

EXECUTION VERSION

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**CLASS R PREFERRED STOCK PURCHASE AGREEMENT**

**BY AND BETWEEN**

**SOUNDPATH HEALTH, INC.**

**NORTHWEST PHYSICIANS NETWORK OF WASHINGTON, LLC**

**PHYSICIANS OF SOUTHWEST WASHINGTON, L.L.C.**

**AND**

**COLLABHEALTH PLAN SERVICES, INC.**

**DATED AS OF**

**OCTOBER 18, 2012**

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## CLASS R PREFERRED STOCK PURCHASE AGREEMENT

This Class R Preferred Stock Purchase Agreement (this "Agreement") is made and entered into as of October 18, 2012, by and between **SoundPath Health, Inc.**, a Washington corporation (the "Company"), **CollabHealth Plan Services, Inc.**, a Colorado corporation (the "Investor"), Northwest Physicians Network Of Washington, LLC, a Washington limited liability company ("NPN"), Physicians Of Southwest Washington, L.L.C., a Washington limited liability company ("PSW," together with NPN, are collectively "Shareholders"). Capitalized terms used but not defined in this Agreement shall have their respective meaning as defined in the Stock Purchase Agreement (defined below).

### RECITALS

WHEREAS, the Company is a licensed Washington domestic health care service contractor that is a Medicare Advantage health insurance carrier (the "Business");

WHEREAS, the Company desires to authorize the sale and issuance to Investor of up to an aggregate of One Thousand (1,000) shares of its Class R Preferred Stock, par value \$10.00 per share (each, a "Share");

WHEREAS, Investor desires to purchase Shares on the terms and conditions set forth herein;

WHEREAS, the Company desires to issue and sell the Shares to Investor on the terms and conditions set forth herein;

WHEREAS, the Shares will have the rights, preferences, privileges and restrictions set forth in the Second Amended and Restated Certificate of Incorporation of the Company, in the form and substance agreed to by the parties (the "Second Amended and Restated Articles");

WHEREAS, contemporaneously with the execution of this Agreement, the Company, the Investor and the Shareholders, entered into that certain Stock Purchase Agreement dated as of the date hereof (the "Stock Purchase Agreement"), pursuant to which the Shareholders have agreed to sell, and the Investor has agreed to purchase, fifty-five and 6/10 percent (55.60%) of the outstanding capital stock of the Company (the "Purchased Shares"), subject to the terms and conditions of the Stock Purchase Agreement;

WHEREAS, contemporaneously with the execution of this Agreement, the Company and Investor have entered into that certain Asset Purchase Agreement (the "Asset Purchase Agreement") dated as of the date hereof, pursuant to which the Company has agreed to sell, and Investor has agreed to purchase, substantially all of the Company's assets related to the administration of the Business (the "Purchased Assets"), subject to the terms and conditions of the Asset Purchase Agreement; and

WHEREAS, the Shareholders will derive a direct and substantial benefit as a result of Investor's purchase of the Shares hereunder by enhancing the financial strength of the Company.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises, representations, warranties, and covenants hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

## TERMS AND CONDITIONS

### Article 1 PURCHASE, CLOSING AND DELIVERY

1.1 Sale and Issuance of Class R Preferred Stock. Subject to the terms and conditions of this Agreement and in reliance upon the representations, warranties and agreements contained in this Agreement and the Stock Purchase Agreement, on the Closing Date, the Investor agrees to purchase and the Company agrees to sell and issue to the Investor One Thousand (1,000) Shares for the purchase price of Twelve Thousand Eighty-five Dollars (\$12,085) per Share.

1.2 Closing. The purchase and sale of the Shares provided for in this Agreement (the "Closing") shall take place on a mutually agreeable date that is ten (10) Business Days after the last of the conditions set forth in Article 5 hereof have either been fully satisfied and completed or waived in writing in accordance herewith (other than those conditions that can only be fulfilled at the Closing) (the "Closing Date"). The Closing shall begin at 9:00 a.m. Pacific Time, on the Closing Date, at which time parties will exchange copies of the documents set forth in Section 1.4 (collectively the "Transaction Documents") and signature pages thereto by facsimile or other appropriate electronic means, the receipt of which will be confirmed by telephone or electronic mail. The parties agree to use their commercially reasonable efforts to cause the Closing to occur as soon as practicable and also agree that the Closing shall occur simultaneously with the closings of the transactions contemplated under the Stock Purchase Agreement and the Asset Purchase Agreement. Following the Closing, and unless otherwise mutually agreed in writing by the Parties, the Closing will be deemed for all purposes to have occurred at 12:01 a.m., Pacific Time, on the Closing Date (the "Effective Time of Closing").

1.3 Purchase Price. The purchase price to be paid to the Company for the Shares shall be Twelve Million Eighty-five Thousand Dollars (\$12,085,000) (the "Purchase Price"). Payment of the Purchase Price shall be payable by check or wire transfer made payable to the order of the Company.

1.4 Deliveries at Closing. At the Closing:

(a) Company shall deliver to the Investor:

(1) Stock certificate representing the Shares and bearing the following legend:

Article XII, Section 11 of the Constitution of the State of Washington provides that the stockholders of an insurance company are individually and personally liable equally and ratably for all obligations for the corporation incurred while they

remain stockholders up to the par value of their stock in addition to the amount invested in such shares.

(2) A certificate of the Company's Secretary having attached thereto (i) the Second Amended and Restated Articles as in effect on the Closing Date, (ii) the Company's Amended and Restated Bylaws as in effect on the Closing Date, (iii) resolutions approved by the Company's Board of Directors authorizing the transactions contemplated hereby, and (iv) resolutions approved by the Company's stockholders authorizing the transactions contemplated hereby, including without limitation the approval of the Second Amended and Restated Articles;

(3) A certificate from the Company dated as of the Closing Date, confirming the satisfaction of the conditions contained in **Section 5.1**;

(4) All of the consents set forth on Schedule 2.9, duly executed by such third parties; and

(5) Such other documents and instruments as the Investor may reasonably require for the consummation of the transactions contemplated by this Agreement.

(b) Investor shall deliver to the Company:

(1) A certificate from the Investor dated as of the Closing Date, confirming the satisfaction of the conditions contained in **Section 5.2**; and

(2) Such other documents and instruments as the Company may reasonably require for the consummation of the transactions contemplated by this Agreement.

## Article 2

### REPRESENTATIONS AND WARRANTIES OF THE COMPANY

The Company hereby represents and warrants to the Investor, as of the date hereof and as of the Closing Date, as follows:

2.1 Organization And Good Standing. The Company is a corporation duly organized and validly existing under the laws of the State of Washington, with the requisite corporate power and authority to enter into this Agreement and the transactions contemplated hereby.

2.2 Subsidiaries. The Company does not own or control, directly or indirectly, any interest in any other corporation, association, entity or enterprise. The Company is not a participant in any joint venture, general or limited partnership, limited liability company or similar business entity. The Company is not subject to any obligation to provide funds or make any investment in any entity or enterprise.

2.3 No Conflict. Except as set forth on Schedule 2.3, the execution, delivery and performance of this Agreement by the Company and the consummation by the Company of the transactions contemplated hereby do not and will not, (i) conflict with or violate any provision of the Second Amended and Restated Articles at such time as the Second Amended and Restated Articles are filed with the Secretary of State of Washington or the Amended and Restated Bylaws at such time as the Amended and Restated Bylaws are effective, (ii) conflict with, or constitute a default (or an event that with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation (with or without notice, lapse of time or both) of, any contract to which the Company is a party or by which any property or asset of the Company is bound or affected, (iii) result in a violation of any law, rule, statute or regulation to which the Company is subject (including federal and state securities laws and regulations) or (iv) result in any violation of any order, judgment, injunction, decree or other restriction of any Governmental Authority to which the Company is subject, or by which any property or asset of the Company is bound or affected.

2.4 Authority. The Company has the requisite corporate power and authority to enter into and to consummate the transactions contemplated by this Agreement and otherwise to carry out its obligations hereunder. The execution and delivery of this Agreement by the Company and the consummation by it of the transactions contemplated hereby have been duly authorized by all necessary corporate action. Except for the adoption by the Company of the Second Amended and Restated Articles and the filing of the Second Amended and Restated Articles with the Secretary of State of Washington, no other corporate or other action or proceeding on the part of the Company is necessary to authorize this Agreement or the consummation of the transactions contemplated hereby. This Agreement has been duly executed by the Company and, when delivered, will constitute the valid and binding obligation of the Company, enforceable against the Company in accordance with its terms.

2.5 Capitalization.

(a) The authorized capital of the Company consists of One Million Two Hundred Thousand (1,200,000) authorized shares of Class A Common Stock, \$10.00 par value per share (each, a "Common Share"), of which 910,000 Common Shares are issued and outstanding. PSW owns Five Hundred Thirty-Six Thousand Nine Hundred Thousand (536,900) Common Shares and NPN owns Three Hundred Seventy-Three Thousand One Hundred (373,100) Common Shares. The Shareholders own (of record and beneficially) good and marketable title to the Common Shares, free and clear of all Encumbrances other than the obligations imposed by the Washington Constitution requiring a shareholder's potential additional liability up to the par value of their stock, with no defects of title whatsoever. All outstanding Common Shares are duly authorized and the par values paid, and were issued in accordance with all applicable federal and state securities laws. Such Common Shares constitute all of the Equity Interests of the Company. The Shareholders are not a party to or bound by any contract relating to the Equity Interests of the Company (other than this Agreement, the Stock Purchase Agreement or as disclosed in Schedule 2.5(a)). There are no proxies, voting trusts, voting agreements, powers of attorney or similar arrangements outstanding with respect to the Equity Interests of the Company.

(b) Upon the filing of the Second Amended and Restated Articles with the Secretary of State of Washington, the Company will authorize a total of One Thousand (1,000) shares of Preferred Stock, \$10.00 par value per share, of which One Thousand (1,000) will be designated as Class R Preferred Stock. None of the Shares are issued and outstanding as of the date hereof.

(c) Except for the Stock Purchase Agreement, there are no outstanding subscriptions, convertible or exchangeable securities, options, warrants, rights (including conversion or preemptive rights), calls or other similar rights with respect to Equity Interests, or agreements for the purchase or sale of any shares of capital stock or options from the Company or, to the Knowledge of the Company, from any stockholder of the Company.

(d) On the Closing Date, the Shares will be issued to Investor free and clear of all Encumbrances other than the obligations imposed by the Washington Constitution requiring a shareholder's potential additional liability up to the par value of their stock.

(e) Except as set forth on Schedule 2.5(e), the Company has not granted any preemptive rights, rights of first refusal or similar rights with respect to its Equity Interests to any Person. None of the outstanding Equity Interests are issued in violation of the preemptive rights, rights of first refusal or similar rights of any person or entity.

(f) The Company is not a party or subject to any agreement or understanding, and there is no agreement or understanding between any Persons, which affects or relates to the voting or giving of written consents with respect to any security of the Company.

(g) The payment of dividends on the Shares and any redemption of the Shares are subject to the rules and regulations of the Office of the Insurance Commissioner of the State of Washington, whose approval is required prior to any monies of the Company being paid for any dividends or redemption being distributed.

2.6 Offering Valid. The offer, sale and issuance of the Shares will be exempt from the registration requirements of the Securities Act of 1933, as amended (the "Securities Act"), and will have been registered or qualified (or are exempt from registration and qualification) under the registration, permit or qualification requirements of all applicable state securities laws. Neither the Company nor any agent on its behalf has solicited or will solicit any offers to sell or has offered to sell or will offer to sell all or any part of the Shares to any persons or entities so as to bring the sale of such Shares by the Company within the registration provisions of the Securities Act or any state securities laws.

2.7 Certain Payments. No director, officer, agent, or employee of the Company, or any other person or entity associated with or acting for or on behalf of the Company, has directly or indirectly:

(a) made any contribution, gift, bribe, rebate, payoff, influence payment, kickback, or other payment to any person or entity, private or public, regardless of form, whether in money, property, or services.

(1) to obtain favorable treatment in securing business,

- (2) to pay for favorable treatment for business secured, or
  - (3) to obtain special concessions or for special concessions already obtained, for or in respect of the Company; or
- (b) established or maintained any fund or asset that has not been recorded in the books and records of the Company.

2.8 No Insider Debt. Except for normal accruals for current salary and expense reimbursement obligations of the Company to its employees, the Company does not have any debt owing to any of its directors, officers or employees.

2.9 Consents. Except as set forth on Schedule 2.9, the Company has obtained any and all consents, permits, waivers, approvals, orders or authorizations of, or registrations, qualifications, designations, declarations or filings with, any federal, state or local governmental authority necessary or appropriate for consummation of the transactions contemplated by this Agreement including such notices as may be required under applicable state blue sky securities laws, and such other qualifications or filings under the Securities Act, and the regulations thereunder and all other applicable securities laws as may be required in connection with the transactions contemplated by this Agreement). All such qualifications and filings are, in the case of qualifications, effective as of the date hereof and have, in the case of filings, been made within the time prescribed by law. The Company has obtained enforceable waivers in respect of any anti-dilution or similar rights directly or indirectly triggered or affected by the issuance of the Shares.

2.10 Registration Rights. The Company has not granted or agreed to grant to any person or entity any rights (including piggyback registration rights) to have any securities of the Company registered with the U.S. Securities and Exchange Commission or any other governmental authority.

2.11 Finder's Fee. Except for Thomas & Associates Consulting, LLC, the Company has not incurred any obligation for any finder's, broker's or agent's fee in connection with this Agreement or any of the agreements contemplated hereby or any of the transactions contemplated hereunder for which the Investor may be liable or for which a claim could be asserted against the Shares.

2.12 Representations and Warranties Incorporated by Reference. The Company's representations and warranties contained in Sections 2.1, 2.2, 2.5, 2.6, 2.7, 2.8, 2.9, 2.10, 2.11, 2.12, 2.13, 2.14, 2.15, 2.16, 2.17, 2.18, 2.20, 2.21, 2.22, 2.23, 2.24, 2.25, 2.26, 2.27, and 2.28 of the Stock Purchase Agreement and the Schedules referenced therein are hereby incorporated by reference into Article 2 of this Agreement. The Stock Purchase Agreement is attached hereto as Exhibit 2.12 and incorporated herein by this reference.

### Article 3 REPRESENTATIONS AND WARRANTIES OF INVESTOR

Investor represents and warrants to the Company, as of the date hereof and as of the Closing Date, as follows:

3.1 Organization and Good Standing. Investor is a corporation duly organized, validly existing, and in good standing under the laws of the State of Colorado.

3.2 Authority. Investor has the requisite corporate power and authority to enter into and to consummate the transactions contemplated by this Agreement and otherwise to carry out its obligations hereunder. The execution and delivery of this Agreement by Investor and the consummation by it of the transactions contemplated hereby have been duly authorized by all necessary corporate action. No other corporate or other action or proceeding on the part of Investor is necessary to authorize this Agreement or the consummation of the transactions contemplated hereby. This Agreement has been duly executed by Investor and, when delivered, will constitute the valid and binding obligation of Investor, enforceable against Investor in accordance with its terms.

3.3 No Conflict. The execution, delivery and performance of this Agreement by Investor and the consummation by Investor of the transactions contemplated hereby do not and will not, (i) conflict with or violate any provision of its organizational documents, (ii) conflict with, or constitute a default (or an event that with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation (with or without notice, lapse of time or both) of, any contract to which Investor is a party or by which any property or asset of Investor is bound or affected, (iii) result in a violation of any law, rule, statute or regulation to which Investor is subject (including federal and state securities laws and regulations) or (iv) result in any violation of any order, judgment, injunction, decree or other restriction of any Governmental Authority to which Investor is subject, or by which any property or asset of Investor is bound or affected.

3.4 Representations and Warranties Incorporated by Reference. Investor's representations and warranties contained in Sections 3.2, 3.3, 3.5 and 3.10 of the Stock Purchase Agreement are hereby incorporated by reference into **Article 3** of this Agreement.

3.5 Investment Representations. Investor understands that the offering of the Shares has not been registered under the Securities Act. Investor also understands that the Shares are being offered and sold pursuant to an exemption from registration contained in the Securities Act based in part upon Investor's representations contained in this **Section 3.5**. Investor hereby represents and warrants as follows:

(a) Investor has substantial experience in evaluating and investing in private placement transactions of securities in companies similar to the Company so that it is capable of evaluating the merits and risks of its investment in the Company and has the capacity to protect its own interests. Investor must bear the economic risk of this investment indefinitely unless the Shares are registered pursuant to the Securities Act, or an exemption from registration is available. Investor also understands that there is no assurance that any exemption from registration under the Securities Act will be available and that, even if available, such exemption may not allow Investor to transfer all or any portion of the Shares under the circumstances, in the amounts or at the times Investor might propose.

(b) Investor is acquiring the Shares for Investor's own account for investment only, and not with a view towards their distribution, without prejudice, however, to Investor's right to sell or otherwise dispose of all or any part of the Shares in compliance with applicable federal and state securities laws. Investor has no agreement or understanding, directly or indirectly, with any person or entity to distribute any of the Shares.

(c) Investor is an "accredited investor" within the meaning of Rule 501(a) of Regulation D promulgated under the Securities Act, as presently in effect. The Investor represents that it has not been organized for the purpose of acquiring the Shares.

(d) Investor has had an opportunity to discuss the Business, management and financial affairs with directors, officers and management of the Company and has had the opportunity to review the Company's operations and facilities. Investor has also had the opportunity to ask questions of and receive answers from, the Company and its management regarding the terms and conditions of this investment.

(e) Investor was not offered or sold the Shares, directly or indirectly, by means of any form of general solicitation or general advertisement, including the following: (i) any advertisement, article, notice or other communication published in any newspaper, magazine or similar medium or broadcast over television or radio or (ii) any seminar or other meeting whose attendees had been invited by general solicitation or general advertising.

(f) Investor understands that the Shares it is purchasing are characterized as "restricted securities" under the federal securities laws inasmuch as they are being acquired from the Company in a transaction not involving a public offering. It is understood that the certificates evidencing the Shares may bear the following legend or a substantially similar legend:

"THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR QUALIFIED UNDER APPLICABLE STATE SECURITIES LAWS. THE SHARES MAY NOT BE RESOLD, TRANSFERRED OR OTHERWISE DISPOSED OF UNLESS THE SHARES ARE REGISTERED UNDER SAID ACT AND QUALIFIED UNDER SUCH LAWS OR AN EXEMPTION FROM SUCH REGISTRATION AND QUALIFICATION IS AVAILABLE."

#### Article 4 PRE-CLOSING COVENANTS

4.1 Additional Agreements. Subject to the terms and conditions provided in this Agreement, each of the parties hereto agrees to use commercially reasonable efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary, proper or advisable to consummate and make effective as promptly as practicable the transactions contemplated hereunder, including vesting in the Investor good and valid title to the Shares free

and clear of any Encumbrances, and to cooperate with each of the other parties hereto in connection with the foregoing.

4.2 Schedules; Notification. Between the date hereof and the Closing Date, a party will notify the other parties in writing if a party becomes aware of any fact or condition that causes or constitutes a breach of any of the representations or warranties hereunder as of the date hereof, or if a party becomes aware of the occurrence after the date hereof of any fact or condition that would (except as expressly contemplated by this Agreement) cause or constitute a breach of any such representation or warranty had such representation or warranty been made as of the time of occurrence or discovery of such fact or condition. This Agreement is being executed without the Schedules (defined below) attached. As soon as possible after the date hereof, but in any event on or before October 31, 2012 ("Schedules Delivery Date"), Company shall deliver to Investor accurate and complete schedules that are satisfactory to Investor, all as referenced in this Agreement ("Schedules"). The disclosures and information in the Schedules shall be as of the Schedules Delivery Date. On or after the Schedules Delivery Date and through the Effective Time of Closing, the Company must promptly update and supplement the Schedules attached to this Agreement, as appropriate to reflect any and all changes to the matters set forth in the Schedules from the Schedules Delivery Date through the Closing Date (the "Updated Schedules"). During the same period, a party will promptly notify the other party of the occurrence of any breach of any agreement or covenant hereunder or of the occurrence of any event that may make the satisfaction of the conditions in **Article 5** impossible or unlikely.

4.3 Approvals of Third Parties. The Company will use its commercially reasonable efforts to secure as soon as practicable all necessary approvals and consents of third parties to the consummation of the transactions contemplated by this Agreement.

4.4 Filing of the Second Amended and Restated Articles. Immediately prior to the Effective Time of Closing, the Company shall adopt and file with the Secretary of State of the State of Washington the Second Amended and Restated Articles.

## **Article 5** **CONDITIONS TO CLOSING**

5.1 Conditions to Investor's Obligations. Investor's obligation to purchase the Shares and to take the other actions required to be taken by Investor at the Closing is subject to the satisfaction, at or prior to the Closing, of each of the following conditions (any of which may be waived in writing by Investor, in whole or in part, on or prior to the Closing Date):

(a) All of the Company's representations and warranties in this Agreement (i) that are qualified by materiality or Material Adverse Effect must have been true and correct in all respects as of the Closing Date as if made on the Closing Date, and (ii) that are not qualified by materiality or Material Adverse Effect, must have been true and correct in all material respects as of the Closing Date as if made on and as of the Closing Date.

(b) All of the terms, covenants and obligations that the Company is required to perform or to comply with pursuant to this Agreement at or prior to the Closing

(considered collectively), and each of such terms, covenants and obligations (considered individually), must have been duly performed and complied with by the Company in all material respects.

(c) The Second Amended and Restated Articles shall have been filed with the Secretary of State of the State of Washington and shall continue to be in full force and effect as of the Closing Date.

(d) The Stock Purchase Agreement and Asset Purchase Agreement shall continue to be in full force and effect as of the Closing Date and the closing conditions set forth in Section 5.1 of the Stock Purchase Agreement and Section 8.1 of the Asset Purchase Agreement shall have been satisfied.

(e) Each document required to be delivered pursuant to Section 1.4(a) must have been delivered.

(f) There shall not have occurred since the date hereof any change in the business or condition (financial or otherwise) of the Company that has had or is reasonably likely to have a Material Adverse Effect.

(g) Since the date hereof, there must not have been commenced or Threatened against the Investor or the Company, or against any Affiliate of the Investor, any proceeding (i) involving any challenge to, or seeking damages or other relief in connection with, any of the transactions contemplated hereunder, or (ii) that is reasonably likely to prevent, delay, make illegal, or otherwise interfere with any of the transactions contemplated hereunder.

(h) The Updated Schedules are satisfactory to the Investor in the Investor's sole and absolute discretion; provided that if no material changes are made to the Schedules after the Schedules Delivery Date, then this condition shall be deemed waived.

(i) There must not have been made or Threatened by any Person any claim asserting that such Person (i) is the holder or the beneficial owner of, or has the right to acquire or to obtain beneficial ownership of, any of the Shares, or (ii) is entitled to all or any portion of the Purchase Price payable for the Shares.

(j) Neither the consummation nor the performance of any of the transactions contemplated hereunder will, directly or indirectly (with or without notice or lapse of time, or both), contravene or conflict, in any material respect, with, or result in a material violation of, or cause the Investor or any Affiliate of the Investor to suffer any material adverse consequence under, any Applicable Law or Order.

5.2 Conditions to the Company's Obligations. The Company's obligation to sell the Shares and the Company's obligation to take the other actions required to be taken by the Company at the Closing is subject to the satisfaction, at or prior to the Closing, of each of the following conditions (any of which may be waived in writing by the Company, in whole or in part, on or prior to the Closing Date):

(a) All of the Investor's representations and warranties in this Agreement (i) that are qualified by materiality must have been true and correct in all respects as of the Closing Date as if made on the Closing Date, and (ii) that are not qualified by materiality, must have been true and correct in all material respects as of the Closing Date as if made on and as of the Closing Date.

(b) All of the terms, covenants and obligations that Investor is required to perform or to comply with pursuant to this Agreement at or prior to the Closing (considered collectively), and each of such terms, covenants and obligations (considered individually), must have been duly performed and complied with by Investors in all material respects.

(c) The Stock Purchase Agreement and Asset Purchase Agreement shall continue to be in full force and effect as of the Closing Date and the closing conditions set forth in Section 5.2 of the Stock Purchase Agreement and Section 8.2 of the Asset Purchase Agreement shall have been satisfied.

(d) Investor must have delivered each of the documents required to be delivered by the Investor pursuant to Section 1.4(b) and must have made the payment required to be made by Investor pursuant to Section 1.3.

(e) Since the date hereof, there must not have been commenced or Threatened against the Company, or against any Affiliate of the Company, any proceeding (i) involving any challenge to, or seeking damages or other relief in connection with, any of the transactions contemplated hereunder, or (ii) that is reasonably likely to prevent, delay, make illegal, or otherwise interfere with any of the transactions contemplated hereunder.

(f) There must not have been made or Threatened by any Person any claim asserting that such Person (i) is the holder or the beneficial owner of, or has the right to acquire or to obtain beneficial ownership of, any of the Shares, or (ii) is entitled to all or any portion of the Purchase Price payable for the Purchased Assets.

(g) Neither the consummation nor the performance of any of the transactions contemplated hereunder will, directly or indirectly (with or without notice or lapse of time, or both), contravene or conflict, in any material respect, with, or result in a material violation of, or cause the Company or any Affiliate of the Company to suffer any material adverse consequence under, any Applicable Law or Order.

## Article 6 TERMINATION

6.1 Termination Events. This Agreement may, by written notice given prior to or at the Closing, be terminated:

(a) by either the Investor or the Company if (i) a material breach of any provision of this Agreement has been committed by the other party (provided, that the party seeking to terminate this Agreement is not also in material breach of any provision

of this Agreement), (ii) such breach has not been waived, and (iii) the other party fails to cure such breach within ten (10) Business Days after written notice of such breach by the non-breaching party;

(b) (i) by the Investor if any condition in **Section 5.1** has not been satisfied as of the Closing Date or if satisfaction of such condition is or becomes impossible (other than through the failure of the Investor to comply with its obligations under this Agreement and so long as the Investor is not in material breach of any provision of this Agreement) and the Investor has not waived such condition on or before the Closing Date; or (ii) by the Company, if any condition in **Section 5.2** has not been satisfied as of the Closing Date or if satisfaction of such condition is or becomes impossible (other than through the failure of the Company to comply with its obligations under this Agreement and so long as the Company is not in material breach of any provision of this Agreement) and the Company has not waived such condition on or before the Closing Date;

(c) by mutual written consent of the Investor and the Company;

(d) by either the Investor or the Company if the Closing has not occurred (other than through the failure of any party seeking to terminate this Agreement to comply fully with its obligations under this Agreement) on or before January 1, 2013, or such later date as the parties may agree upon; provided that if the sole reason that the Closing has not occurred is that Regulatory Approval has not been obtained on or prior to such date, such date may unilaterally be extended by any Party for one (1) additional period of 90 days by a written notice to the other Parties; provided, further, that the right to terminate this Agreement under this **Section 6.1(d)** will not be available to any party whose failure to fulfill any obligation under this Agreement has been the cause of, or resulted in, the failure of the Closing to occur on or before such date;

(e) by either the Investor or the Company upon the termination of the Stock Purchase Agreement or the Asset Purchase Agreement; or

(f) by the Investor if the Schedules are not acceptable to the Investor by the Schedules Delivery Date.

**6.2 Effect of Termination.** Each party's right of termination under **Section 6.1** is in addition to any other rights it may have under this Agreement or otherwise, and the exercise of a right of termination will not be an election of remedies. If this Agreement is terminated pursuant to **Section 6.1**, this Agreement will become void and of no effect with no Liability on the part of any Party, except that the terms of **Article 9** will survive any termination; provided, however, that (i) if this Agreement is terminated by a party because of the breach of this Agreement by the other party or because one or more of the conditions to the terminating party's obligations under this Agreement is not satisfied as a result of the other party's failure to comply with its obligations under this Agreement, the terminating party's right to pursue all legal remedies will survive such termination unimpaired, and (ii) nothing herein will relieve any party from liability for fraud.

**Article 7**  
**COVENANTS OF THE COMPANY**

7.1 Rights of the Shares. In accordance with the Second Amended and Restated Articles and in accordance with the rules, regulations and procedures established by the Office of the Insurance Commissioner of the State of Washington: (a) the Purchase Price will be maintained by the Company as reserves in such manner as determined by the Investor and not used for working capital (the "Class R Reserves"), (b) at such times as determined by the Board of Directors of the Company and upon approval of the Office of the Insurance Commissioner of the State of Washington, the Company will pay directly all interest or investment income generated by the Class R Reserves to Investor except to the extent the same is required to maintain the Company's reserves in accordance with applicable legal requirements or any policy established by the Board of Directors of the Company, (c) any and all amounts to be paid to the Investor pursuant to **Section 7.1(b)** above shall be cumulative, (d) the Company will not withdraw the proceeds of the Purchase Price from the Class R Reserves until such time as the Company has withdrawn all other available funds from the Company's reserves, (e) during the seven (7) years following Closing, the Company will build its own needed reserves through operations, (f) no later than seven (7) years following the Closing Date, and unless otherwise consented to by the Investor and subject to the receipt of written approval by the Office of the Insurance Commissioner of the State of Washington, the Company must redeem each then-outstanding Share in an amount equal to the Purchase Price plus all amounts due and payable to the Investor pursuant to this **Section 7.1** and the Second Amended and Restated Articles, and (g) upon any liquidation, dissolution, or winding up of the Company, whether voluntary or involuntary, before any distribution or payment shall be made to the holders of the Common Shares, the Investor shall be entitled to be paid out of the assets of the Company legally available for distribution for each Share held by Investor, an amount equal to the Purchase Price plus all amounts due and payable pursuant to this **Section 7.1** and the Second Amended and Restated Articles.

7.2 Application of Proceeds. Without obtaining the prior written consent of the Investor, the Company shall not apply the cash proceeds from the issuance and sale of the Shares for any use other than other than for the Class R Reserves, as specified in this Agreement, or the disclosure documents provided to Investor, if any, in connection with the Investor's purchase of the Shares.

**Article 8**  
**INDEMNIFICATION**

8.1 Survival: Right to Indemnification Not Affected by Knowledge.

(a) Except as set forth in this **Section 8.1**, the representations and warranties contained in this Agreement and the other Transaction Documents will survive the Closing Date until the second (2nd) anniversary of the Closing Date and will thereupon expire together with the associated right to indemnification (except to the extent a written notice asserting a claim for Breach thereof is given to the Company, prior to such date); provided, however, that the representations and warranties contained in **Sections 2.1, 2.3,**

2.4, 2.6, 3.1 and 3.2 will survive the Closing Date until the applicable statute of limitations.

(b) The covenants and agreements contained in this Agreement and the other Transaction Documents and the transactions contemplated hereunder to be performed or complied with at or after the Closing Date (other than the covenant and agreement to indemnify against Breaches of representations and warranties, which shall expire as aforesaid) will survive without limitation as to time (except as provided in such covenant or agreement).

(c) As to any breach of the representations and warranties or any failure to perform or comply with any of the covenants and agreements contained herein or in any other Transaction Document that constitutes fraud on the part of the breaching or non-performing party or parties, such representations and warranties and such covenants and agreements will survive the Closing Date indefinitely.

(d) The right to indemnification, payment of Damages or other remedy based on such representations, warranties, covenants, and obligations will not be affected by any investigation conducted with respect to, or any Knowledge acquired (or capable of being acquired) at any time, whether before or after the execution and delivery of this Agreement or the Closing Date, with respect to the accuracy or inaccuracy of or compliance with, any such representation, warranty, covenant, or obligation. The waiver of any condition based on the accuracy of any representation or warranty, or on the performance of or compliance with any covenant or obligation, will not affect the right to indemnification, payment of Damages, or other remedy based on such representations, warranties, covenants, and obligations.

8.2 The Shareholders' Indemnity. Subject to the terms and conditions of this **Article 8**, the Shareholders shall, severally only, and not jointly and severally, defend, indemnify and hold harmless the Investor and its respective Representatives and Affiliates (collectively, the "Indemnified Persons") from and against, and will pay to the Indemnified Persons the amounts of, any and all Liabilities (including fines, assessments, penalties, reasonable attorney's fees and disbursements) or diminution of value, whether or not involving a third party claim (collectively, "Damages"), arising, directly or indirectly, from or in connection with:

(a) any breach of any representation or warranty made by the Company in this Agreement or any other Transaction Document; or

(b) any breach by the Company of any covenant or obligation of the Company in this Agreement or any other Transaction Document.

8.3 Investor's Indemnity. Subject to the terms and conditions of this **Article 8**, the Investor shall defend, indemnify and hold harmless the Company and the Shareholders from and against, and will pay to the Company the amount of, any Damages arising, directly or indirectly, from or in connection with (a) any breach of any representation or warranty made by the Investor

in this Agreement or any other Transaction Document, or (b) any breach by the Investor of any covenant or obligation of the Investor in this Agreement or any other Transaction Document.

#### 8.4 Limitations on Liability.

(a) Except with respect to fraud, intentional misrepresentation, and the indemnity described in Section 7.2(e) of the Stock Purchase Agreement, the Indemnified Persons shall not be entitled to indemnity under Article 8 of this Agreement, Article VII of the Stock Purchase Agreement and Article XI of the Asset Purchase Agreement, with respect to indemnification claims thereunder until the aggregate amount of all such indemnification claims exceeds Two Hundred Fifty Thousand Dollars (\$250,000) (the "Deductible"), and thereafter, the Indemnified Persons shall be entitled to indemnity for the amount of indemnification claims in excess of the Deductible.

(b) Except with respect to fraud or intentional misrepresentation, the Shareholders shall not be entitled to indemnity under Article 8 of this Agreement, Article VII of the Stock Purchase Agreement and Article XI of the Asset Purchase Agreement with respect to indemnification claims thereunder until the aggregate amount of all such indemnification claims exceeds the Deductible, and thereafter, the Shareholders shall be entitled to indemnity for the amount of indemnification claims in excess of the Deductible.

(c) Except with respect to fraud, intentional misrepresentation and the indemnity described in Section 7.2(e) of the Stock Purchase Agreement, in no event shall the Shareholders' aggregate liability arising out of or relating to indemnity under Article 8 of this Agreement, Article VII of the Stock Purchase Agreement and Article XI of the Asset Purchase Agreement in the aggregate, exceed Two Million Dollars (\$2,000,000) the ("Indemnification Cap"). Except for fraud, intentional misrepresentation and the indemnity described in Section 7.2(e) of the Stock Purchase Agreement, the maximum liability of (i) NPN arising out of Article 8 of this Agreement, Article VII of the Stock Purchase Agreement and Article XI of the Asset Purchase Agreement shall equal Seven Hundred Seventeen Thousand Five Hundred Dollars (\$717,500), and (ii) PSW arising out of Article 8 of this Agreement, Article VII of the Stock Purchase Agreement and Article XI of the Asset Purchase Agreement shall equal One Million One Thirty-Two Thousand Five Hundred Dollars (\$1,032,500).

(d) Except with respect to fraud or intentional misrepresentation, in no event shall the Investor's aggregate liability arising out of or relating to indemnity under Article 8 of this Agreement, Article VII of the Stock Purchase Agreement and Article XI of the Asset Purchase Agreement in the aggregate, exceed the Indemnification Cap.

(e) If an event, matter or circumstance ("Event") occurs that results in a claim for indemnity under this Agreement, then an Indemnified Party (as defined below) shall not be precluded and shall be entitled to make different claims under the Stock Purchase Agreement and the Asset Purchase Agreement for indemnification despite all such claims arising from or resulting from the same Event.

8.5 Conditions of Indemnification. The respective obligations and liabilities of the Company and the Investor (the "Indemnifying Party") to the other (the "Indemnified Party") under Sections 8.3 and 8.4 hereof with respect to claims resulting from the assertion of liability by parties other than those parties to this Agreement (a "Third Party") shall be asserted and resolved as follows:

(a) If any claim or demand for which an Indemnifying Party would be liable for Damages to an Indemnified Party is asserted against or sought to be collected from the Indemnified Party by a Third Party (a "Third Party Claim"), the Indemnified Party shall deliver a Claim Notice (as defined in Section 8.5(g)) with reasonable promptness to the Indemnifying Party. If the Indemnified Party fails to deliver the Claim Notice to the Indemnifying Party within ten (10) days (or such earlier time as might be required to avoid prejudicing the Indemnifying Party's position) after the Indemnified Party receives written notice of such Third Party Claim, the Indemnifying Party will not be obligated to indemnify the Indemnified Party with respect to such Third Party Claim if and only to the extent that the Indemnifying Party's ability to defend the Third Party Claim has been irreparably prejudiced by such failure. The Indemnifying Party will notify the Indemnified Party within ten (10) days after receipt of the Claim Notice (the "Notice Period") whether the Indemnifying Party intends, at the sole cost and expense of the Indemnifying Party, to defend the Indemnified Party against the Third Party Claim.

(b) If the Indemnifying Party notifies the Indemnified Party within the Notice Period that the Indemnifying Party will defend the Indemnified Party against the Third Party Claim, then the Indemnifying Party will have the right to defend, at its sole cost and expense, the Third Party Claim by all appropriate proceedings, which proceedings will be diligently prosecuted by the Indemnifying Party to a final conclusion or settled at the discretion of the Indemnifying Party upon the written consent of the Indemnified Party, which consent will not be unreasonably withheld; provided the Indemnified Party is to be fully indemnified. The Indemnifying Party will have full control of such defense and proceedings; provided that the Indemnified Party may file during the Notice Period, at the sole cost and expense of the Indemnified Party, any motion, answer or other pleading that the Indemnified Party may deem necessary or appropriate to protect its interests and not be irrevocably prejudicial to the Indemnifying Party; and provided further that, if requested by the Indemnifying Party, the Indemnified Party shall cooperate, at the sole cost and expense of the Indemnifying Party, with the Indemnifying Party and its counsel in developing the strategy and providing assistance in dealing with the Third Party Claim. In the event a compromise or settlement of the Third Party Claim requires more than a monetary payment and the execution of a full and complete release of all claims, such compromise or settlement must have the written consent of the Indemnified Party, which consent can be withheld in the sole discretion of the Indemnified Party. The Indemnified Party may participate in, but not control, any defense or settlement of any Third Party Claim assumed by the Indemnifying Party pursuant to this Section 8.5(b) and, except as provided in the preceding sentence, the Indemnified Party will bear its own costs and expenses with respect to such participation.

(c) If the Indemnifying Party fails to notify the Indemnified Party within the Notice Period that the Indemnifying Party intends to defend the Indemnified Party against

the Third Party Claim, or if the Indemnifying Party gives such notice but fails diligently to prosecute or settle the Third Party Claim, or if the Indemnifying Party gives notice that it will not defend within the Notice Period, then the Indemnified Party will have the right (but not the obligation) to defend, at the sole cost and expense of the Indemnifying Party, the Third Party Claim by all appropriate proceedings, which proceedings will be prosecuted diligently by the Indemnified Party to a final conclusion or settled at the discretion of the Indemnified Party. The Indemnified Party will have full control of such defense and proceedings, including any compromise or settlement thereof; provided that, if requested by the Indemnified Party, the Indemnifying Party shall cooperate, at the sole cost and expense of the Indemnifying Party, with the Indemnified Party and its counsel in developing the strategy and providing assistance in dealing with the Third Party Claim. In the event a compromise or settlement of the Third Party Claim requires more than a monetary payment and the execution of a full and complete release of all claims, such compromise or settlement must have the written consent of the Indemnifying Party, which consent can be withheld in the sole discretion of the Indemnifying Party.

(d) Notwithstanding the foregoing provisions of **Section 8.5(c)**, if the Indemnifying Party notifies the Indemnified Party within the Notice Period that the Indemnifying Party disputes its obligation to indemnify the Indemnified Party against the Third Party Claim, and upon the resolution of such dispute pursuant to an order of a court of competent jurisdiction, the Indemnifying Party will either, in accordance with such court order: (i) be required to bear the costs and expenses of the Indemnified Party's defense pursuant to **Section 8.5(c)**; or (ii) the Indemnifying Party will not be required to indemnify the Indemnified Party. In the event of any appeal of the order of the court, the appealing party shall be required to comply with its duties to indemnify in this **Section 8.5** pending a final and nonappealable decision by any appellate court. The Indemnifying Party may participate in, but not control, any defense or settlement controlled by the Indemnified Party pursuant to **Section 8.5(c)** but the Indemnifying Party will bear its own costs and expenses with respect thereto if such participation is not at the request of the Indemnified Party.

(e) In the event any Indemnified Party should have a claim against any Indemnifying Party hereunder that is not a Third Party Claim, the Indemnified Party shall deliver an Indemnity Notice (as defined in **Section 8.5(h)**) with reasonable promptness to the Indemnifying Party. The failure by any Indemnified Party to give timely notice referred to in the preceding sentence shall not impair the Indemnified Party's rights hereunder except to the extent that an Indemnifying Party demonstrates that it has been irreparably prejudiced thereby. If the Indemnifying Party fails to notify the Indemnified Party within twenty (20) days following its receipt of the Indemnity Notice that the Indemnifying Party disputes its obligation to indemnify the Indemnified Party hereunder, the claim will be conclusively deemed a liability of the Indemnifying Party hereunder.

(f) If the Indemnifying Party timely disputes its liability with respect to a claim described in a Claim Notice or an Indemnity Notice, the Indemnifying Party and the Indemnified Party shall proceed promptly and in good faith to negotiate a resolution of such dispute within thirty (30) days following receipt by the Indemnifying Party of a Claim Notice or an Indemnity Notice. At the end of such thirty (30) day period, and

absent a mutual resolution, the Indemnifying Party and the Indemnified Party shall be able to exercise all available legal rights and remedies.

(g) The term "Claim Notice" means written notification of a Third Party Claim by an Indemnified Party to an Indemnifying Party under **Article 8**, enclosing a copy of all papers served, if any, and specifying the nature of and alleged basis for the Third Party Claim and, to the extent then feasible, the estimated amount of the Third Party Claim.

(h) The term "Indemnity Notice" means written notification of a claim for indemnity under **Article 8** hereof other than a Third Party Claim by an Indemnified Party to an Indemnifying Party pursuant to **Article 8** hereof, specifying the nature of and specific basis for the claim and, to the extent then feasible, the estimated amount of the claim.

(i) Any estimated amount of a claim submitted in a Claim Notice or an Indemnity Notice shall not be conclusive of the final amount of such claim. The giving of a Claim Notice when an Indemnity Notice is due, or the giving of an Indemnity Notice when a Claim Notice is due, shall not impair such Indemnified Party's rights hereunder except to the extent that an Indemnifying Party demonstrates that it has been irreparably prejudiced thereby. Notice of any claim comprised in part of Third Party Claims and Indemnity Claims may be given pursuant to either **Section 8.5(a)** or **(b)**.

**8.6 Additional Indemnification Provisions.** With respect to each indemnification obligation in this Agreement, all Damages shall be net of any third-party insurance proceeds which either have been recovered by, or are recoverable by, the indemnified party in connection with the facts giving rise to the right of indemnification. In any case where an indemnified party recovers from a third Person any amount in respect of a matter for which an indemnifying party has indemnified it pursuant to this **Article 8**, such indemnified party shall promptly pay over to the indemnifying party the amount so recovered (after deducting therefrom the amount of expenses incurred by the indemnified party in procuring such recovery and any increased costs of such insurance maintained by the indemnified party as a result of the payment of such proceeds for the one (1) year period following such payment), but not in excess of the sum of (a) any amount previously paid by the indemnifying party to or on behalf of the indemnified party in respect of such claim and (b) any amount expended by the indemnifying party in pursuing or defending any claim arising out of such matter.

## Article 9 GENERAL PROVISIONS

**9.1 Amendment.** No provision of this Agreement may be amended, modified, supplemented or waived except by an instrument in writing executed by all of the parties hereto.

**9.2 Entire Agreement.** This Agreement, together with the Schedules and Exhibits, constitute the entire understanding and agreement of the parties and supersede all prior agreements and understandings, written and oral, among the parties with respect to the subject matter hereof.

9.3 Interpretation. When a reference is made in this Agreement to a Section, Exhibit or Schedule, such reference shall be to a Section of or Exhibit or Schedule to this Agreement unless otherwise indicated. The table of contents and headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. Whenever the words "include," "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation." Whenever the context may require, any pronouns used in this Agreement shall include the corresponding masculine, feminine or neuter forms and the singular form of nouns and pronouns shall include the plural and vice versa.

9.4 Severability. Any term or provision of this Agreement which is invalid or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties agree that the court making such determination will have the power to limit the term or provision, to delete specific words or phrases, or to replace any invalid or unenforceable term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision, and this Agreement will be enforceable as so modified so long as the economic or legal substance of the transactions contemplated hereunder are not affected in any manner materially adverse to any party. In the event such court does not exercise the power granted to it in the prior sentence, the parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereunder be consummated as originally contemplated to the fullest extent possible.

9.5 Notices. All notices and other communications hereunder shall be in writing and shall be deemed given if (a) delivered in person, (b) transmitted by telecopy or facsimile (in either case, with confirmation), (c) mailed by certified or registered mail (return receipt requested and obtained) or (d) delivered by an express courier (with confirmation) to the parties at the addresses (or at such other address for a party as shall be specified by like notice) set forth in **Schedule 9.5** hereto. Any party may, by notice given in accordance with this **Section 9.5** to the other party, designate another address or Person for receipt of notices hereunder provided that notice of such a change shall be effective upon receipt.

9.6 Binding Effect; Persons Benefiting; No Assignment. This Agreement shall inure to the benefit of and be binding upon the parties hereto and the respective successors and permitted assigns of the parties. Except as set forth in the preceding sentence, nothing in this Agreement is intended or shall be construed to confer upon any Person other than the parties hereto and their successors and permitted assigns any right, remedy or claim under or by reason of this Agreement or any part hereof. Without the prior written consent of each of the other parties hereto, this Agreement and the rights hereunder may not be assigned by any of the parties hereto; provided that the Investor may assign this Agreement and any of the rights, interests or obligations of the Investor hereunder to any of its Affiliates without obtaining such prior written consent so long as the Investor remains jointly and severally liable for all obligations hereunder.

9.7 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same agreement, it being understood that all of the parties need not sign the same counterpart. Delivery of an executed counterpart by facsimile or other means of electronic transmission will be as effective as delivery of a manually executed counterpart.

9.8 Governing Law. THIS AGREEMENT, THE LEGAL RELATIONS BETWEEN THE PARTIES AND THE ADJUDICATION AND THE ENFORCEMENT THEREOF, SHALL BE GOVERNED BY AND INTERPRETED AND CONSTRUED IN ACCORDANCE WITH THE SUBSTANTIVE LAWS OF THE STATE OF WASHINGTON, WITHOUT REGARD TO THE PRINCIPLES OF CONFLICTS OF LAW THEREOF.

9.9 Dispute Resolution.

(a) If a dispute arises between the parties relating to this Agreement that cannot be resolved informally, each Party involved in such dispute (each, a "Disputing Party" and, collectively, the "Disputing Parties") agrees to comply with the procedures set forth in this **Section 9.9** ("Dispute Resolution Procedures"). The Dispute Resolution Procedures will be invoked by a Party, before such Party pursues any other available remedy, by such party giving written notice to the other party or parties, as applicable. Following receipt of such notice, the Disputing Parties shall, for a period of thirty (30) days after the dispute first arises, attempt in good faith to negotiate a resolution of the dispute (the "Initial Negotiation"). The Initial Negotiation will include no less than two (2) in-person meetings among authorized representatives of the Disputing Parties, whom shall have authority from the respective boards of directors of the Disputing Parties to settle the matter. If the dispute is not resolved during the Initial Negotiation, the Disputing Parties shall, for an additional period of thirty (30) days after the end of the Initial Negotiation period, continue to attempt in good faith to negotiate a resolution of the dispute (the "Extended Negotiation"). The Extended Negotiation will include no less than two (2) in-person meetings between the President and Chief Executive Officer of the Disputing Parties, all of whom shall have authority from the respective boards of directors of the Disputing Parties to settle the matter.

(b) The Disputing Parties will appoint a mediator mutually acceptable to the Disputing Parties to participate in any Extended Negotiation, seeking assistance in such regard from the American Arbitration Association's AAA Mediation Services if they are unable to agree upon such appointment within ten (10) days after the dispute first arises. The place of the Initial Negotiation and any Extended Negotiation shall be in Seattle, Washington, or such other place as may be mutually agreed to by the Disputing Parties. The mediator may meet or communicate with the Disputing Parties together or with each of them separately. If the Extended Negotiation is not successful in resolving the dispute within the thirty (30) day Extended Negotiation period, the mediator shall declare an impasse between the Disputing Parties by notifying each Disputing Party promptly after the expiration of such thirty (30) day period. Each Disputing Party shall pay its own attorneys' and expert witness fees and costs associated therewith, and the costs of the mediator shall be split equally among the Disputing Parties. All offers, promises, conduct and statements, whether oral or written, made in the course of the mediation by

any of the Disputing Parties or their representatives, and by the mediator, are confidential, privileged and inadmissible for any purpose, including impeachment, in any legal proceeding involving the Disputing Parties.

(c) If the parties cannot reach agreement pursuant to Sections 9.9(a) and (b), then the parties may proceed with such remedies as they may be entitled and deem appropriate in accordance with this Agreement. The parties agree that notice as provided herein shall constitute sufficient service of process and the parties further waive any argument that such service is insufficient. EACH PARTY HEREBY WAIVES THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT, ANY OF THE AGREEMENTS CONTEMPLATED HEREBY OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREIN OR THEREIN, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, COUNTERCLAIMS AND ALL OTHER COMMON LAW OR STATUTORY CLAIMS. EACH PARTY RECOGNIZES AND AGREES THAT THE FOREGOING WAIVER CONSTITUTES A MATERIAL INDUCEMENT FOR IT TO ENTER INTO THIS AGREEMENT. EACH PARTY REPRESENTS AND WARRANTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL.

9.10 Further Assurances. The parties agree (a) to furnish upon request to each other such further information, (b) to execute and deliver to each other such other documents, and (c) to do such other acts and things, all as the other party may reasonably request for the purpose of carrying out the intent of this Agreement and the documents referred to in this Agreement.

9.11 Waiver. The rights and remedies of the parties to this Agreement are cumulative and not alternative. Neither the failure nor any delay by any party in exercising any right, power, or privilege under this Agreement or the documents referred to in this Agreement will operate as a waiver of such right, power, or privilege, and no single or partial exercise of any such right, power, or privilege will preclude any other or further exercise of such right, power, or privilege or the exercise of any other right, power, or privilege. No waiver of any term or provision of this Agreement will be effective unless set forth in a writing signed by the waiving party.

*[SIGNATURE PAGE FOLLOWS]*

IN WITNESS WHEREOF, the parties hereto have executed this Class R Preferred Stock Purchase Agreement as of the date first written above.

**SOUNDPATH HEALTH, INC.**

By: *Christine M. Tomcala*  
Name: Christine M. Tomcala  
Title: CEO

**COLLABHEALTH PLAN SERVICES, INC.**

By: *Mark Bjorason*  
Name: Mark Bjorason  
Title: CEO

**NORTHWEST PHYSICIANS NETWORK OF WASHINGTON, LLC**

By: *Patricia Rigg*  
Name: Patricia Rigg  
Title: CEO

**PHYSICIANS OF SOUTHWEST WASHINGTON, L.L.C.**

By: *Marcella Cummins*  
Name: MARIELLA CUMMINGS  
Title: CEO