

**Cairns, Kelly (OIC)**

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**From:** Timin, Gary P. [Gary.Timin@squiresanders.com]  
**Sent:** Wednesday, March 21, 2012 4:15 PM  
**To:** Brown, Charles (OIC); Pastuch, Ron (OIC)  
**Cc:** Joan Lenahan; 'Joe Ventura'; Jeff Gingold (GingoldJ@LanePowell.com); Guite, Robert J.; Hoffman, Robert W.; Cairns, Kelly (OIC)  
**Subject:** Humana / Arcadian -- Restated First Amendment to Merger Agreement  
**Attachments:** 03-21-12 Letter to Ron Pastuch and Charles Brown.pdf; AR First Amendment to Agreement and Plan of Merger - Final 3 21 12.pdf; Exhibit E.PDF

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Heidi Cairns, OIC  
Patricia D. Peterson  
Chief Hearing Officer

Mr. Brown and Mr. Pastuch,

Attached as discussed yesterday afternoon with Chuck are an Amended and Restated First Amendment to the Merger Agreement, replacing the one that we submitted to you on February 2, 2012, along with a brief explanatory letter and a redacted copy of Exhibit E, just as previously submitted.

The Amendment reached final execution form only this afternoon. We're told that signatures are now being collected. Hard copies of these materials are being sent to you for Thursday delivery.

As always, let us know if you have any questions or desire more information. We look forward to participating with you in tomorrow morning's prehearing conference. Thanks again for your assistance throughout the application process.

Regards,  
Gary

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Heather D. Dill, D.C.  
Patricia D. Feterren  
Chief Hearing Officer

March 21, 2012

**BY EMAIL AND FEDERAL EXPRESS**

Ronald J. Pastuch, CPA  
Holding Company Manager  
Company Supervision Division  
Office of the Insurance Commissioner  
5000 Capitol Blvd.  
Tumwater, WA 98501

Charles Brown  
Senior Staff Attorney  
Legal Affairs Division  
Office of the Insurance Commissioner  
5000 Capitol Blvd.  
Tumwater, WA 98501

**Re: Humana Inc. -- Acquisition of Arcadian Management Services, Inc.  
Form A Application Filed Sept. 22, 2011; Docket No. 12-0010  
Amended and Restated First Amendment to Merger Agreement**

Dear Mr. Pastuch and Mr. Brown:

This follows up on and confirms the information relayed to Chuck Brown yesterday. On February 2, 2012, we sent you a letter describing and enclosing a First Amendment to Agreement and Plan of Merger for this transaction. Recently the parties determined that the Amendment needs to be expanded in certain aspects and replaced with the enclosed Amended and Restated First Amendment to Agreement and Plan of Merger (the "Restated Amendment"). To expedite this submission, enclosed is the execution copy of the Restated Amendment as now being circulated for signature. We will email the signed document as soon as it is available.

We believe you will find the basic effect of the Restated Amendment clear but point out that it does **not** change key terms of the January version of the Amendment, including the reduction of the Base Purchase Price to \$130 million, of the cap or limit specified in Section 14.1 to \$24 million, and what is called the Reference Value to approximately \$50.7 million. Nor does it alter the terms of new Section 4.4 to the Merger Agreement from the January version or the related Exhibit E. As you know, Section 4.4 sets forth agreements regarding consequences of the divestiture or retention of specified assets of Humana and Arcadian Management and subsidiaries, depending on whether those assets are divested or retained under the definitive terms of a final resolution with the U.S. Department of Justice of the Hart-Scott-Rodino review. We are told those negotiations are continuing fruitfully, and Humana remains optimistic that they will be completed in time to allow closing by March 31, 2012.

The Restated Amendment modifies the terms related to Sections 2.2, 2.4, and 2.7 of the Merger Agreement. These Sections address the conversion of shares to rights to receive

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specified net proceeds of the merger, certain escrow provisions, and dissenters' rights provisions respectively. These provisions have been modified to reflect negotiated agreements about those rights of the shareholders under the Merger Agreement. Those provisions have obvious significance for AMS shareholders, but that said, we believe that they do not materially affect the bases or standards for, or the conclusions of, your office's review of the transaction under the Form A statutes and rules. In an abundance of caution, let me note that the foregoing summary is intended for your convenience and neither aims to be complete nor modifies the terms and conditions of the definitive Restated Amendment.

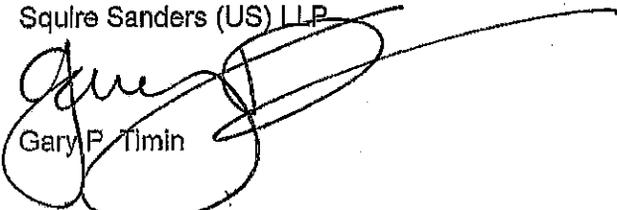
The limited changes to the transaction terms that the Restated Amendment embodies do not alter the structure of the transaction or Humana's post-closing plans for the management, operations, and financing of the Arcadian companies as described in the Form A application as supplemented to date.

Just as we asked in the February 2, 2012 letter, if for any reason you consider that the refinements to the transaction terms in the Restated Amendment call for a formal amendment to Humana's application, we respectfully request that you accept this letter and the enclosure as an amendment to the Form A. They have been reviewed and authorized by Humana for that purpose. As before, because Exhibit E, Identifying assets subject to possible divestiture, includes non-public proprietary information about the parties, the transaction, and potential future asset sales, it is submitted here in redacted form. Humana asks that your Office accord that Exhibit confidential treatment for the time being in accordance with RCW 49.31C.130.

To expedite delivery, and because the application is set for an administrative hearing on March 27, 2012, we are emailing these materials to you and to the Judge's paralegal. As always, do not hesitate to contact us if you have any questions or desire additional information. We believe these technical adjustments to the transaction terms should not occasion any delay in the hearing. Please be assured that Humana continues to work toward a closing at the earliest practical opportunity, as soon as all regulatory approvals and clearances are received.

Sincerely,

Squire Sanders (US) LLP



Gary P. Timin

Enclosure: Amended and Restated First Amendment to Agreement and Plan of Merger

Squire Sanders (US) LLP

Ronald J. Pastuch, CPA  
Charles Brown, Esq.  
March 21, 2012

cc: Kelly Cairns, Hearings Unit, OIG  
Joan O. Lenahan, VP & Corp. Secretary, Humana Inc.  
Joseph C. Ventura, Counsel, Humana Inc.  
James Novello, General Counsel, Arcadian  
Robert W. Hoffman, Esq.  
Jeff Gingold, Esq.  
Robert Guite, Esq.  
Lisa G. Han, Esq.

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**AMENDED AND RESTATED**

**FIRST AMENDMENT TO AGREEMENT AND PLAN OF MERGER**

THIS AMENDED AND RESTATED FIRST AMENDMENT TO AGREEMENT AND PLAN OF MERGER (this "First Amendment") is made and entered into as of the \_\_\_ day of March, 2012 by and among HUMANA INC., a Delaware corporation ("Parent"), HUMSOL, INC., a Delaware corporation and a wholly-owned subsidiary of Parent ("Merger Sub"), ARCADIAN MANAGEMENT SERVICES, INC., a Delaware corporation (the "Company"), those STOCKHOLDER PARTIES (as defined below) that are signatory hereto, and ROGER TAYLOR and MELISSA DANIELS, jointly and severally as stockholder representatives (together, the "Stockholder Representative"). Capitalized terms used herein without definition have the respective meanings given in the Merger Agreement (as defined below).

**RECITALS:**

WHEREAS, Parent, Merger Sub, the Company and certain shareholders of Arcadian Management Services, Inc. (the "Stockholder Parties") have entered into that certain Agreement and Plan of Merger dated August 24, 2011 (as supplemented by that certain Letter Agreement dated January 19, 2012, the "Merger Agreement"); and

WHEREAS, on January 31, 2012, Parent and the Stockholder Representative entered into an amendment to the Merger Agreement (the "Original First Amendment"); and

WHEREAS, Parent, Merger Sub, the Company, the Stockholder Representative and the Stockholder Parties who are signatory hereto wish to amend and restate the Original First Amendment as set forth herein; and

WHEREAS, the respective Boards of Directors of each of Parent, Merger Sub and the Company have approved this First Amendment and recommended that the Stockholders approve this First Amendment; and

WHEREAS, capitalized terms not defined herein have the meaning ascribed to such terms in the Merger Agreement.

**AGREEMENT:**

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties hereto agree as follows:

1. Base Purchase Price. Section 2.1(a) of the Merger Agreement shall be deleted and replaced in its entirety with the following:

“(a) “Base Purchase Price” means One Hundred Thirty Million Dollars (\$130,000,000.00).”

2. Escrow Amount. Section 2.1(e) of the Merger Agreement shall be deleted and replaced in its entirety with the following:

“(e) “Escrow Amount” means an amount equal to (i) \$24,000,000, plus (ii) the Dissent Share Holdback.”

3. Total Closing Merger Consideration. Section 2.1(p) of the Merger Agreement shall be deleted and replaced in its entirety with the following:

“(p) “Total Closing Merger Consideration” means the result of: the Base Purchase Price plus or minus, as applicable, the Estimated Value Surplus or the Estimated Value Deficiency, less the Escrow Amount, less the payments made pursuant to Sections 3.2(b)(vi) and 3.2(b)(vii), plus, to the extent applicable, the payments made pursuant to Section 4.4.”

4. Amendment of Conversion Provisions. Section 2.2 of the Merger Agreement shall be deleted and replaced in its entirety with the following:

“2.2. Conversion. On the terms and subject to the conditions of this Agreement, at the Effective Time (or such other time as specified herein):

(a) each share of Preferred Stock shall be converted into (i) an amount in cash equal to the lesser of (X) its applicable Liquidation Preference or (Y) a percentage of the Total Closing Merger Consideration equal to such share’s Proportional Liquidation Percentage, plus, (ii) an amount in cash equal to the Closing Merger Consideration Per Share Balance, if any, plus (iii) the right to receive, such amounts, if any, as may become payable pursuant to: (A) Section 2.4 with respect to the Escrow Amount; (B) Section 4.3(b) with respect to the Excess Value Adjustment Amount and (C) Section 4.4(c) with respect to the divestiture or retention of the DOJ Divested Assets;

(b) each share of Common Stock issued and outstanding immediately prior to the Effective Time shall by virtue of the Merger be converted into the right to receive (i) an amount in cash equal to the Closing Merger Consideration Per Share Balance, if any, plus (ii) the right to receive, such amounts, if any, as may become payable pursuant to: (A) Section 2.4 with respect to the Escrow Amount; (B) Section 4.3(b) with respect to the Excess Value Adjustment Amount; and (C) Section 4.4(c) with respect to the divestiture or retention of the DOJ Divested Assets.

(c) each issued and outstanding share of common stock of Merger Sub shall by virtue of the Merger be converted into and become one (1) share of common stock of the Surviving Corporation.”

5. Amendment of Escrow Provisions. Section 2.4 of the Merger Agreement shall be deleted and replaced in its entirety with the following:

"2.4. Escrow Agreement; Escrow Amount Payments.

(a) On or prior to the Closing Date, Parent, the Stockholder Representative and American Stock Transfer & Trust Company, LLC (the "Escrow Agent") shall enter into an Escrow Agreement substantially in the form of Exhibit B hereto (the "Escrow Agreement"), providing for the establishment of an escrow account (the "Escrow Account") with the Escrow Agent which will be allocated to the resolution of Closing Value adjustments pursuant to Section 4.3(a) and the determination of any Stockholder Party indemnification obligations under Section 11 (including, in respect of any Dissent Shares pursuant to Section 11.2(a)(iv)). At the Closing, Parent shall deposit into the Escrow Account the Escrow Amount. The Escrow Amount shall be held, invested and disbursed in accordance with the terms, conditions and provisions of the Escrow Agreement. The Escrow Amount, plus any interest or other earnings earned on the Escrow Amount in the Escrow Account is referred to herein as the "Escrow Funds."

(b) No later than by 10:00 a.m. Louisville, Kentucky time on the fourth Business Day following the expiration of the Dissent Period, Parent shall deliver a ~~written instruction to the Escrow Agent setting forth the actual Proportionate Share of~~ Stockholders who have perfected their dissenters' rights in accordance with Section 262, and, on such day, the Escrow Agent shall release, for the Benefit of the Stockholders and Lienholders, an amount (the "Released Dissent Holdback") equal to (x) the Dissent Share Holdback, less (y) the Secondary Dissent Share Holdback, plus any interest or other amounts earned on the Released Dissent Holdback; provided, that if the Escrow Agent does not receive such written instruction by such time, then on the fourth Business Day following the expiration of the Dissent Period the Escrow Agent shall automatically release (without any further instruction from any party) an amount equal to the Dissent Share Holdback plus any interest or other amounts earned on the Dissent Share Holdback as follows: (A) 15% to the Collateral Agent and (B) 85% to the Stockholder Representative. The Secondary Dissent Share Holdback shall continue to be held by the Escrow Agent until such time as the indemnification obligation of the Stockholders under Section 11.2(a)(iv) has been finally determined, whereupon the Parent and Stockholder Representative shall deliver a joint written instruction to the Escrow Agent to release to Parent (or to Parent's designee) an amount equal to such indemnification obligation and the balance of the Secondary Dissent Share Holdback, if any, shall be released (A) 15% to the Collateral Agent and (B) 85% to the Stockholder Representative. Notwithstanding anything to the contrary herein, if the Stockholder Representative disagrees with the actual Proportionate Share of Stockholders who have perfected their dissenters' rights in accordance with Section 262, then the parties shall resolve such dispute through mutual agreement or arbitration pursuant to this Agreement.

(c) On the later of the fifteen (15) month anniversary of the Effective Date and (b) the second (2nd) Business Day following the date that the Closing Value is finally determined pursuant to Section 4 hereof (the "First Escrow Payment Date"), the Escrow Agent shall release, (i) 15% to the Collateral Agent and (ii) 85% to the

Stockholder Representative, an amount equal to (x) \$3,500,000 plus any interest or other earnings earned on the Escrow Amount minus (y) any amounts previously deducted from the Escrow Funds to cover claims made by Parent Indemnitees pursuant to Section 4.3 or Section 11.2 (but without double counting any amounts withheld from the Dissent Share Holdback) minus (z) the amount of any then-outstanding claims made in good faith by Parent Indemnitees pursuant to Section 4.3 or Section 11.2.

(d) On the date that is eighteen (18) months after the Effective Date (the "Second Escrow Payment Date"), the Escrow Agent shall release, (i) 15% to the Collateral Agent and (ii) 85% to the Stockholder Representative, an amount equal to (A) \$9,500,000 plus any interest or other earnings earned on the Escrow Amount minus (B) any amounts previously deducted (following the First Escrow Release Date) from the Escrow Funds to cover claims made by Parent Indemnitees pursuant to Section 4.3 or Section 11.2 (but without double counting any amounts withheld from the Dissent Share Holdback) minus (C) the amount of any then-outstanding claims made in good faith by Parent Indemnitees (following the First Escrow Release Date) pursuant to Section 4.3 or Section 11.2.

(e) On the date that is twenty-four (24) months after the Effective Date (the "Third Escrow Payment Date"), the Escrow Agent shall release, (i) 15% to the Collateral Agent and (ii) 85% to the Stockholder Representative, an amount equal to (A) \$9,500,000 plus any interest or other earnings earned on the Escrow Amount minus (B) any amounts previously deducted (following the Second Escrow Release Date) from the Escrow Funds to cover claims made by Parent Indemnitees pursuant to Section 4.3 or Section 11.2 (but without double counting any amounts withheld from the Dissent Share Holdback), minus (C) the amount of any then-outstanding claims made in good faith by Parent Indemnitees (following the Second Escrow Release Date) pursuant to Section 4.3 or Section 11.2.

(f) On the date that is thirty-six (36) months after the Effective Date, the Escrow Agent shall release, (i) 15% to the Collateral Agent and (ii) 85% to the Stockholder Representative, an amount equal to the then-remaining balance of the Escrow Funds, less (A) the amount of any then-outstanding claims made in good faith by Parent Indemnitees pursuant to Section 4.3 or Section 11.2 and (B) any portion of the Secondary Dissent Share Holdback not yet released pursuant to Section 2.4(b) (but without double counting any amounts withheld pursuant to the foregoing clause (A)).

(g) To the extent that any portion of the Escrow Funds (other than any portion of the Secondary Dissent Share Holdback) are not released at either Escrow Payment Date because it is subject to claims pending at such Escrow Payment Date, such remaining Escrow Funds (other than any portion of the Secondary Dissent Share Holdback, the release of which shall be governed by Section 2.4(b)) shall be released by the Escrow Agent, (i) 15% to the Collateral Agent and (ii) 85% to the Stockholder Representative, to the extent, and at such time as, the claim is finally resolved in favor of the Stockholders.

(h) In the event of any disagreement between Parent and the Stockholder Representative regarding the dollar amount of the Closing Value adjustment or the Stockholders' indemnification obligations, Parent and the Stockholder Representative shall submit such dispute to an independent accounting firm of national standing, as mutually selected by Parent and the Stockholder Representative (or if Parent and the Stockholder Representative cannot agree, by mutual agreement of the independent accounting firms of national standing selected by each of Parent and the Stockholder Representative) (the "Arbitrator") for resolution pursuant to Section 4.2 (in the case of a disagreement relating to the Closing Value adjustment) or to arbitration pursuant to Section 13.8 of this Agreement in all other cases. The Escrow Agent's fees shall be paid by Parent."

6. Amendment of Dissenting Rights Provisions. Section 2.7 of the Merger Agreement shall be amended by appending the following to the end of such Section, immediately before the final period:

" , including any notice required in connection with any amendment to this Agreement"

7. Amendment of Closing Value Adjustments. Section 4.3(b) of the Merger Agreement shall be deleted and replaced in its entirety with the following:

"(b) If the Closing Value as finally determined in accordance with this Section 4 is more than the Estimated Value (such excess, the "Excess Value Adjustment Amount"), then, subject to the other terms and conditions of this Agreement, Parent shall pay (or cause to be paid) the Excess Value Adjustment Amount within three (3) business days of the final determination of the Closing Value as follows: (i) 15% to the Collateral Agent and (ii) 85% to the Stockholder Representative."

8. Divestiture of Assets. A new Section 4.4 is hereby added to the Merger Agreement after Section 4.3 of the Merger Agreement, to read as follows:

"4.4. Divestiture and Retention of Certain Assets.

(a) Divestiture of Assets. Attached hereto as Exhibit E is a list of assets of Parent and the Company and their respective Affiliates which the DOJ may require to be divested under a negotiated consent order (the "Order") to avoid potential litigation seeking to block the Merger and to permit the Merger to close prior to substantial compliance with the Request for Additional Information and Documentary Material issued by the DOJ in connection with the Merger and the costs and delays associated with the same (the "DOJ Divested Assets"). Notwithstanding Sections 7.10(f) and 7.10(g) hereof, following the Closing, Parent and the Company shall use such efforts to divest the DOJ Divested Assets as are required under the Order. In the event one or more of the DOJ Divested Assets are sold, Parent shall pay (or cause the Company to pay), (i) 15% to the Collateral Agent and (ii) 85% to the Stockholder Representative, half of the cash proceeds paid to Parent, the Company or one or more Company Subsidiaries from such sale, after deducting from such proceeds the following amounts (in each case, without double counting any such amounts to the extent that they had previously reduced

the cash proceeds paid to Parent, the Company or the Company Subsidiaries in connection with such sale): (i) any related Divestiture Transaction Costs and (ii) any Divestiture Taxes payable by Parent, the Company, Company Subsidiary, any of their respective Affiliates or any combined, unitary, consolidated or other group of which any such entity is a member ("Consolidated Group") in connection with such sale. For each sale of a DOJ Divested Asset, Parent shall remit the portion of the proceeds of such sale which are for the Collateral Agent and Stockholder Representative within thirty (30) days of receipt of the closing of such sale.

(b) *Retention of Assets.* In the event that the DOJ allows Parent, the Company or their respective Affiliates to retain any of the DOJ Divested Assets, Parent shall remit (or shall cause the Company to remit), (i) 15% to the Collateral Agent and (ii) 85% to the Stockholder Representative, 100% of the allocated price for such DOJ Divested Asset as set forth on Exhibit E hereto (each allocated price for a DOJ Divested Asset, the "Allocated Price"). Parent shall remit (or cause the Company to remit) the Allocated Price for each retained DOJ Divested Asset, (i) 15% to the Collateral Agent and (ii) 85% to the Stockholder Representative, within thirty (30) days of final determination by the DOJ to allow Parent, the Company or their respective Affiliates to retain such DOJ Divested Asset. Upon Parent or the Company's remitting the Allocated Price for a DOJ Divested Asset in accordance herewith, such DOJ Divested Asset shall cease to be treated as a DOJ Divested Asset hereunder and no further amount shall be due to the Stockholders or the Collateral Agent upon any subsequent sale of such asset by Parent, the Company or any of their respective Affiliates."

9. Distributions to Stockholders. A new Section 4.5 is hereby added to the Merger Agreement after Section 4.4 of the Merger Agreement, to read as follows:

"4.5. Distributions to Stockholders. In each instance in which Parent, the Company or the Escrow Agent remits or releases money to the Stockholder Representative following the Closing (including in connection with (a) Section 4.3(b), (b) amounts released from the Escrow Account and (c) any sale of a DOJ Divested Asset pursuant to Section 4.4(a) or the retention of a DOJ Divested Asset pursuant to Section 4.4(b)), such money shall be received by the Stockholder Representative for the benefit of the Stockholders as follows (unless otherwise determined by the Stockholder Representative in the exercise of its duties to the Stockholders): (A) until such time as each share of Preferred Stock has received an aggregate payment equal to its Liquidation Preference (including on account of any payments previously made pursuant to clause (i) of Section 2.2(a) and on account of any amounts previously released or paid for the benefit of the Stockholders, to the pre-Effective Time holders of Preferred Stock, in accordance with their respective Proportional Liquidation Percentage, and (B) thereafter, to the Stockholders in accordance with their respective Proportionate Shares. The Stockholder Representative shall be entitled to deduct from the gross amount otherwise distributable to the Stockholders, any costs and expenses necessary to affect any such distribution, including, in the Stockholder Representative's discretion, costs to hire a paying agent to effect such distributions. The Stockholder Representative shall distribute (or cause a paying agent to distribute) the net distributable amount of such funds for the

benefit of the Stockholders in accordance with this Agreement within thirty (30) days of receipt thereof from Parent, the Company or the Escrow Agent.”

10. References to Section 12 of the Merger Agreement. The references to “Section 12” in the following sections of the Merger Agreement shall be deleted and replaced with references to “Section 11”: the final, unnumbered subparagraph of Section 10.2, the final unnumbered subparagraph of Section 10.3.

11. Exhibits. Exhibit E in the form attached hereto shall be added to the Merger Agreement immediately following Exhibit D of the Merger Agreement.

12. Indemnification – Stockholders.

(a) Section 11.2(a)(iv) of the Merger Agreement shall be deleted and replaced in its entirety with the following:

“(iv) any payment or payments in respect of any Dissent Shares in excess of the consideration that otherwise would have been payable in respect of such shares in accordance with Section 2.2, together with reasonable fees, costs and expenses incurred in connection with investigating, defending against or settling any action or proceeding in respect of any Dissent Shares; ~~provided, that,~~ for purposes of this Section 11.2(a)(iv), “Dissent Shares” shall be deemed to include any shares of Company Capital Stock with respect to which any Stockholder has made any claim with respect to any “quasi-appraisal” action or remedy or similar legal or equitable action or remedy;”

(b) Section 11.2(b)(iv) of the Merger Agreement shall be deleted and replaced in its entirety with the following:

“(iv) the aggregate amount required to be paid by the Stockholders pursuant hereto shall not exceed an amount equal to (A) the Base Purchase Price plus (B) to the extent applicable, the aggregate amount of any payments for the benefit of the Stockholders made pursuant to Section 4.4;”

13. Indemnification – Parent. Section 11.3(b)(iii) of the Merger Agreement shall be deleted and replaced in its entirety with the following:

“(iii) the aggregate amount required to be paid by the Parent Indemnitors pursuant to Section 11.3(a)(i) in respect of breaches of Specified Representations shall not exceed an amount equal to (A) the Base Purchase Price plus (B) to the extent applicable, the aggregate amount of any payments for the benefit of the Stockholders made pursuant to Section 4.4;”

14. Indemnification – Stockholders. Section 11.3(b)(v) of the Merger Agreement shall be deleted and replaced in its entirety with the following:

“(v) except for breaches of representations or warranties that resulted from actual fraud or intentional misrepresentation, the Parent Indemnitors

shall not have any obligation for indemnification under Section 11.3(a) in excess of an amount equal to (A) the Base Purchase Price plus (B) to the extent applicable, the aggregate amount of any payments for the benefit of the Stockholders made pursuant to Section 4.4.”

15. Definitions.

(a) Section 14.1 of the Merger Agreement, shall be amended to restate and replace the definition of “Reference Value” as follows:

“Reference Value” means \$50,739,494.”

(b) Section 14.1 of the Merger Agreement, shall be amended to restate and replace the definition of “Cap” as follows:

“Cap” means \$24,000,000.”

(c) The following defined terms shall be added to Section 14.1 of the Merger Agreement, each defined term to appear in the correct alphabetical order in the Merger Agreement:

“Aggregate Liquidation Preference” means the aggregate amount of (i) the Series A Liquidation Amount payable on all shares of Series A Preferred Stock, (ii) the Series B Liquidation Amount payable on all shares of Series B Preferred Stock, (iii) the Series B-1 Liquidation Amount payable on all shares of Series B-1 Preferred Stock and (iv) the Series C Liquidation Amount payable on all shares of Series C Preferred Stock, in each case, if such liquidation preference was paid in full.

“Allocated Price” is defined in Section 4.4(b).

“Collateral Agent” means Morgan Stanley & Co. LLC in its capacity as “Collateral Agent” (as defined in the Deferred Payment Agreement).

“Consolidated Group” is defined in Section 4.4(a).

“Deferred Payment Agreement” means that certain Deferred Payment Agreement dated as of April 27, 2011 by and between the Company, the Collateral Agent and the lenders party to the Senior Secured Credit Agreement, dated as of February 8, 2007 (as amended).

“Dissent Period” means the period beginning on the date that the Company provides the Stockholders with their last pre-Closing notice under Section 262 concerning the rights of the Stockholders to exercise dissenters’ rights under Section 262 with respect to the Merger (including any such notice in connection with any amendment to this Agreement) and ending on the date that is twenty (20) days thereafter.

“Dissent Share Holdback” means a dollar amount equal to (A) the product of (i) \$16,270,000 and (ii) the aggregate Proportionate Share of Company Capital Stock held

by Stockholders who, at the Effective Time, have not yet waived, withdrawn or lost the right to receive payment of fair market value under Section 262, minus (B) \$4,000,000. If the foregoing calculation is equal to or less than zero dollars (\$0), then there shall be no Dissent Share Holdback.

"Divestiture Taxes" means, in connection with any divestiture by Parent, the Company or one or more Company Subsidiaries of any DOJ Divested Asset pursuant to Section 4.4(a) hereof: (a) any Transfer Taxes borne, paid or to be paid by Parent, the Company or one or more Company Subsidiaries in connection with such divestiture and (b) any and all other Taxes (including but not limited to any such Taxes on any income or gain resulting from such divestiture) reasonably expected to be paid by Parent, Company, any Company Subsidiary or any Consolidated Group as a result of such divestiture. For the purposes of determining the amount in clause (b) above, the amount of such Taxes shall be determined by Parent in good faith (x) using the Tax rate(s) reasonably expected to be applicable to such divestiture based upon information reasonably available to Parent at the time of the divestiture, and (y) taking into account the availability of any net operating loss, capital loss or similar carryforward of Company attributable to a Pre-Closing Period (except, in each case, to the extent that any such net operating loss, capital loss or similar carryforward resulted in a positive adjustment to the determination of Closing Value).

"Divestiture Transaction Costs" means, in connection with any divestiture by Parent, the Company or one or more Company Subsidiaries of any DOJ Divested Asset pursuant to Section 4.4(a) hereof: (a) all reasonable costs and expenses incurred by Parent, the Company or the Company Subsidiaries in connection with such divestiture (but excluding any costs of negotiation with the DOJ), including, without limitation, reasonable legal, financial advisory, accounting, consulting and other fees and expenses and any broker's or finder's fees and (b) all amounts (plus any associated withholding Taxes or any Taxes required to be paid by the Company or the Company Subsidiaries with respect thereto (but without double-counting any Taxes included within any associated Divestiture Taxes)) payable by the Parent, the Company or the Company Subsidiaries, whether immediately or in the future, as a result of the consummation of such divestiture (including, without limitation, such amounts payable to any employee of the Company or the Company Subsidiaries at the election of such employee pursuant to any such arrangements) under any "change of control," phantom stock, retention, termination, compensation, severance or other similar arrangements of the Company or the Company Subsidiaries that were in effect on the Closing Date.

"DOJ Divested Assets" is defined in Section 4.4(a).

"Liquidation Preference" means the for each share of Preferred Stock, the applicable Series A Liquidation Amount, Series B Liquidation Amount, Series B-1 Liquidation Amount or Series C Liquidation Amount.

"Order" is defined in Section 4.4(a).

"Preferred Stock" means the Series A Preferred Stock, the Series B Preferred Stock, the Series B-1 Preferred Stock and the Series C Preferred Stock.

"Proportional Liquidation Percentage" means, with respect to each share of Preferred Stock, a percentage determined by dividing such share's Liquidation Preference by the Aggregate Liquidation Preference.

"Released Dissent Holdback" is defined in Section 2.4(b).

"Secondary Dissent Share Holdback" means a dollar amount equal to (A) the product of (i) \$16,270,000 and (ii) the aggregate Proportionate Share of Company Capital Stock held by Stockholders who, at the expiration of the Dissent Period, have not yet waived, withdrawn or lost the right to receive payment of fair market value under Section 262, minus (B) \$4,000,000. If the foregoing calculation is equal to or less than zero dollars (\$0), then there shall be no Secondary Dissent Share Holdback."

16. Amendments to Escrow Agreement. The form of Escrow Agreement attached to the Merger Agreement shall be amended to reflect the matters set forth in this First Amendment.

17. Remainder of Merger Agreement Unaffected; Conflicts. Except as expressly provided in this First Amendment, ~~the Merger Agreement shall not be amended or otherwise modified.~~ In the event there is a conflict between the terms of the Merger Agreement and the terms of this First Amendment, the terms provided in this First Amendment shall control. Any disputes arising from this First Amendment shall be resolved in accordance with the dispute resolution provisions of the Merger Agreement. All references in the Merger Agreement to the Merger Agreement shall hereafter mean the Merger Agreement as amended by this First Amendment.

18. Multiple Counterparts. This Amendment may be executed and delivered in any number of counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute one and the same instrument.

19. Captions. Headings and captions used in this First Amendment are for convenience of reference only and shall not be construed or interpreted as affecting the substance or content of any of the provisions of this First Amendment.

[SIGNATURE PAGE FOLLOWS.]

In witness whereof, the parties hereto have executed this First Amendment to be effective as of the day first written above.

PARENT:

Humana Inc., a Delaware corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

MERGER SUB:

Humsol, Inc., a Delaware corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

COMPANY:

Arcadian Management Services, Inc.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STOCKHOLDER REPRESENTATIVE:

\_\_\_\_\_  
Roger Taylor

STOCKHOLDER REPRESENTATIVE:

\_\_\_\_\_  
Melissa Daniels

SHAREHOLDERS:

---

Kenneth B. Zimmerman

Number of Common Shares: 434,176

1133 Barroilhet

Hillsborough, CA 94010

Phone: 510-817-1008

Email: [kzimmerman@arcadianhealth.com](mailto:kzimmerman@arcadianhealth.com)

THIRD AMENDED AUSTIN/SMALLEY  
LIVING TRUST DATED MARCH 4, 2004

By: \_\_\_\_\_

Name: Jacqueline A. Smalley  
Title: Trustee

Number of Common Shares: 1,111,083

Attn: Jacqui Smalley  
5920 Ross St.  
Oakland, CA 94618  
Phone: 510-817-1006  
Email: Jacqui@bccranch.com

LAWRENCE N. AND DULCIE KUGELMAN  
LIVING TRUST DATED MAY 1988

By: \_\_\_\_\_

Name: Lawrence N. Kugelman  
Title: Trustee

Number of Common Shares: 21,508

Attn: Larry N. Kugelman Sr.  
24 Venezia  
Newport Coast, CA 92657  
Phone: 949-497-0149  
Email: lmkdak@aol.com

---

Les Granow

Number of Common Shares: 706

Les Granow

865 17th Street

Manhattan Beach, CA 90266

Phone: 909-971-6800

Email: Lgranow@arcadianhealth.com

Counterpart Signature Page to Amended and Restated  
First Amendment to August 24, 2011 Agreement and Plan of Merger

PREFERRED A SHAREHOLDERS:  
THREE ARCH PARTNERS II, L.P.  
By: Three Arch Management II, L.L.C.,  
its General Partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Number of Preferred A Shares: 355,000  
Three Arch Partners  
3200 Alpine Road  
Portola Valley, CA 94028  
Attn: Wilfred Jaeger  
Email: wilfred@threearchpartners.com

PREFERRED B SHAREHOLDERS:

THIRD AMENDED AUSTIN/SMALLEY LIVING  
TRUST DATED MARCH 4, 2004

By: \_\_\_\_\_

Name: Jacqueline A. Smalley  
Title: Trustee

Number of Preferred B Shares: 218,182

Attn: Jacqui Smalley

5920 Ross St.

Oakland, CA 94618

Phone: 510-817-1006

Email: Jacqui@bccranch.com

LAWRENCE N. AND DULCIE KUGELMAN  
LIVING TRUST DATED MAY 1988

By: \_\_\_\_\_

Name: Lawrence N. Kugelman

Title: Trustee

Number of Preferred B Shares: 106,870

Attn: Larry N. Kugelman Sr.

24 Venezia

Newport Coast, CA 92657

Phone: 949-497-0149

Email: lnkdak@aol.com

---

Alexander Kugelman

Number of Preferred B Shares: 11,500

Alexander Kugelman

c/o Larry N. Kugelman Sr.

24 Venezia

Newport Coast, CA 92657

Phone: 949-497-0149

Email: lnkdak@aol.com

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Stryker Warren

Number of Preferred B Shares: 51,948

Stryker Warren

Urologix Inc.

14405 21st Avenue North, Suite 110

Minneapolis, MN 55447-2000

Phone: 615-948-6710

Email: SWarren@Urologix.com

---

Marilyn Warren

Number of Preferred B Shares: 51,948

Marilyn Warren

448 Cumberland Place

Nashville, TN 37215

Phone: 615-665-2285

Email: SWJRMHW@comcast.net

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Edward Blumenstock

Number of Preferred B Shares: 51,948

Edward Blumenstock

75 El Camino Real

Berkeley, CA 94705-2423

Phone: 510-825-1700

Email: edblumenstock@gmail.com

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Allen F. Wise

Number of Preferred B Shares: 311,688

Allen Wise

Coventry Healthcare Corporation

6705 Rockledge Drive, Suite 900

Bethesda, Maryland 20817

Phone: 301-581-5464

Email: allenwisel@hotmail.com

Email2: mashepherd@cvty.com

PREFERRED B-1 SHAREHOLDERS:  
THIRD AMENDED AUSTIN/SMALLEY  
LIVING TRUST DATED MARCH 4, 2004

By: \_\_\_\_\_

Name: Jacqueline A. Smalley

Title: Trustee

Number of Preferred B-1 Shares: 275,000

Attn: Jacqui Smalley

5920 Ross St.

Oakland, CA 94618

Phone: 510-817-1006

Email: Jacqui@bccranch.com

LAWRENCE N. AND DULCIE KUGELMAN  
LIVING TRUST DATED MAY 1988

By: \_\_\_\_\_

Name: Lawrence N. Kugelman  
Title: Trustee

Number of Preferred B-1 Shares: 100,000

Attn: Larry N. Kugelman Sr.

24 Venezia

Newport Coast, CA 92657

Phone: 949-497-0149

Email: lnkdak@aol.com

---

Stryker Warren

Number of Preferred B-1 Shares: 25,000

Stryker Warren

Urologix Inc.

14405 21st Avenue North, Suite 110

Minneapolis, MN 55447-2000

Phone: 615-948-6710

Email: SWarren@Urologix.com

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Marilyn Warren

Number of Preferred B-1 Shares: 25,000

Marilyn Warren

448 Cumberland Place

Nashville, TN 37215

Phone: 615-665-2285

Email: SWJRMHW@comcast.net

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PREFERRED C SHAREHOLDERS:  
THREE ARCH CAPITAL, L.P.

By: TAC Management, L.L.C., its General Partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Number of Preferred C Shares: 520,396  
Three Arch Partners  
3200 Alpine Road  
Portola Valley, CA 94028  
Attn: Wilfred Jaeger  
Email: wilfred@threearchpartners.com

TAC ASSOCIATES, L.P.

By: TAC Management, L.L.C., its General Partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Number of Preferred C Shares: 24,602  
Three Arch Partners  
3200 Alpine Road  
Portola Valley, CA 94028  
Attn: Wilfred Jaeger  
Email: wilfred@threearchpartners.com

THREE ARCH PARTNERS II, L.P.  
By: Three Arch Management II, L.L.C.,  
its General Partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Number of Preferred C Shares: 558,971  
Three Arch Partners  
3200 Alpine Road  
Portola Valley, CA 94028  
Attn: Wilfred Jaeger  
Email: wilfred@threearchpartners.com

THREE ARCH PARTNERS IV, L.P.  
By: Three Arch Management IV, L.L.C., its  
General Partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Number of Preferred C Shares: 355,483  
Three Arch Partners  
3200 Alpine Road  
Portola Valley, CA 94028  
Attn: Wilfred Jaeger  
Email: wilfred@threearchpartners.com

THREE ARCH ASSOCIATES IV, L.P.  
By: Three Arch Management IV, L.L.C., its  
General Partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Number of Preferred C Shares: 7,849  
Three Arch Partners  
3200 Alpine Road  
Portola Valley, CA 94028  
Attn: Wilfred Jaeger  
Email: wilfred@threearchpartners.com

LAWRENCE N. AND DULCIE KUGELMAN  
LIVING TRUST DATED MAY 1988

By: \_\_\_\_\_

Name: Lawrence N. Kugelman

Title: Trustee

Number of Preferred C Shares: 24,442

Attn: Larry N. Kugelman Sr.

24 Venezia

Newport Coast, CA 92657

Phone: 949-497-0149

Email: lnkdak@aol.com

---

Alexander Kugelman

Number of Preferred C Shares: 3,500

Alexander Kugelman

c/o Larry N. Kugelman Sr.

24 Venezia

Newport Coast, CA 92657

Phone: 949-497-0149

Email: lnkdak@aol.com

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MORGAN STANLEY DEAN WITTER VENTURE  
PARTNERS IV, L.P.

By: \_\_\_\_\_

Name: Melissa M. Daniels

Title: Managing Member

Number of Preferred C Shares: 483,945

Melissa Daniels  
Morgan Stanley Dean Witter  
2725 Sand Hill Road, Suite 130  
Menlo Park, CA 94025  
Phone: 650-234-5738  
Email: Melissa.Daniels@morganstanley.com

MORGAN STANLEY DEAN WITTER VENTURE  
INVESTORS IV, L.P.

By: \_\_\_\_\_

Name: Melissa M. Daniels

Title: Managing Member

Number of Preferred C Shares: 56,146

Melissa Daniels  
Morgan Stanley Dean Witter  
2725 Sand Hill Road, Suite 130  
Menlo Park, CA 94025  
Phone: 650-234-5738  
Email: Melissa.Daniels@morganstanley.com

MORGAN STANLEY DEAN WITTER VENTURE  
OFFSHORE INVESTORS IV, L.P.

By: \_\_\_\_\_

Name: Melissa M. Daniels

Title: Managing Member

Number of Preferred C Shares: 18,881

Melissa Daniels  
Morgan Stanley Dean Witter  
2725 Sand Hill Road, Suite 130  
Menlo Park, CA 94025  
Phone: 650-234-5738  
Email: Melissa.Daniels@morganstanley.com

MORGAN STANLEY VENTURE PARTNERS 2002  
FUND, L.P.

By: \_\_\_\_\_

Name: Melissa M. Daniels

Title: Managing Member

Number of Preferred C Shares: 430,078

Melissa Daniels  
Morgan Stanley Dean Witter  
2725 Sand Hill Road, Suite 130  
Menlo Park, CA 94025  
Phone: 650-234-5738  
Email: Melissa.Daniels@morganstanley.com

MORGAN STANLEY VENTURE INVESTORS  
2002 FUND, L.P.

By: \_\_\_\_\_

Name: Melissa M. Daniels  
Title: Managing Member

Number of Preferred C Shares: 128,893

Melissa Daniels  
Morgan Stanley Dean Witter  
2725 Sand Hill Road, Suite 130  
Menlo Park, CA 94025  
Phone: 650-234-5738  
Email: [Melissa.Daniels@morganstanley.com](mailto:Melissa.Daniels@morganstanley.com)

**Exhibit E**

**DOJ Divested Assets – Allocated Price**

**See attached.**

<i>Exhibit E</i>					
EZ_STATE	Market	County_Name	UW Mar Total	UW Mar (negative margin at \$0)	Allocated Price

