West Virginia
Michelle M. Skipper
Vice President
Phone: 704.643.8605
Email: SkipperM@adr.org

States: Florida
Rebecca Storrow, Ph.D.
Vice President
Phone: 954.372.4341
Email: StorrowR@adr.org

States: Arizona, Colorado, Kansas, Hawaii, Idaho, Montana, Nebraska, Nevada, New Mexico, Utah, Wyoming
Lance K. Tanaka
Vice President
Phone: 303.831.0824
Email: TanakaL@adr.org

States: Arkansas, Illinois, Iowa, Michigan, Minnesota, Missouri, North Dakota, South Dakota, Wisconsin
A. Kelly Turner, Esq.
Vice President
Phone: 312.361.1116
Email: TurnerK@adr.org

States: New York
Jeffrey T. Zaino, Esq.
Vice President
Phone: 212.484.3224
Email: ZainoJ@adr.org

Case Management Vice Presidents and Assistant Vice President

Jeffrey Garcia
Vice President
Phone: 559.490.1860
Email: GarciaJ@adr.org
Administers cases in: AK, AZ, CA, CO, HI, ID, MT, NV, NM, OR, UT, WA, WY

John M. Bishop
Vice President
Phone: 404.320.5150
Email: BishopJ@adr.org
Administers cases in: AL, DC, FL, GA, IN, KY, MD, NC, OH, SC, TN, VA

Rod Toben
Vice President
Phone: 972.774.6923
Email: TobenR@adr.org
Administers Cases in: AR, IL, IA, KS, LA, MN, MS, MO, NE, ND, OK, SD, TX, WI

Yvonne Baglini
Assistant Vice President
Phone: 866.293.4053
Email: BagliniY@adr.org
Administers cases in: CT, DE, MA, ME, MI, NH, NJ, NY, PA, RI, VT, WV

Exhibit 19

Submitted Under Seal

Exhibit 20

Submitted Under Seal