

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

-----X	:	
	:	Chapter 11
<i>In re</i>	:	
	:	Case No. 09-13931 (KJC)
ADVANTA CORP., <i>et al.</i> ,	:	
	:	(Jointly Administered)
Debtors. <sup>1</sup>	:	
-----X	:	Hearing (Proposed): May 10, 2010 at 1:30 p.m.
	:	Obj. Deadline (Proposed): May 3, 2010 at 4:00 p.m.

**MOTION FOR AUTHORITY TO SELL STOCK OF ADVANTA LIFE INSURANCE  
COMPANY FREE AND CLEAR OF LIENS, CLAIMS, AND ENCUMBRANCES**

Advanta Corp. (“*Advanta*”) and its affiliated debtors in the above-referenced chapter 11 cases, as debtors and debtors in possession (together with Advanta, the “*Debtors*”), respectfully represents:

**Relief Requested**

1. By this motion (the “*Motion*”), Advanta seeks entry of an order substantially in the form annexed hereto as *Exhibit A* (i) authorizing pursuant to section 363 of the Bankruptcy Code, the sale (the “*Sale*”) of all of the issued and outstanding shares of common stock in Advanta Life Insurance Company (“*ALIC*”) to Prosperity Life Insurance Corp.

<sup>1</sup> The Debtors in these jointly administered chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are Advanta Corp. (2070), Advanta Investment Corp. (5627), Advanta Business Services Holding Corp. (4047), Advanta Business Services Corp. (3786), Advanta Shared Services Corp. (7074), Advanta Service Corp. (5625), Advanta Advertising Inc. (0186), Advantennis Corp. (2355), Advanta Mortgage Holding Company (5221), Advanta Auto Finance Corporation (6077), Advanta Mortgage Corp. USA (2654), Advanta Finance Corp. (8991), Advanta Ventures Inc. (5127), BizEquity Corp. (8960), Ideablob Corp. (0726), Advanta Credit Card Receivables Corp. (7955), Great Expectations International Inc. (0440), Great Expectations Franchise Corp. (3326), and Great Expectations Management Corp. (3328). Information regarding the Debtors’ businesses and the background relating to events leading up to these chapter 11 cases can be found in (i) the Declaration of William A. Rosoff in Support of the Debtors’ Chapter 11 Petitions and First-Day Motions, filed on November 8, 2009 (the “*Rosoff Declaration*”), the date the majority of Debtors filed their petitions under chapter 11 of title 11 of the United States Code (the “*Bankruptcy Code*”), and (ii) that certain supplement thereto, filed on November 20, 2009, the date Advanta Ventures Inc., BizEquity Corp., Ideablob Corp. and Advanta Credit Card Receivables Corp. filed their chapter 11 cases. The Debtors are authorized to continue to operate their businesses and manage their properties as debtors and debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. Further, in accordance with an order of this Court, the Debtors’ cases are being jointly administered pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “*Bankruptcy Rules*”).

(“*Buyer*”), an affiliate of Black Diamond Capital Partners I L.P. (“*Black Diamond*”), or to such other party, if any, that submits the highest or best offer therefor (the “*Alternate Buyer*”), free and clear of all liens, claims, security interests and encumbrances; (ii) authorizing entry of Advanta into that certain Stock Purchase and Sale Agreement with Buyer in substantially the form annexed hereto as *Exhibit B* (the “*SPA*”); and (iii) granting Buyer or any Alternate Buyer the protections afforded a good faith purchaser by section 363(m) of the Bankruptcy Code.

2. Advanta also seeks permission to reimburse Buyer for its actual out-of-pocket fees, costs, and expenses incurred in connection with the negotiation, drafting, execution and delivery of the SPA, including the fees, costs, and expenses of Buyer’s legal counsel and advisors, as reflected on invoices provided by Buyer to Advanta, if Buyer is outbid by an Alternative Buyer and Advanta does not sell the ALIC Shares to Buyer (the “*Termination Fee*”). (See SPA § 7.2(b)).

3. In addition, to realize the sale in a more expeditious manner, Advanta requests that any order approving the sale be effective immediately, and the Court waive any stay pursuant to Bankruptcy Rules 6004 and 6006 (as applicable).

#### **Sale of Stock in Advanta Life Insurance Company**

4. Advanta indirectly owns all of the issued and outstanding shares of common stock in ALIC, a non-debtor subsidiary.<sup>2</sup> ALIC is a life and health insurance company domiciled in Arizona. ALIC possesses authority to issue life and health insurance in 29 states and the District of Columbia (the “*Licenses*”). As of the date of this Motion, ALIC maintains

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<sup>2</sup> Advanta Insurance Company (“*AIC*”), a non-debtor subsidiary, is the record and beneficial owner of 100% of the common stock, par value \$1.00 per share, of ALIC. Advanta, in turn, owns 100% of the outstanding common stock of AIC. The SPA contemplates that, prior to consummation of the Sale, AIC will transfer the Shares to Advanta, and Advanta will sell the Shares to Buyer. The SPA provides at § 5.22 that all references to AIC as the seller of the Shares shall refer to Advanta once this transfer has been executed.

capital and surplus of \$4,182,083, which exceeds the minimum threshold of \$3,000,000 required to conduct its life and health insurance business. ALIC has no ongoing business and no plans to develop new business.

5. The annual cost to the Debtors' estates of maintaining the Licenses is approximately \$130,000, comprised of \$70,000 in licensing fees and taxes, \$30,000 in professional fees, and \$30,000 in employee costs incurred on a yearly basis. The majority of regulatory and tax filings take place before March 1 of each year, with more than half of these costs borne at that time.

6. Advanta has actively considered both the Sale as well as the dissolution of ALIC (an "*ALIC Liquidation*") as viable alternatives to maximize a return to its estate. For Advanta to pursue an ALIC Liquidation, however, all remaining risk from legacy ALIC business must be transferred to third parties either through recapture agreements or reinsurance contracts. Once the risk transfer process is complete, regulatory approval would then be sought to dissolve ALIC, and the proceeds (net of the cost of dissolution) would belong to AIC, which could then pay a dividend to Advanta representing these proceeds. Advanta has estimated that the cost of an ALIC Liquidation, including legal and professional fees, is approximately \$20,000.

7. As an alternative to an ALIC Liquidation, Advanta has been actively marketing ALIC for the past year, employing the services of Prisco Consulting, Inc. ("*Prisco*"), a professional consulting firm that has been engaged in the sale of shell properties since 1996. As part of Prisco's work in assisting Advanta to find potential buyers for ALIC, Prisco has utilized a proprietary database that includes nearly every US insurance company, approximately 75 private equity firms with an interest in acquiring insurance operations and shell platforms, wholesalers with an interest in acquiring shell platforms, approximately 250 of the largest surety producers,

the largest and most prominent insurance, regulatory and insurance transaction law firms, investment banks with insurance practices, several hundred reinsurance brokers, actuarial consultants and other brokers.

8. In July 2009, Advanta received an offer for ALIC that consisted of a bid of approximately \$35,000 per License (or approximately \$1,000,000 in total for the Licenses) plus the fair market value of certain of ALIC's assets, less certain adjustments described further below, from a prospective buyer, Black Diamond (the "***Black Diamond Offer***"), obtained through Black Diamond's finder, The Shapiro Network, Inc. ("***Shapiro***"). On July 7, 2009, Advanta and Black Diamond entered into an exclusive dealing agreement, which, after being extended a number of times, was allowed to lapse on December 16, 2009 to allow Advanta to further utilize Prisco's services to establish whether a higher bid could be found for ALIC. Since that date, Advanta has continued to work with Prisco to find further potential buyers for ALIC, but has been unable to obtain a superior offer to the Black Diamond Offer.<sup>3</sup> As a result, Advanta concluded that it is in the best interest of its estates to pursue the Black Diamond Offer as an alternative to the ALIC Liquidation. Advanta and Black Diamond have since negotiated the SPA, the terms of which are described in further detail below.

9. The salient terms of the SPA, a copy of which is annexed hereto as ***Exhibit B***, are as follows:<sup>4</sup>

- **Sale and Purchase of Shares:** Buyer has agreed to purchase all of the issued and outstanding shares of capital stock of ALIC (the "***Shares***") from Advanta.

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<sup>3</sup> Although Prisco has been assisting Advanta to find buyers for ALIC, Prisco is not claiming a finder's fee for the Sale.

<sup>4</sup> This summary is qualified in its entirety by reference to the provisions of the SPA. Unless otherwise defined herein, capitalized terms have the meanings ascribed to such terms in the SPA.

- **Payment of Purchase Price:** The purchase price (the “*Purchase Price*”) consists of (i) \$1,032,500, the amount representing the purchase of individual Insurance Permits and reinsurance only certificates for the State of Montana; (ii) the fair market value of the Closing Assets subject to a cap; and (iii) a prorated portion of any fees and expenses and taxes paid with respect to certain Insurance Permits; less certain outstanding liabilities of ALIC. Buyer will pay the Purchase Price in full by wire transfer of immediately available funds at Closing.
- **Adjustment of Purchase Price:** In the event that ALIC is not eligible to issue insurance policies in any jurisdiction currently provided for under the Insurance Permits listed in the SPA, on the Closing Date, then the Purchase Price shall be adjusted in accordance with the SPA to reflect such ineligibility.
- **Conditions Precedent to Obligations:** Buyer’s obligations to purchase the Shares and to take the other actions contemplated at Closing by the SPA are conditioned on, among other things: (i) the entry by the Court of the proposed Order; (ii) no material adverse change in the business operations, assets, or financial position of ALIC since the date of the SPA; (iii) no pending or threatened Action against Buyer, Advanta or ALIC seeking to restrain, prohibit or otherwise challenge the transactions contemplated by the SPA and related documents; (iv) evidence having been tendered to Buyer of the resignation of the directors, officers, and employees of ALIC (effective as of the date of Closing, and subject only to Closing); and (v) ALIC having obtained the approval of the insurance departments of Arizona, Arkansas, Georgia, Nevada, New Mexico and South Carolina to reduce the amount of the Company’s special deposits to no more than 105% of the minimum deposit required by applicable law and such excess special deposits shall have been released to ALIC.
- **No Encumbrances:** Subject to this Court’s approval of the SPA, the sale of ALIC to Buyer will be free and clear of any and all claims, liens, encumbrances, judgments, and security interests.
- **Competing Transactions:** Pursuant to the SPA, and until termination of the SPA, Advanta has covenanted not to, and has agreed to use Commercially Reasonable Efforts to cause ALIC not to, directly or indirectly, make, solicit, initiate or encourage the submission of proposals or offers from any person relating to a competing transaction. Until the termination of the SPA, Advanta has covenanted not to, and has agreed to use Commercially Reasonable Efforts to cause ALIC not to, directly or indirectly, participate in any negotiations regarding, furnish to any other person an information with respect to, or otherwise cooperate, assist or participate in any effort or attempt by any third party to propose or effect a Competing Transaction; provided that this covenant shall not apply to any person who makes a Superior Company Proposal unless Advanta or ALIC or any of their respective officers, directors, agents, employees, or Representatives made, solicited, initiated or encouraged the submission of such Superior Company Proposal in violation of the SPA.

- **Indemnification:** The SPA contains mutual indemnities between Advanta and Buyer, including tax indemnities to the Buyer from Advanta and ALIC, for all losses, damages, expenses liabilities, claims, Taxes, assessments and judgments incurred or suffered or arising out of a breach of Advanta’s representations and warranties in the SPA; a breach of Advanta’s tax covenants in the SPA; and certain liability for Taxes of the Company. The SPA provides for Buyer to indemnify and hold harmless each Advanta indemnitee from and against any Tax Losses incurred or suffered by such Persons arising out of a breach of Buyer’s covenants pertaining to Taxes, and any liability for Taxes of the Company for or with respect to any Post Closing Tax Period.
- **Termination:** The SPA may be terminated (i) by mutual written consent of the Buyer and Advanta; (ii) by Advanta upon any Default of Buyer not waived by Advanta in writing; (iii) by Buyer upon any Default of Advanta not waived by Buyer in writing; (iv) by either party if the satisfaction of certain conditions in the SPA have not been met or become impossible to meet on or before the 120<sup>th</sup> day following the date of the SPA; and (v) by Advanta if it receives a Superior Company Proposal that its board determines it must accept pursuant to its fiduciary duties and applicable Law.
- **Termination Fee:** Should Advanta receive a Superior Company Proposal and accept it, then upon termination of the SPA, Advanta shall pay Buyer a termination fee in an amount equal to any and all out-of-pocket fees, costs and expenses incurred by Buyer in connection with the negotiation, drafting, execution and delivery of the SPA, including the fees, costs and expenses of Buyer’s advisors and legal counsel, as reflected on invoices provided by Buyer to Advanta, by wire transfer of immediately available funds no more than three (3) Business Days after the later of the date of such termination and the date on which Buyer provides Advanta with wire transfer instructions and such invoices.

**The Relief Requested is Warranted and in the  
Best Interests of Advanta and its Estate**

**A. Good Business Reasons Support Advanta’s Decision to Sell ALIC**

10. Section 363(b)(1) provides, in relevant part, that “[t]he trustee, after notice and a hearing, may use, sell or lease, other than in the ordinary course of business, property of the estate.” The use, sale, or lease of property of the estate, other than in the ordinary course of business, is authorized when there is a “good business reason” that justifies such action. *See, e.g., Myers v. Martin (In re Martin)*, 91 F.3d 389, 395 (3d Cir. 1996) (citing *Fulton State Bank v. Schipper (In re Schipper)*, 933 F.2d 513, 515 (7th Cir. 1991)); *In re Abbotts Dairies of Penn.*,

*Inc.*, 788 F.2d 143 (3d Cir. 1986) (implicitly adopting the “sound business judgment” test of *Lionel Corp.* and requiring good faith); *In re Lionel Corp.*, 722 F.2d 1063, 1070 (2d Cir. 1983) (“The rule we adopt requires that a judge determining a § 363(b) application expressly find from the evidence presented before him at the hearing a good business reason to grant such an application.”); *In re Del. & Hudson Ry. Co.*, 124 B.R. 169, 178 (D. Del. 1991) (affirming decision permitting debtor to sell assets where sound business reasons supported the sale); *In re Allegheny Int’l*, 117 B.R. 171 (W.D. Pa. 1990) (affirming bankruptcy court order allowing debtor to enter into financing arrangement because debtor provided good business reason for use of estate property pursuant to section 363(b)).

11. Good business reasons support Advanta’s decision to sell ALIC. As discussed above, absent a Sale or ALIC Liquidation, the value of ALIC may decline as a result of yearly license fees and taxes, professional fees and employee costs incurred to maintain ALIC’s business. Advanta estimates the net benefit to its estate of consummating the Sale as opposed to the ALIC Liquidation to be approximately \$1,000,000. The Black Diamond Offer, or any Competing Transaction consummated, will therefore realize a greater return to Advanta’s estate than an ALIC Liquidation, affording the Debtors additional liquidity during their chapter 11 cases and providing for a greater recovery to creditors.

12. Accordingly, Advanta has determined in its sound business judgment that the sale of ALIC pursuant to the SPA and on the terms proposed in this Motion is in the best interests of Advanta, its estate, and its creditors.

**B. Sale of Shares of ALIC Free and Clear of Liens, Claims, and Encumbrances is Appropriate**

13. Advanta further submits that it is appropriate that the Shares be sold free and clear of liens, claims and encumbrances pursuant to section 363(f) of the Bankruptcy Code,

with any such liens, claims, encumbrances, or interests to attach to the sale proceeds thereof.

Section 363(f) of the Bankruptcy Code provides:

The trustee may sell property under subsection (b) or (c) of this section free and clear of any interest in such property of an entity other than the estate, only if—

- (1) applicable nonbankruptcy law permits sale of such property free and clear of such interest;
- (2) such entity consents;
- (3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;
- (4) such interest is in bona fide dispute; or
- (5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

11 U.S.C. § 363(f). Because section 363(f) is stated in the disjunctive, when selling property of the estate it is only necessary to meet one of the five conditions of that section. 11 U.S.C. § 363(f). See *In re Kellstrom Indus. Inc.*, 282 B.R. 787, 793 (Bankr. D. Del. 2002) (“Section 363(f) is written in the disjunctive, not the conjunctive. Therefore, if any of the five conditions is met, the debtor has the authority to conduct the sale free and clear of all liens.” citing *Citicorp Homeowners Servs., Inc. v. Elliot (In re Elliot)*, 94 B.R. 343, 345 (E.D. Pa. 1988)).

14. Advanta does not believe that any entity has a lien on the Shares.

Nonetheless, with respect to any party asserting a lien, claim encumbrance, or other interest against the Shares, Advanta anticipates that it will be able to satisfy one or more of the conditions set forth in section 363(f). Thus, the sale of the Shares free and clear of liens, claims, encumbrances, and other interests will satisfy the statutory prerequisites of section 363(f) of the Bankruptcy Code.



### C. Protections as a Good Faith Buyer

15. Section 363(m) of the Bankruptcy Code protects a good-faith purchaser's interest in property purchased from the debtor notwithstanding that the sale conducted under section 363(b) is later reversed or modified on appeal. Specifically, section 363(m) states that:

The reversal or modification on appeal of an authorization under [section 363(b)] ... does not affect the validity of a sale ... to an entity that purchased ... such property in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale ... were stayed pending appeal.

Section 363(m) “fosters the ‘policy of not only affording finality to the judgment of the bankruptcy court, but particularly to give finality to those orders and judgments upon which third parties rely.’” *In re Chateaugay Corp.*, 1993 U.S. Dist. Lexis 6130, \*9 (S.D.N.Y. 1993) (quoting *In re Abbotts Dairies of Penn., Inc.*, 788 F.2d 143, 147 (3d Cir. 1986)). *See also Allstate Ins. Co. v. Hughes*, 174 B.R. 884, 888 (S.D.N.Y. 1994) (“Section 363(m) . . . provides that good faith transfers of property will not be affected by the reversal or modification on appeal of an unstayed order, whether or not the transferee knew of the pendency of the appeal”); *In re Stein & Day, Inc.*, 113 B.R. 157, 162 (Bankr. S.D.N.Y. 1990) (“pursuant to 11 U.S.C. § 363(m), good faith purchasers are protected from the reversal of a sale on appeal unless there is a stay pending appeal”).

16. The Sale is the result of arm's length, good-faith negotiations with the Buyer. Buyer has not, in connection with the proposed transaction, engaged in any conduct that constitutes a lack of good faith. Accordingly, Buyer is entitled to the protections of section 363(m) of the Bankruptcy Code. *See In re Gucci*, 126 F.3d 380 (2d Cir. 1997) (a good faith purchaser is shown by integrity of his conduct during the course of the sale proceedings); *In re Bakalis*, 220 B.R. 525, 537 (Bankr. E.D.N.Y. 1998) (a determination of bad faith must be based on untoward conduct by the purchaser, such as fraud or collusion) (citing *Gucci*, 126 F.3d 380);

*Cnty. Thrift & Loan v. Suchy (In re Suchy)*, 786 F.2d 900, 902 (9th Cir. 1985) (a good faith purchaser is one that has not engaged in conduct involving fraud or collusion nor has sought to take grossly unfair advantage of other bidders). In addition, neither Advanta nor Buyer have engaged in any conduct that would cause or permit the application of section 363(n) of the Bankruptcy Code to the transactions contemplated by the SPA.

**D. Termination Fee is Warranted and Should be Approved**

17. In connection with the Sale, Advanta is seeking authorization to pay the Termination Fee described herein, if necessary. Approval of termination fees as a form of bidder protection in connection with a sale of assets pursuant to section 363 of the Bankruptcy Code has become a recognized practice in chapter 11 cases because it enables a debtor to ensure a sale to a contractually committed buyer at a price the debtor believes is fair, while providing the debtor with the potential of obtaining an enhanced recovery by allowing other bids to be made. *See, e.g., In re Fortunoff Fine Jewelry and Silverware, LLC*, Case No. 08-10353 (JMP) (Bankr. S.D.N.Y. February 22, 2008) (approving break-up fee); *In re Bally Total Fitness of Greater New York, Inc.*, Case No. 07-12395(BRL) (Bankr. S.D.N.Y. Aug. 21, 2007) (approving break-up fee and expense reimbursement); *In re G+G Retail, Inc.*, Case No. 06-10152 (RDD) (Bankr. S.D.N.Y. Jan. 30, 2006); *In re Footstar, Inc.* Case No. 04-22350 (ASH) (Bankr. S.D.N.Y. Apr. 6, 2004) (authorizing the debtors to enter into purchase agreements with break-up fees); *Official Comm. of Subordinated Bondholders v. Integrated Res., Inc., (In re Integrated Res., Inc.)*, 147 B.R. 650 (S.D.N.Y. 1992), *appeal dismissed*, 3 F.3d 49 (2d Cir. 1993) (approving break-up fee and expense reimbursement); *In re Twinlab Corp., et al.*, Case No. 03-15564 (CB) (Bankr. S.D.N.Y. 2003) (approving break-up fee and expense reimbursement); *In re Adelpia Business Solutions, Inc., et al.*, Case No. 02-11389 (REG) (Bankr. S.D.N.Y. 2002) (approving break-up

fee and expense reimbursement). Bankruptcy courts have approved bidding incentives similar to the Termination Fee under the “business judgment rule,” pursuant to which courts typically grant deference to the actions of a corporation’s board of directors taken in good faith and in the exercise of sound business judgment.

18. Here, the Termination Fee meets the “business judgment rule” standard. The Termination Fee is fair and reasonable in amount, particularly in view of the efforts that have been and will have to be expended by Buyer. Moreover, the Termination Fee will enable Advanta to allow competing bids to be made, which may be materially higher or otherwise better than the Black Diamond Offer, a clear benefit to Advanta’s estate.

19. Advanta submits that the proposed Termination Fee will not chill bidding, is reasonable, and its availability to Advanta will enable Advanta to maximize the value of its estate. Accordingly, Advanta should be authorized to offer the Termination Fee as Advanta deems necessary in its business judgment.

#### **An Auction of ALIC Is Not Required**

20. In accordance with Bankruptcy Rule 6004(f)(1), asset sales outside of the ordinary course of business may be by private or public sale. FED. R. BANKR. P. 6004(f)(1). A debtor has broad discretion in determining the manner in which its assets are sold. *Berg v. Scanlon (In re Alisa P’ship)*, 15 B.R. 802, 802 (Bankr. D. Del. 1981) (“[T]he manner of [a] sale is within the discretion of the trustee . . .”); *In re Bakalis*, 220 B.R. at 531 (noting that a trustee has “ample discretion to administer the estate, including authority to conduct public or private sales of estate property”) (internal quotations and citations omitted). As long as a debtor maximizes the return to its estate, a court should defer to a debtor’s business judgment. *In re Dura Auto. Sys., Inc.*, No. 06-11202 (KJC), 2007 Bankr. LEXIS 2764, at \*253 (Bankr. D. Del.

Aug. 15, 2007) (“The paramount goal in any proposed sale of property of the estate is to maximize the proceeds received by the estate.” (internal citations omitted)); *In re Bakalis*, 220 B.R. at 532 (recognizing that although a trustee’s business judgment enjoys great judicial deference, a duty is imposed on the trustee to maximize the value obtained from a sale); *In re Nepsco, Inc.*, 36 B.R. 25, 26 (Bankr. D. Me. 1983) (“Clearly, the thrust of th[e] statutory scheme [governing 363 sales] is to provide maximum flexibility to the trustee, subject to the oversight of those for whose benefit he acts, i.e., the creditors of the estate.”). Accordingly, if a debtor concludes that conducting a private sale, as opposed to a public auction, is in the best interest of the estate, the debtor should be permitted to do so. *Penn Mut. Life Ins. Co. v. Woodscape Ltd. P’ship (In re Woodscape Ltd. P’ship)*, 134 B.R. 165, 174 (Bankr. D. Md. 1991) (noting that, with respect to sales of estate property, “[t]here is no prohibition against a private sale . . . and there is no requirement that the sale be by public auction.”).

21. Advanta, through Prisco’s efforts, has already engaged in an extensive marketing process for ALIC, and after having obtained the Black Diamond Offer, continued to pursue other offers with the aim of realizing even greater value for its estate; however, no higher offer has been made for ALIC. As a result of the extensive marketing carried out by Advanta and its agents, Advanta believes that it is in the best interests of its estate to accept the Black Diamond Offer and consummate the Sale, and that a public auction will result in unnecessary additional costs to its estate that will likely yield no higher or better offers.

22. In light of the foregoing, Advanta respectfully requests that, pursuant to section 363(b) of the Bankruptcy Code, the Court authorize the sale of ALIC as provided for herein.

**Waiver of Bankruptcy Rules 6004 and 6006**

23. Advanta seeks as prompt a closing as possible to preserve and maximize its recovery from the proposed transaction. In light of the foregoing, Advanta requests that any order approving the Sale be effective immediately by waiving any stay pursuant to Bankruptcy Rules 6004, and 6006 (as applicable).

**Jurisdiction**

24. This Court has jurisdiction to consider this matter and grant the relief requested herein pursuant to 28 U.S.C. §§ 157 and 1334. A proceeding to consider and grant such relief is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

**Notice**

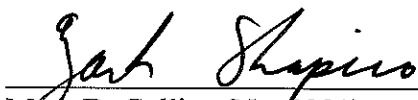
25. No trustee or examiner has been appointed in these chapter 11 cases. Notice of this Motion will be provided by overnight mail to (i) the Office of the United States Trustee for the District of Delaware; (ii) counsel to the statutory committee of unsecured creditors; (iii) Bank of New York Mellon, as trustee under the Investment Note Indenture, and Law Debenture Trust Company of New York, as trustee under the 8.99% Indenture (both as defined in the Rosoff Declaration); (iv) the Buyer; and (v) those parties who have requested notice pursuant to Bankruptcy Rule 2002 (collectively, the “*Notice Parties*”). Advanta respectfully submits that no further notice of this Motion is required.

**No Prior Request**

26. No previous request for the relief sought herein has been made to this or any other Court.

WHEREFORE, the Debtors respectfully request entry of an Order, substantially in the form attached hereto as Exhibit A, granting the relief requested herein and such other and further relief as the Court deems appropriate

Dated: April 21, 2010  
Wilmington, Delaware

  
\_\_\_\_\_  
Mark D. Collins (No. 2981)  
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ATTORNEYS FOR  
DEBTORS AND DEBTORS IN  
POSSESSION

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

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*In re* : Chapter 11  
: :  
: : Case No. 09-13931 (KJC)  
ADVANTA CORP., *et al.*, : :  
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Debtors.<sup>1</sup> : :  
: : **Hearing (Proposed): May 10, 2010 at 1:30 p.m.**  
-----X **Obj. Deadline (Proposed): May 3, 2010 at 4:00 p.m.**

**NOTICE OF MOTION AND HEARING THEREON**

PLEASE TAKE NOTICE that, on April 21, 2010, Advanta Corp. (“*Advanta*”) and its affiliated debtors in the above-referenced chapter 11 cases, as debtors and debtors in possession (together with Advanta, the “*Debtors*”) filed the **Motion for Authority to Sell Stock of Advanta Life Insurance Company Free and Clear of Liens, Claims, and Encumbrances** (the “*Motion*”) with the United States Bankruptcy Court for the District of Delaware (the “*Bankruptcy Court*”).

PLEASE TAKE FURTHER NOTICE that, contemporaneously with the filing of the Motion, the Debtors filed a **Motion to Shorten the Notice Period for Motion for Authority to Sell Stock of Advanta Life Insurance Company Free and Clear of Liens, Claims, and Encumbrances** (the “*Motion to Shorten*”). The hearing date and objection deadline set forth herein are consistent with the dates proposed in the Motion to Shorten. In the event that the

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<sup>1</sup> The Debtors in these jointly administered chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are Advanta Corp. (2070), Advanta Investment Corp. (5627), Advanta Business Services Holding Corp. (4047), Advanta Business Services Corp. (3786), Advanta Shared Services Corp. (7074), Advanta Service Corp. (5625), Advanta Advertising Inc. (0186), Advantennis Corp. (2355), Advanta Mortgage Holding Company (5221), Advanta Auto Finance Corporation (6077), Advanta Mortgage Corp. USA (2654), Advanta Finance Corp. (8991), Advanta Ventures Inc. (5127), BizEquity Corp. (8960), Ideablob Corp. (0726), Advanta Credit Card Receivables Corp. (7955), Great Expectations International Inc. (0440), Great Expectations Franchise Corp. (3326), and Great Expectations Management Corp. (3328). Each of the Debtors (other than Advanta Credit Card Receivables Corp. and the Great Expectations entities) maintains its principal corporate office at Welsh & McKean Roads, P.O. Box 844, Spring House, Pennsylvania 19477-0844. Advanta Credit Card Receivables Corp. maintains its principal corporate office at 2215 B. Renaissance Drive, Suite 5, Las Vegas, Nevada 89119, and the Great Expectations entities maintain their principal corporate office at 1209 Orange Street, Wilmington, Delaware 19801.


Bankruptcy Court does not approve the dates proposed in the Motion to Shorten, the Debtors will file and serve a separate notice notifying all parties in interest of the revised hearing date and objection deadline.

PLEASE TAKE FURTHER NOTICE that pursuant to the Motion to Shorten, the Debtors propose that any responses or objections to the Motion be made by **May 3, 2010 at 4:00 p.m. (Eastern Daylight Time)**.

PLEASE TAKE FURTHER NOTICE that pursuant to the Motion to Shorten, the Debtors propose that a hearing with respect to the Motion be held at the omnibus hearing already scheduled for **May 10, 2010 at 1:30 p.m. (Eastern Daylight Time)** before The Honorable Kevin J. Carey at the Bankruptcy Court, 824 Market Street, 5th Floor, Courtroom 5, Wilmington, Delaware 19801.



Dated: April 21, 2010  
Wilmington, Delaware

  
\_\_\_\_\_  
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Paul N. Heath (No. 3704)  
Chun I. Jang (No. 4790)  
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ATTORNEYS FOR  
DEBTORS AND DEBTORS IN  
POSSESSION

**Exhibit A**

**Proposed Order**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

	X	
<i>In re</i>	:	Chapter 11
	:	
ADVANTA CORP., <i>et al.</i> ,	:	Case No. 09-13931 (KJC)
	:	
Debtors. <sup>1</sup>	:	(Jointly Administered)
	:	
	:	
	:	
	:	
	X	Re: Docket No. ___

**ORDER AUTHORIZING THE SALE OF STOCK OF ADVANTA LIFE INSURANCE  
COMPANY FREE AND CLEAR OF LIENS, CLAIMS, AND ENCUMBRANCES**

Upon the motion, dated April 21, 2010 (the “*Motion*”), of Advanta Corp. (“*Advanta*”), and its affiliated debtors in the above-referenced chapter 11 cases, as debtors and debtors in possession, pursuant to section 363 of title 11 of the United States Code (the “*Bankruptcy Code*”), for authorization to consummate the sale of all of the issued and outstanding shares of common stock in Advanta Life Insurance Company, all as more fully described in the Motion<sup>2</sup>; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being

<sup>1</sup> The Debtors in these jointly administered chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are Advanta Corp. (2070), Advanta Investment Corp. (5627), Advanta Business Services Holding Corp. (4047), Advanta Business Services Corp. (3786), Advanta Shared Services Corp. (7074), Advanta Service Corp. (5625), Advanta Advertising Inc. (0186), Advantennis Corp. (2355), Advanta Mortgage Holding Company (5221), Advanta Auto Finance Corporation (6077), Advanta Mortgage Corp. USA (2654), Advanta Finance Corp. (8991), Advanta Ventures Inc. (5127), BizEquity Corp. (8960), Ideablob Corp. (0726), Advanta Credit Card Receivables Corp. (7955), Great Expectations International Inc. (0440), Great Expectations Franchise Corp. (3326), and Great Expectations Management Corp. (3328). Each of the Debtors (other than Advanta Credit Card Receivables Corp. and the Great Expectations entities) maintains its principal corporate office at Welsh & McKean Roads, P.O. Box 844, Spring House, Pennsylvania 19477-0844. Advanta Credit Card Receivables Corp. maintains its principal corporate office at 2215 B. Renaissance Drive, Suite 5, Las Vegas, Nevada 89119, and the Great Expectations entities maintain their principal corporate office at 1209 Orange Street, Wilmington, Delaware 19801.

<sup>2</sup> Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Motion.

proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties; and the relief requested in the Motion being in the best interests of Advanta, its estate and its creditors; and the Court having reviewed the Motion; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon all of the proceedings had before the Court, and after due deliberation and sufficient cause appearing therefor, it is

ORDERED that the Motion is GRANTED; and it is further

ORDERED that the SPA, in substantially the form annexed as *Exhibit B* to the Motion, and all of the terms and conditions thereof, is approved; and it is further

ORDERED that the failure specifically to include any particular provision of the SPA in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the SPA be authorized and approved in its entirety; and it is further

ORDERED that pursuant to section 363(b) of the Bankruptcy Code, Advanta is authorized to perform its obligations under and comply with the terms of the SPA, and consummate the Sale, pursuant to and in accordance with the terms and conditions of the SPA, or to consummate a Superior Company Proposal; and it is further

ORDERED that Advanta is authorized to execute and deliver, and empowered to perform under, consummate and implement, the SPA, together with all additional instruments and documents that may be reasonably necessary or desirable to implement the SPA, or a Superior Company Proposal, and to take all further actions as may be reasonably required for the purpose of assigning, transferring, granting, conveying and conferring the Shares to the Buyer, or an Alternate Buyer, or as may be necessary or appropriate to the performance of the obligations as contemplated by the SPA, or pursuant to a Superior Company Proposal; and it is further

ORDERED that the Termination Fee is approved and authorized to be paid pursuant to the terms of the SPA and such Termination Fee shall have administrative expense priority pursuant to sections 503(b) and 507 of the Bankruptcy Code; and it is further

ORDERED that, pursuant to section 363(f) of the Bankruptcy Code, the Sale shall be free and clear of any and all liens, claims and encumbrances against the Shares, with such liens, claims and encumbrances, if any, to attach to the proceeds of the Sale with the same force, effect, and priority as such liens, claims and encumbrances have on the Shares of ALIC, as appropriate; and it is further

ORDERED that the transactions contemplated by the SPA are undertaken by Buyer in good faith, as that term is used in section 363(m) of the Bankruptcy Code, and accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Sale shall not affect the validity of the sale of the Shares to Buyer, unless such authorization is duly stayed pending such appeal. Buyer is a purchaser in good faith of the Shares, and is entitled to all of the protections afforded by section 363(m) of the Bankruptcy Code; and it is further

ORDERED that the consideration provided by Buyer for the Shares under the SPA is fair and reasonable and may not be avoided under section 363(n) of the Bankruptcy Code; and it is further

ORDERED that the rights and defenses of Advanta and any other party in interest with respect to any assertion that any liens, claims and encumbrances will attach to the proceeds of the Sale are hereby preserved; and it is further

ORDERED that any stay under Bankruptcy Rules 6004 and 6006 (as applicable) is waived; and it is further

ORDERED that this Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this Order.

Dated: May \_\_\_\_\_, 2010  
Wilmington, Delaware

---

THE HONORABLE KEVIN J. CAREY  
UNITED STATES BANKRUPTCY JUDGE

**Exhibit B**

**Final Form Stock Purchase and Sale Agreement**

**STOCK PURCHASE AND SALE AGREEMENT**

**by and between**

**PROSPERITY LIFE INSURANCE CORP.,  
as Buyer**

**and**

**ADVANTA INSURANCE COMPANY and ADVANTA CORP.,  
collectively, as Advanta**

**Dated as of April 21, 2010**



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**Exhibit A**    Form of Buyer Parent Support Letter Agreement

## STOCK PURCHASE AND SALE AGREEMENT

THIS STOCK PURCHASE AND SALE AGREEMENT (this “**Agreement**”) is made and entered into as of the 21<sup>st</sup> day of April, 2010, between Prosperity Life Insurance Corp. (“**Buyer**”) on the one hand, and Advanta Insurance Company (“**AIC**”) and Advanta Corp. (“**AC**” and, together with AIC, collectively, “**Advanta**”) on the other hand, and effective as of, and subject to approval by the Bankruptcy Court pursuant to a Final Order.

### WITNESSETH:

WHEREAS, AIC is the record and beneficial owner of Two Million Five Hundred Thousand (2,500,000) shares of common stock, par value \$1.00 per share (the “**Shares**”) of Advanta Life Insurance Company (the “**Company**”), a stock life and health insurance company domiciled in the State of Arizona constituting all of the issued and outstanding shares of capital stock of the Company; and

WHEREAS, Buyer desires to purchase from AIC, and AIC desires to sell to Buyer, the Shares, on the terms and subject to the conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the premises and the mutual promises herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

### ARTICLE I

#### SALE AND PURCHASE

1.1 Purchase and Sale. At the closing of the transactions contemplated by this Agreement (the “**Closing**”) and subject to and upon the terms and conditions of this Agreement, AIC shall sell, transfer, assign, convey and deliver to Buyer, and Buyer shall purchase, accept and acquire from AIC, the Shares, which Shares shall constitute all of the issued and outstanding shares of capital stock of the Company. Each certificate representing the Shares shall be duly endorsed in blank or accompanied by a duly executed stock power.

1.2 Purchase Price.

(a) At the Closing, Buyer shall pay to AIC as consideration for the sale of the Shares, an amount, subject to adjustment, if any, pursuant to **Section 1.2(c)**, to be determined as follows: the sum (such sum, as adjusted, the “**Purchase Price**”) of (i) One Million Thirty Two Thousand Five Hundred Dollars (\$1,032,500), which represents (x) Thirty Five Thousand Dollars (\$35,000) in respect of each valid Insurance Permit of the Company (other than the reinsurance only certificate of authority for the State of Montana), including the District of Columbia Insurance Permit and (y) Seventeen Thousand Five Hundred Dollars (\$17,500) in respect of the reinsurance only certificate of authority for the State of Montana, each as set forth on **Schedule 1.2(a)**, (ii) the fair market value of the Closing Assets as determined pursuant to **Section 5.9**; provided, that any excess of the fair market value of the Closing Assets over Four Million Four Hundred Forty Five Thousand Nine Hundred Seventy Seven Dollars (\$4,445,977) shall not be added to the Purchase Price under this **Section 1.2(a)(ii)** and (iii) a pro rated portion

of any fees and taxes paid with respect to the Insurance Permits that were due on or after February 28, 2010 and for which Advanta has provided evidence of payment thereof reasonably satisfactory to Buyer *less* (iv) any outstanding liabilities of the Company as actually reflected on the Closing Date Balance Sheet, but excepting (A) accrued taxes, licenses and fees of the kind reflected on line 14, page 3 of the Statutory Financial Statements for the year ended December 31, 2009 as actually reflected on the Closing Date Balance Sheet, to the extent reflecting payments that are due and payable after the Closing Date, (B) asset valuation reserves of the kind reflected on line 24.1, page 3 of the Statutory Financial Statements for the year ended December 31, 2009 as actually reflected on the Closing Date Balance Sheet, and (C) interest maintenance reserves of the kind reflected on line 9.4, page 3 of the Statutory Financial Statements for the year ended December 31, 2009 as actually reflected on the Closing Date Balance Sheet; provided, that any excess of the items described in clauses (A)-(C) over one hundred and five percent (105%) of the corresponding accounts on the Statutory Financial Statements for the year ended December 31, 2009 shall be deducted from the Purchase Price under this **Section 1.2(a)(iv)**.

(b) Payment of Purchase Price. Buyer shall pay the Purchase Price to AIC at the Closing by wire transfer of immediately available funds, using instructions provided by Advanta.

(c) Adjustment to the Purchase Price. In the event that the Company is not eligible to issue insurance policies in any jurisdiction currently provided for under the Insurance Permits set forth on **Schedule 1.2(a)** (each such jurisdiction, an “**Unauthorized State**”), on the Closing Date, the Purchase Price payable at Closing shall be decreased by the amount listed in the column entitled “Purchase Allocation” on **Schedule 1.2(a)** for each Unauthorized State. At Closing, Advanta shall provide Buyer with evidence of the validity of the Insurance Permits of the Company.

1.3 Closing. The Closing shall take place at 10:00 a.m. (local time) within three (3) Business Days after the satisfaction or waiver of the last of the conditions set forth in **Article IV** to be satisfied or waived, except for those conditions which may only be satisfied at the Closing (the “**Closing Date**”), at the offices of Buyer at 515 Congress Avenue, Suite 2220, Austin, TX 78701, or at such other date, time or place as the Parties may mutually agree.

1.4 Deliveries of Advanta at Closing. At the Closing, Advanta shall deliver or cause to be delivered (or, as applicable, tendered subject only to Closing) to Buyer the following:

(i) Certificates representing the Shares, which shall be registered in the name of Buyer, or duly endorsed for transfer to Buyer or accompanied by duly executed stock powers so as to assign good and valid title to the Shares free and clear of all Liens and to constitute Buyer the sole and beneficial owner and record stockholder of the Company;

(ii) The certificates referred to in **Section 4.1(g)**;

(iii) A copy of the Company’s articles of incorporation, certified by the Secretary of State of the State of Arizona, as of a date not more than five (5) days before

the Closing Date and a certificate, issued by the Insurance Department of the State of Arizona, as of a date not more than five (5) Business Days before the Closing Date, as to the legal existence and good standing of the Company under the insurance Laws of the State of Arizona;

(iv) A copy of AIC's articles of incorporation, certified by the Secretary of State of the State of Arizona, as of a date not more than five (5) days before the Closing Date and a certificate, issued by the Insurance Department of the State of Arizona, as of a date not more than five (5) Business Days before the Closing Date, as to the legal existence and good standing of AIC under the insurance Laws of the State of Arizona;

(v) A certificate issued by the Secretary of State of Delaware, as of a date not more than five (5) days before the Closing Date, as to the legal existence and good standing of AC, together with a copy of AC's certificate of incorporation, certified by the Secretary of State of Delaware, as of a date not more than five (5) days before the Closing Date;

(vi) Certificates issued by the insurance departments of the jurisdictions set forth in **Schedule 1.2(a)**, as of a date not more than ten (10) days before the Closing Date, that the Insurance Permits set forth in **Schedule 1.2(a)** are valid and in good standing and grant the Company authority to transact the business set forth in **Schedule 1.2(a)** with respect to each such Insurance Permit;

(vii) A certificate of the Secretary or an Assistant Secretary of each of AIC, AC and the Company certifying, as applicable, as to (i) the requisite corporate or other action authorizing the transactions contemplated by this Agreement and the Advanta Closing Documents, (ii) the Governing Documents of AIC, AC and the Company, as applicable and (iii) the incumbency and signatures of the officers of AIC, AC and the Company executing this Agreement and the Advanta Closing Documents;

(viii) The Closing Date Balance Sheet;

(ix) The valuation of the fair market value of the assets of the Company as of the Valuation Date and a statement of the Purchase Price as provided in **Section 5.9**;

(x) The resignations of the existing officers, directors and employees of the Company as provided in **Section 4.1(i)**;

(xi) Each of the Advanta Closing Documents executed by Advanta and the Company, as applicable;

(xii) The Form 8023 required pursuant to **Section 6.6**, executed by Advanta;

(xiii) An executed counterpart of a cross receipt evidencing receipt of the Purchase Price;

(xiv) All minute books, stock transfer books, stock certificate books, corporate certificates, and corporate seals of the Company, and all billing records, files, work papers, computer and electronic files, accounting and tax records, and all other books and records of the Company in the possession, custody or control of Advanta or its Affiliates or their respective agents which shall be consistent with the copies of such documents previously delivered to Buyer; provided, that Advanta shall be permitted to retain a copy of such materials following the Closing; and

(xv) The written affirmation of the Company and Advanta that all Assumed Risk Agreements set forth on **Schedule 3.14** have been terminated as to new business on or prior to the Closing Date.

(b) Deliveries of Buyer at Closing. At the Closing, Buyer shall deliver or cause to be delivered (or, as applicable, tendered subject only to Closing) to Advanta the following:

(i) The Purchase Price as provided in **Section 1.2**;

(ii) The certificate referred to in **Section 4.2(e)**;

(iii) certificate issued by the Secretary of State of Delaware, as of a date not more than five (5) days before the Closing Date, as to the legal existence and good standing of Buyer, together with copies of its certificate of incorporation, each certified by the Secretary of State of Delaware, as of a date not more than five (5) days before the Closing Date;

(iv) A certificate of the Secretary or an Assistant Secretary of Buyer certifying as to (i) the requisite corporate or other action authorizing the transactions contemplated by this Agreement and the Buyer Closing Documents, (ii) the Governing Documents of Buyer and (iii) the incumbency and signatures of the officers of Buyer executing this Agreement and the Buyer Closing Documents;

(v) The Buyer Closing Documents, executed by Buyer;

(vi) The Form 8023 required pursuant to **Section 6.6**, executed by Buyer; and

(vii) An executed counterpart of a cross receipt evidencing receipt of the Shares.

## ARTICLE II

### REPRESENTATIONS AND WARRANTIES OF BUYER

Except as set forth in the corresponding section of Buyer's Disclosure Schedule, Buyer hereby represents and warrants to Advanta, as of the date of this Agreement (except if another date is specified in the representation or warranty) and as of the Closing Date, as follows:



2.1 Organization. Buyer is a corporation duly organized, validly existing and in good standing under the Laws of Delaware. Buyer has all requisite power and authority (corporate and other) to enter into this Agreement, perform its obligations hereunder and consummate the transactions contemplated hereby. Buyer has previously delivered to Advanta true, correct and complete copies of the Governing Documents of Buyer.

2.2 Authorization. Buyer has all requisite power to execute and deliver this Agreement and each other agreement to be executed or delivered by Buyer at Closing (collectively, the “**Buyer Closing Documents**”) and to perform its obligations under this Agreement and each Buyer Closing Document to which it is or will be party. All necessary and appropriate action has been taken by Buyer with respect to the execution and delivery of this Agreement and each Buyer Closing Document and the performance of its obligations hereunder and thereunder. This Agreement has been duly and validly executed and delivered by Buyer and when duly executed and delivered by the other parties thereto will constitute a valid and binding obligation of Buyer enforceable against it in accordance with its terms, except (i) as the same may be limited by applicable bankruptcy, insolvency, rehabilitation, reorganization, receivership, conservatorship, moratorium or other similar Laws of general application relating to or affecting creditors’ rights, including, the effect of statutory or other Laws regarding fraudulent conveyances and preferential transfers, and (ii) for the limitations imposed by general principles of equity. The foregoing exceptions set forth in clauses (i) and (ii) of this **Section 2.2** are hereinafter referred to as the “**Enforceability Exceptions.**” Upon execution and delivery by Buyer, and the other parties thereto, the Buyer Closing Documents, as applicable, will constitute valid and binding obligations of Buyer, enforceable against it in accordance with their terms, subject to the Enforceability Exceptions.

2.3 Consents and Approvals. **Schedule 2.3** sets forth all Buyer Consents except Buyer Consents which, if not obtained, would not reasonably be expected to have, individually or in the aggregate, a Buyer Material Adverse Effect.

2.4 Investment Intent. Buyer is acquiring the Shares solely for its own account for investment, and not with a view to, or for resale in connection with, the distribution thereof within the meaning of the Securities Act of 1933 (the “**Securities Act**”). Buyer acknowledges that the Shares are not registered under the Securities Act and may not be transferred or sold except pursuant to an applicable exemption therefrom.

2.5 Litigation. There is no claim, litigation, action, suit, proceeding, investigation, audit, examination or inquiry, administrative or judicial, at law or in equity, before any federal, state or local court or regulatory agency, or other Authority (collectively “**Actions**”), pending or, to Buyer’s Knowledge, threatened against Buyer or its Affiliates, which, individually or in the aggregate, is reasonably likely to have a Buyer Material Adverse Effect or which seeks to prohibit, enjoin or otherwise challenge the consummation of the transactions contemplated hereby.

2.6 No Conflicts. Neither the execution and delivery by Buyer of this Agreement or any Buyer Closing Document to which it is or will be a party, nor the consummation by Buyer of the transactions contemplated hereby and thereby will (i) conflict with or result in a breach of any provision of the Governing Documents of Buyer, (ii) violate,

conflict with or result in a breach of any provision of, or constitute a default (or an event which, with the giving of notice, the passage of time or otherwise, would constitute a default) under, or entitle any party (with the giving of notice, the passage of time or otherwise) to terminate, accelerate or cause a default under, or result in the creation of any Lien upon any of the properties or assets of Buyer under any of the terms, conditions or provisions of any Contract, indenture, instrument, order, judgment or decree binding on Buyer or its Property or assets, except for such violations, conflicts, breaches, defaults, terminations, accelerations, or Liens which would not have a Buyer Material Adverse Effect, (iii) violate any judgment, order, decree, stipulation, injunction or charge of any court, administrative agency or commission or other Authority or instrumentality by which Buyer is bound, except for such violations which would not reasonably be expected to have, individually or in the aggregate, a Buyer Material Adverse Effect, or (iv) require any consent, approval, declaration, order or authorization of, or registration or filing with, any third party, court or governmental body or other agency, instrumentality or Authority by or with respect to Buyer in connection with the execution and delivery of this Agreement or the consummation of the transactions contemplated hereby, except as set forth on **Schedule 2.6** and except where the failure to obtain any such consent, approval, declaration, order or authorization or to make any such registration or filing would not reasonably be expected to have, individually or in the aggregate, a Buyer Material Adverse Effect.

2.7 Transaction Financing. Buyer has or will have, on or prior to the Closing Date, readily available Cash and Cash Equivalents in an amount sufficient to enable it to purchase the Shares as provided in **Section 1.2**.

2.8 Brokers and Finders. Except for The Shapiro Network, Inc., the fees and expenses of which shall be paid by Buyer, no broker, finder or investment banker is entitled to any fee or commission in connection with the transactions contemplated hereby based upon any arrangements made by or on behalf of Buyer.

2.9 Accuracy of Documents; Disclosure of all Material Matters. All copies of Governing Documents and other documents delivered by Buyer to Advanta in connection with the transactions contemplated hereby have been accurate and complete copies of such documents. No representation or warranty of Buyer set forth in this Agreement (including all information in any Schedules pertaining thereto) contains any untrue statement or omits to state a material fact necessary to make it, in light of the circumstances in which it was made, not misleading.

### ARTICLE III

#### REPRESENTATIONS AND WARRANTIES OF SELLER

Except as set forth in the corresponding section of Advanta's Disclosure Schedule, Advanta hereby represents and warrants to Buyer, as of the date of this Agreement (except if another date is specified in the representation or warranty) and as of the Closing Date, as follows:

3.1 Organization. AIC is a stock insurance corporation duly organized, validly existing and in good standing under the Laws of the State of Arizona. AC is a

corporation duly organized and validly existing and in good standing under the Laws of the State of Delaware. The Company is a stock insurance corporation duly organized, validly existing and in good standing under the Laws of the State of Arizona. Each of AIC, AC and the Company has all requisite power and authority (corporate and other) to enter into this Agreement and each of the Advanta Closing Documents to which it is a party, perform its respective obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The Company has all requisite power and authority (corporate and other) and Permits necessary to conduct its business as presently conducted and to own or operate any Property owned by it or used in its business as presently conducted. The Company is duly qualified to do business and is in good standing as a foreign corporation in each jurisdiction listed on **Schedule 3.1**, is not qualified to do business in any other jurisdiction, and neither the nature of the business conducted by it nor the Property it owns, leases or operates requires it to qualify to do business as a foreign corporation in any other jurisdiction except where the failure to be so qualified would not have (i) a Material Adverse Effect, (ii) a material adverse effect on the ability of Advanta or the Company to execute and deliver this Agreement or any of the Advanta Closing Documents to the extent a party thereto, to perform its respective obligations hereunder or thereunder or to consummate the transactions contemplated hereby or thereby. Advanta has previously delivered to Buyer true, correct and complete copies of the Governing Documents of AIC, AC and the Company. Advanta has delivered to Buyer true, correct and complete copies of the stock and minute books of the Company. Such stock and minute books of the Company contain minutes of all meetings, proceedings and other actions of the board of directors (and any committees thereof) and shareholders of the Company and accurately reflect all actions taken by the board of directors of the Company (and any committees thereof) and its shareholders from the date of the formation of the Company.

3.2 Authorization. Advanta and the Company have all requisite power to execute and deliver this Agreement and each other agreement to be executed or delivered by it at Closing (collectively, the “**Advanta Closing Documents**”) and to perform its respective obligations under this Agreement and each Advanta Closing Document to which it is or will be a party. All necessary and appropriate action has been taken by Advanta and the Company with respect to the execution and delivery of this Agreement and each of the Advanta Closing Documents to which it is or will be a party and the performance of its respective obligations hereunder and thereunder. This Agreement has been duly and validly executed and delivered by Advanta and when duly executed and delivered by Buyer will constitute a valid and binding obligation of Advanta and the Company, as the case may be, enforceable against it in accordance with its terms, subject to the Enforceability Exceptions. Upon execution and delivery by AIC, AC or the Company, as the case may be, and the other parties thereto, the Advanta Closing Documents, as applicable, will constitute valid and binding obligations of AIC, AC or the Company, as the case may be, enforceable against them in accordance with their terms, subject to the Enforceability Exceptions.

3.3 Subsidiaries. The Company has no Subsidiaries and does not otherwise own (either of record or beneficially), control, directly or indirectly, any direct or indirect equity interest or any right (contingent or otherwise) to acquire the same in any other Person.

3.4 Capitalization and Security Holders. The authorized capital stock of the Company consists solely of Five Million (5,000,000) shares of common stock, \$1.00 par value

per share, of which Two Million Five Hundred Thousand (2,500,000) shares are validly issued and outstanding. All of the Shares have been validly issued and are fully paid and non assessable. AIC is the lawful owner, beneficially and of record, of all of the Shares and has good and valid title to the Shares, free and clear of all Liens, voting trusts or other voting agreements, contracts calls, commitments of any kind, including any such agreement, arrangement, commitment or understanding restricting or otherwise relating to the voting, dividend rights or dispositions of the Shares. There are no outstanding subscriptions, options, warrants, puts, calls, convertible securities, agreements, understandings, or other commitments or rights of any type relating to the issuance, sale or transfer by the Company of any capital stock or other ownership interests in the Company, including the Shares. There are no outstanding securities which are convertible into or exchangeable for any shares of capital stock of the Company. The Company has no obligation of any kind to issue any additional securities. None of the shares of Company capital stock outstanding was issued in violation of the preemptive right of any person or any Contract or Law by which the Company at the time of issuance was bound. Upon consummation of the transactions contemplated by this Agreement, Buyer will acquire record and beneficial ownership of the Shares, free and clear of any Liens, voting trusts or other voting agreements, contracts, calls, commitments of any kind, including any such agreement, arrangement, commitment or understanding restricting or otherwise relating to the voting, dividend rights or dispositions of the Shares.

3.5 Share Ownership and Authority. AIC owns beneficially and of record all of the issued and outstanding shares of capital stock of the Company, and AIC has the full and unrestricted power to sell, assign, transfer and deliver the Shares to Buyer in accordance with the terms of this Agreement. At the Closing, AIC shall transfer and convey to Buyer and AC shall cause AIC to so transfer and convey to Buyer, and Buyer will acquire, good, valid and marketable title to the Shares, free and clear of any and all rights, title, interest and claims of others, including all Liens, security interest, encumbrances, pledges, charges, claims, voting trusts or other voting agreements, contracts, calls, commitments of any kind, including any such agreement, arrangement, commitment or understanding restricting or otherwise relating to the voting, dividend rights or dispositions of the Shares and restrictions on transfer of any nature whatsoever and without the consent of any third parties, except for restrictions on transfer imposed by or pursuant to the securities Laws of the United States.

3.6 Legal Proceedings.

(a) There are no Actions (consumer or otherwise), pending or, to Advanta's Knowledge, threatened against or affecting or which pertain to or involve the Company or any Property of the Company or any individual in his or her capacity as a director, officer or employee of the Company or any aspect of the business or operation of the Company, or the ability of the Company to conduct or transact any insurance business or to consummate the transactions contemplated by this Agreement or any Advanta Closing Documents to which the Company is party, at law or in equity, before any federal, state or local court or regulatory agency, or other Authority, which, individually or in the aggregate, would reasonably be reasonably be expected to have a Material Adverse Effect. There is no Action, pending or, to Advanta's Knowledge, threatened against Advanta or its Affiliates or any of their respective assets, Property, officers or directors that questions the validity of this Agreement or the Advanta

Closing Documents or seeks to prohibit, enjoin or otherwise challenge the consummation of the transactions contemplated hereby or thereby.

(b) There are no Actions pending or, to Advanta's Knowledge, threatened in which the Company is either a plaintiff or (if not a formal proceeding) an aggrieved party or claimant and there are no orders, decrees or injunctions issued in favor of the Company.

3.7 Bank Accounts. **Schedule 3.7** sets forth a list of all bank accounts maintained by the Company together with the address of the banks at which such accounts are maintained and the contact persons for the Company thereat.

3.8 Form of Capital and Surplus and Other Assets. As of the Closing Date, the Company's capital and surplus and other assets set forth in the Closing Date Balance Sheet will consist only of (i) Permitted Investments and (ii) bonds on deposit with certain states as required to maintain Insurance Permits in those states. **Schedule 3.8** sets forth a description of the items constituting the Company's capital and surplus and other assets set forth in the Statutory Financial Statements of the Company (collectively, the "**Securities**"), including the values thereof, valued as of December 31, 2009 in accordance with the valuation methods set forth in **Section 5.9**. The Securities comply with the requirements of the insurance Laws and regulations of the State of Arizona as well as the insurance Laws and regulations of any other applicable jurisdiction.

3.9 No Conflicts; Compliance with Law.

(a) Neither the execution and delivery by AIC, AC or the Company of this Agreement or any Advanta Closing Document to which any of them is a party, nor the consummation by Advanta and the Company of the transactions contemplated hereby or thereby will (i) conflict with or result in a breach of any provision of the Governing Documents of Advanta or the Company, (ii) violate, conflict with or result in a breach of any provision of, or constitute a default (or an event which, with the giving of notice, the passage of time or otherwise, would constitute a default) under, or entitle any party (with the giving of notice, the passage of time or otherwise) to terminate, accelerate or cause a default under, or result in the creation of any Lien upon any of the Property or assets of the Company under any of the terms, conditions or provisions of any Contract, indenture, instrument, order, judgment or decree binding on Advanta or the Company or on Advanta's or the Company's Property or assets, except for such violations, conflicts, breaches, defaults, terminations, accelerations, or Liens which would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, (iii) violate any judgment, order, decree, stipulation, injunction or charge of any court, administrative agency or commission or other Authority or instrumentality by which Advanta or the Company or any of the Company's assets is bound, except for such violations which would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, or (iv) require any consent, approval, declaration, order or authorization of, or registration or filing with, any third party, court or governmental body or other agency, instrumentality or Authority by or with respect to Advanta or the Company in connection with the execution and delivery of this Agreement or the consummation of the transactions contemplated hereby, except where the failure to obtain any such consent, approval, declaration,

order or authorization or to make any such registration or filing would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(b) The Company is in compliance with all applicable Laws relating to the operation, conduct or ownership of the Property or business of the Company, except for any such failure to comply that would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

(c) Neither the Company nor, to Advanta's Knowledge, any officer, director, employee or authorized agent on behalf of the Company, has made any unlawful payment to, or entered into any Contract to make any unlawful payment to, any governmental or quasi governmental official, or to any other Person or entity. Neither Advanta nor the Company has received any notice of, nor to Advanta's Knowledge is there, any violation of applicable Law relating to the operation, conduct or ownership of the business of the Company other than a violation which has been resolved and for which no sanction is pending. Without limitation of the foregoing, the Company has not been subject of any allegation made by any Authority or by any other Person that the Company has unlawfully shared fees or made any unlawful rebates or engaged in any other unlawful reciprocal practice, nor has the Company entered into any Contract to do any of the foregoing and, to Advanta's Knowledge, the Company has not engaged in any business practice which could reasonably be expected to give rise to any such allegation.

3.10 Consents and Approvals. **Schedule 3.10** sets forth all Advanta Consents. Except for such Advanta Consents, neither Advanta nor the Company is required to obtain any consent, approval or authorization from or to make any filings with any Authority or any other Person with regard to the execution, delivery and performance of this Agreement (including the transfer of the Shares pursuant hereto) and the Advanta Closing Documents or such other agreements or documents as are required to be executed by Advanta or the Company pursuant hereto or thereto, or the consummation of the transactions contemplated herein or therein.

### 3.11 Tax Matters.

(a) (i) All Taxes (whether or not shown on any Tax Return) owed by the Company or any Affiliated Group have been timely paid and all Taxes required to be withheld by the Company or any Affiliated Group have been timely withheld and paid to the relevant Authority, (ii) the Company and each Affiliated Group has timely filed all Tax Returns required to be filed by it, (iii) all such Tax Returns were true, accurate and complete in all respects at the time of filing (including the disclosure of Tax positions as required) and disclosed all Taxes required to be paid by the Company and each Affiliated Group for the periods covered thereby, and (iv) the charges, accruals and reserves for Taxes with respect to the Company reflected on the Latest Balance Sheet (excluding any provision for deferred income Taxes reflecting either differences between the treatment of items for accounting and income Tax purposes or carryforwards) are adequate to cover Tax liabilities accruing through the end of the last period for which the Company ordinarily records items on its books.

(b) Since January 1, 2006, the Company has not been subject to any federal, state, local or foreign Tax audit or other Tax Action brought by any Tax Authority, no such Tax audit or Action is pending or, to Advanta's Knowledge, threatened by any Authority, and neither

the Company nor Advanta has received any notice of such audit or other Tax Action. All federal and state income or franchise Tax Returns filed with respect to Tax years of the Company through the Tax year ended December 31, 2003 have been audited and closed or are Tax Returns with respect to which the applicable period for assessment under applicable Law, after giving effect to extensions or waivers, has expired. No undisclosed deficiencies have been asserted with respect to the Company or any Affiliated Group by any Authority with respect to any Tax Return of the Company or any Affiliated Group with respect to which the applicable period for assessment has not expired (in each case, in accordance with the immediately preceding sentence). All deficiencies proposed as a result of any Tax audit of the Company or any Affiliated Group have been paid, reserved against, settled or are being contested in good faith by appropriate proceedings as described in **Schedule 3.11(b)**. There are no Liens for Taxes upon the assets of the Company. Neither the Company nor any Affiliated Group has requested any extension of time within which to file any Tax Return which has not since been filed. Neither the Company nor any Affiliated Group has granted any waivers or extensions of the statute of limitations period with respect to any Taxes or Tax Returns which period, after giving effect to extensions or waivers, has not expired. No claim or notice of claim has been made or given at any time by any taxing Authority in any jurisdiction in which the Company does not file Tax Returns indicating that the Company is or may be subject to taxation by such jurisdiction. The Company does not have any liability for Taxes of any other Person under Treasury Regulation Section 1.1502-6 (or any similar provision of state, local or foreign Law), as a transferee or successor, by Contract, or otherwise.

(c) The Company is not required to include in income for any Post-Closing Tax Period any adjustment pursuant to Section 481(a) of the Code (or any similar provision of the Tax Laws of any jurisdiction) by reason of a voluntary change in accounting method nor does Advanta or the Company have any Knowledge that any Tax Authority has proposed any such adjustment or change in accounting method. The Company is not required to include any item of income in or exclude any item of deduction from taxable income as a result of any “closing agreement” as defined in Section 7121 of the Code (or any corresponding provisions of any state, local or foreign Tax Law). The Company is not required to include any item of income in taxable income as a result of any deferred inter company item or any excess loss account described in the Treasury Regulations concerning consolidated returns, as a result of the transactions contemplated by this Agreement. The Company has not been at any time during the past ten (10) years a member of an affiliated group, as defined in Section 1504 of the Code, other than one of which AC was the common parent, or filed or been included in a combined, consolidated or unitary income tax return other than one filed by AC.

(d) The Company has not made any payments and is not obligated under any Contract to make any payments that will be nondeductible, in whole or in part, under Section 280G or 162(m) of the Code.

(e) Advanta has filed a consolidated federal income tax return with the Company for the taxable year immediately preceding the current taxable year, and Advanta is eligible to make an election under Section 338(h)(10) of the Code (and any comparable election under any state, local or foreign Tax Law) with respect to the sale of the Company pursuant to this Agreement.

(f) **Schedule 3.11(f)** contains a true, accurate and complete list of all Tax sharing, Tax allocation, Tax indemnification and similar Contracts to which the Company is a party or by which the Company is bound.

(g) There are no requests for rulings or determinations in respect of any Tax or Tax Asset pending between the Company and any Tax Authority. Neither the Company or any member of any Affiliated Group has received a tax opinion with respect to any transaction relating to the Company other than a transaction in the ordinary course of business. During the five year period ending on the date hereof, neither Advanta nor the Company, or any Affiliate of Advanta has made or changed any Tax election, changed any annual Tax accounting period, or adopted or changed any method of Tax accounting (to the extent that any such action may materially affect the Company), nor has it, to the extent it may affect or relate to the Company, filed any amended Tax Return, entered into any Tax closing Contract, settled any Tax claim or assessment, or surrendered any right to claim a Tax refund, offset or other reduction in Tax liability. The Company shall not be required to include in any Post-Closing Tax Period taxable income attributable to income economically realized in a Pre-Closing Tax Period as a result of the installment method of accounting, the long term contract method of accounting, the cash method of accounting or any comparable provision of state, local, or foreign Tax Law, or for any other reason.

(h) The Company does not own any interest in real property in any jurisdiction in which a Tax is imposed, or the value of the interest is reassessed, on the transfer of an interest in real property and which treats the transfer of an interest in an entity that owns an interest in real property as a transfer of the interest in real property.

(i) The Company has not participated in a “reportable transaction” within the meaning of Treasury Regulations Section 1.6011-4(b) or a “potentially abusive tax shelter” within the meaning of Section 6112(b) of the Code. During the five year period ending on the date hereof, neither the Company nor any of its Affiliates was a distributing or controlled corporation in a transaction intended to be governed by Section 355 of the Code.

(j) Each insurance policy issued by the Company (whether or not the risk associated with such policy has been assumed by a reinsurer) and each insurance policy that is a subject of an Assumed Risk Agreement has at all times since its issuance met all requirements of the Code and all applicable Treasury Regulations, Revenue Rulings and Revenue Procedures that must be met for the federal Tax treatment of the policy to conform to the federal Tax treatment, if any, that was (i) represented would be received by the purchaser, policyholder or any beneficiary thereof in any materials provided to the purchaser or policy holder at or prior to the time the policy was issued, renewed, modified or exchanged or (ii) was customary for that type of policy at the time it was issued, renewed, modified or exchanged. There is no pending claim by any Tax Authority or any pending application for a private letter ruling, technical advice memorandum or similar ruling, that, if sustained or issued, would be inconsistent with the preceding sentence. The Company is and at all times has been taxable as an insurance company within the meaning of Section 1.801-3(a) of the Treasury Regulations but not as a life insurance company within the meaning of Section 816 of the Code and Section 1.801-3(b) of the Treasury Regulations. The Company does not have a policyholders surplus account within the meaning of Section 815 of the Code. The life insurance reserves, and other items listed in Section 807(c) of



the Code, of the Company reflected in all federal income Tax Returns of the Company or the Affiliated Group for all years since (and including) the year ended December 31, 2005 were properly determined in accordance with all applicable requirements under the Code. All reinsurance Contracts entered into by the Company are reinsurance Contracts for federal income Tax purposes. No basis exists for the Internal Revenue Service to make any material adjustments under Section 845(a) of the Code or determination of a significant tax avoidance effect under Section 845(b) of the Code.

### 3.12 Financial Statements; Reserves.

(a) Advanta has delivered to Buyer true, correct and complete copies of the audited Statutory Financial Statements of the Company (with the accompanying independent auditor's report of KPMG LLP ("**KPMG**") as of and for the years ended December 31, 2002 through December 31, 2007 and the unaudited Statutory Financial Statements of the Company as of and for the years ended December 31, 2008 and December 31, 2009 (collectively, the "**Year End Statutory Financial Statements**"). The Year End Statutory Financial Statements (including the notes thereto) of the Company have been prepared in conformity with SAP applied on a consistent basis, are as included in the audited financial statements of AIC and present fairly on the basis of SAP, in all material respects, the admitted assets, liabilities and capital and surplus of the Company at the dates stated therein and the results of its operations and financial position for the periods then ended. The Closing Date Balance Sheet will be prepared in conformity with SAP, in a manner consistent with the Year End Statutory Financial Statements and present fairly on the basis of SAP, in all material respects, the admitted assets, liabilities and capital and surplus of the Company at the dates stated therein and the results of its operations and financial position for the periods then ended. The books and records of the Company have been and are being maintained in accordance with SAP and reflect only actual transactions. Prior to the Closing Date, the Company will prepare and file or submit by the time required by the applicable Authorities for such filing or submission and, substantially concurrently with the filing or submission thereof, deliver to Buyer, all required annual or quarterly Statutory Financial Statements for any annual or quarterly periods ending after the date hereof. Except as disclosed on such Statutory Financial Statements or in the notes thereto, there has not been any change in the business, financial condition or results of operations of the Company during the twelve month period ending on the date hereof that has had, or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(b) The statutory reserves, and other liability amounts required by SAP to be determined using actuarial methods, in the Statutory Financial Statements for the year ended December 31, 2009 of the Company, were determined in accordance with commonly accepted actuarial standards applied in each case in a manner consistent with past practices, are fairly stated in all material respects in accordance with sound actuarial principles, and are based on actuarial assumptions which are in accordance in all material respects with those necessary to meet the requirements of the Department of Insurance of the State of Arizona.

### 3.13 Reports; Required Filings.

(a) All statements, reports, forms or other information required by Law to be filed with any Authority respect to the Company ("**Regulatory Filings**") have been or will be

timely filed, and all required approvals of any Authority in respect thereof are in full force and effect, except for any such Regulatory Filings or approvals that if not made or obtained would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect. All Regulatory Filings described in the preceding sentence were true and correct in all material respects when filed and were in compliance with all applicable Laws, except for any failures to comply that would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, and no deficiencies have been asserted by any Authority with respect to any Regulatory Filings that have not been satisfied.

(b) **Schedule 3.13(b)** sets forth all amounts which, as of December 31, 2009 and the date hereof, have been paid by the Company as annual statement filing fees, license renewal fees, examination fees, membership fees or dues to state guaranty associations and joint underwriting associations, minimum required state insurance premium taxes (i.e., those imposed without regard to the amount of premiums written) and other Taxes, fees or assessments paid by the Company in order to maintain the Insurance Permits in good standing (all such fees and amounts, collectively, the “**Filing Fees**”) for the twelve month periods ending December 31, 2009 and the date hereof. **Schedule 3.13(b)** also sets forth the dates of payments of each Filing Fee and an estimate of the amount of Filing Fees which will be due during the 2010 calendar year but which have not been paid as of the date hereof.

3.14 Insurance; Reinsurance. The Company has not issued or assumed new insurance policies or certificates since October 31, 2009 (the “**New Business Termination Date**”). **Schedule 3.14** sets forth (a) a schedule of the Company’s obligations (as reserved on the Latest Balance Sheet) for insurance policies and certificates issued before the New Business Termination Date, indicating the date, if any, as of which the Company will have no further obligations under such policies and certificates for claims timely made and verified, (b) a complete list of risks assumed by the Company through reinsurance Contracts (the “**Assumed Risk Agreements**”), and (c) a complete list of reinsurance policies with respect to the Company’s obligations under insurance policies and certificates issued by it or Assumed Risk Agreements. All reinsured obligations are reinsured on a 100% coinsurance basis. The Company has made available to Buyer copies of all insurance policies and forms of all certificates, Assumed Risk Agreements and reinsurance policies referenced in the preceding sentence. Except as set forth in **Schedule 3.14**, the Company has no obligations under any insurance policy or certificate issued by it or any Contract to assume the risk under any other insurance policy or certificate.

3.15 No Restrictions on Business. Neither the Company, Advanta nor any of their respective officers or employees is subject to any Contract with any Person, including but not limited to any Authority, or is otherwise subject to any restriction (other than pursuant to generally applicable Law) (i) limiting the ability of the Company to engage in any line of business, to compete with any Person, to do business with any Person or in any location or to employ any Person or (ii) limiting the ability of any other Person to compete with or obtain products or services from the Company. To Advanta’s Knowledge, no Authority is considering issuing or requesting any such Contract or otherwise imposing any such restriction. There are no disciplinary proceedings pending before or, to Advanta’s Knowledge, being contemplated by the Insurance Department of the State of Arizona or any other applicable regulatory Authority in any other jurisdiction.

3.16 Undisclosed Liabilities. (a) The Company does not have any direct or indirect indebtedness, liability, or other obligation, whether fixed, unfixed, secured or unsecured, accrued, absolute, contingent or otherwise (individually, a “**Liability**” and, collectively, “**Liabilities**”) that would be required by SAP to be and were not reflected or reserved against in the Latest Balance Sheet and no such Liabilities have arisen since the Latest Balance Sheet Date and (b) to Advanta’s Knowledge, the Company does not have any Liabilities, whether or not required by SAP to be included on a balance sheet prepared in accordance with SAP, which are not either reflected or reserved against in the Latest Balance Sheet or set forth on **Schedule 3.16**, other than in the cases of (a) and (b), Liabilities arising under or resulting from this Agreement, the Buyer Closing Documents or the Advanta Closing Documents. Without limiting the generality of the foregoing, there are no off balance sheet items of the Company not reflected, reserved against or disclosed in the Statutory Financial Statements or Latest Balance Sheet, and the Company has not conducted or maintained any off balance sheet investments.

3.17 Absence of Changes. Since the New Business Termination Date, the Company has conducted no business other than administering insurance policies issued and Assumed Risk Agreements assumed prior to the New Business Termination Date (including collecting renewal premiums on written and assumed policies). Since July 7, 2009, there has not occurred any of the actions which upon the execution of this Agreement are prohibited under **Section 5.1**. Except as contemplated by this Agreement, the Buyer Closing Documents or the Advanta Closing Documents or as set forth on **Schedule 3.17**, since the New Business Termination Date, the Company has not:

- (a) been engaged in or conducted any business other than an insurance business;
- (b) incurred any obligation or Liability (absolute or contingent);
- (c) mortgaged, pledged or subjected to any Lien any of its assets or Property;
- (d) sold or transferred any assets or Property or cancelled any debts or claims, except for sales of investment assets, followed by reinvestment of the net proceeds thereof;
- (e) made any loan or advance to, or guaranteed the obligations of, any Person;
- (f) entered into any transaction or Contract, insurance, reinsurance or otherwise, except for the purchase or sale of investment assets in the ordinary course of business consistent with past practice;
- (g) declared, made, set aside or paid any dividend, distribution or payment on, or any purchase or redemption of, any shares of any class of its capital stock (whether in cash, stock, property or any combination thereof) or made any commitments therefor;
- (h) incurred any indebtedness, absolute or contingent;
- (i) made any change in its accounting methods or practices, or made any change in depreciation or amortization policies or rates adopted by it;

(j) except as set forth in its consolidated federal income tax return for its 2008 taxable year and other previously filed Tax Returns, changed any method of accounting with respect to Taxes, revoked, changed or made any Tax elections, or compromised or entered into any settlements in respect of Taxes;

(k) made any payment or commitment to pay any Person;

(l) entered into or amended any Contract or other agreement pursuant to which it agrees to indemnify any party or refrain from competing with any party;

(m) except for investment assets acquired in the ordinary course of business, made any acquisition of any of the assets, Property, capital stock or business of any other Person;

(n) suffered or had any adverse change, event or condition in its business, results of operations, assets, financial condition, or the manner of conducting its business except for such changes events or conditions which have not resulted, individually or in the aggregate, in a Material Adverse Effect;

(o) issued, granted, sold or otherwise disposed of any of its capital stock or other securities, or options, warrants or rights to subscribe for, purchase, or otherwise acquire any shares of its capital stock or securities (including any securities convertible into or exchangeable for shares of its capital stock or securities);

(p) directly or indirectly redeemed, purchased or otherwise acquired any shares of its capital stock;

(q) effected a split, modification or reclassification of its capital stock or a recapitalization of the Company;

(r) amended its Governing Documents;

(s) formed, acquired or disposed of any interest in any corporation, partnership, joint venture or other entity;

(t) written up, written down or written off the value of any material amount of assets; or

(u) entered into any Contract or understanding to do any of the acts or things described in this **Section 3.17**.

### 3.18 State Licenses; Compliance with Law.

(a) The Company's Arizona certificate of authority to transact the business of life insurance is in full force and effect and the Company has not received any notice of default or termination with respect to such certificate of authority or any threatened cancellation or termination in connection therewith.

(b) **Schedule 1.2(a)** contains a true and correct list of each jurisdiction in which the Company is eligible, authorized or qualified to issue insurance policies together with satisfactory evidence of such eligibility, authorization or qualification in each such jurisdiction. The Insurance Permits set forth on **Schedule 1.2(a)**, together with the Company's Arizona certificate of authority constitute all Insurance Permits required for the conduct of the Company's business as now conducted. The Company has not received from any Authority any notice of suspension, cancellation or termination in connection with any Insurance Permit, or any subpoena or other notice of investigation of any current or prior business practice of the Company.

(c) The Company is in good standing with all applicable insurance regulatory Authorities with respect to the conduct of business by the Company as currently conducted.

(d) Since its formation, the Company has been engaged solely and exclusively in the insurance business and has conducted no insurance business or other business in any jurisdiction other than the jurisdictions listed in **Schedule 1.2(a)** with respect to which it would be required to have an Insurance Permit.

(e) The Company has (i) timely paid all guaranty fund assessments that are due, or claimed or asserted by any insurance regulatory Authority to be due from the Company, or (ii) provided for all such assessments in the Latest Balance Sheet.

(f) No Action is pending nor, to Advanta's Knowledge, is any Action threatened in which any Person is seeking to revoke or deny the renewal of any Insurance Permit.

(g) Except as limited by state statute generally applicable to all companies of a similar type as the Company, the Company's authority to write the lines and classes of insurance set forth on **Schedule 1.2(a)** is unrestricted, the Company is not a party to any Contract with any Authority limiting or restricting the Company's ability to make full use of such Insurance Permits, each such Insurance Permit is currently in good standing, and no such Insurance Permit has been withdrawn, modified, restricted or conditioned in any respect by a state insurance regulatory Authority. No application for an Insurance Permit filed by the Company within the last two (2) years has been denied or withdrawn. No event has occurred that, with or without notice or lapse of time or both, would reasonably be expected to result in the revocation, suspension, lapse or limitation of any of the Insurance Permits set forth on **Schedule 1.2(a)**.

(h) The Company has complied and is in compliance with all Laws applicable to the operation of its business as presently conducted, the failure to comply with which would reasonably be expected to have a Material Adverse Effect.

3.19 Intellectual Property. The Company does not own any trademarks, service marks, copyrights or similar property rights.

3.20 Personal and Real Property. The Company has good and marketable title to, and owns outright, all of its Property and assets (including, but not limited to, Property and assets reflected in the Latest Balance Sheet), except for (i) deposits with state regulatory

authorities reflected in the December 31, 2009 Statutory Financial Statement of the Company, and (ii) those Properties and assets disposed of in the ordinary course of business after the Latest Balance Sheet Date, and none of such Property or assets is encumbered by any Lien except such Liens as (a) are reflected on the Latest Balance Sheet, (b) arise out of Taxes not yet due and payable, or (c) relate to immaterial Property or assets or otherwise which would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. All leases pursuant to which the Company leases any Property are valid and binding in accordance with their respective terms, and there is not under any such lease any existing default by the Company or to Advanta's Knowledge by any other party thereto, or any event of default or event which, with notice or lapse of time or both, would constitute a default. All tangible (real or personal) Property owned or used by the Company and material to its business has been properly maintained and, to Advanta's Knowledge, is in good operating order and repair. There are no pending Actions, including Actions for condemnation, expropriation, eminent domain or similar Actions or proceedings and, to Advanta's Knowledge, no such Actions or proceedings are contemplated, affecting all or any portion of any Company Property, except such Actions as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. On the Closing Date, the Company will not own any Property or assets, except (i) the Insurance Permits set forth on **Schedule 1.2(a)** and (ii) the Closing Assets.

### 3.21 Real Property; Environmental Matters.

(a) The Company does not own and since its formation has never owned any real property. The Company is not a party to, and neither the Company nor the business of the Company is in any way subject to any lease (as lessee or lessor) or sublease (as sublessee or sublessor) of real property.

(b) The Company is not subject to any liability (and has not handled or disposed of any substance, arranged for the disposal of any substance (including any Hazardous Material), or owned or operated any Property or facility in any manner that could reasonably be expected to form the basis for any future Environmental Claim against the Company giving rise to any liability) for damage to the atmosphere or any site, location or body of water (surface or subsurface) or for any other reason under any Environmental Law. No notice, citation, summons or order has been received by the Company and no complaint has been filed and no penalty has been assessed or, to Advanta's Knowledge, threatened by any Authority or third party with respect to (i) any alleged violation by the Company of any Environmental Law, (ii) any alleged failure by the Company to have any Environmental Permit required under any Environmental Law in connection with its business or (iii) any other Environmental Claim to which the Company or any of its assets or Property is, or reasonably could be expected to be, subject. To Advanta's Knowledge, no environmental inspection report has been prepared by any Person concerning compliance with, or actual or potential liability under, applicable Environmental Law with respect to the Company's business, operations, assets or Property or any real property contiguous to any real property owned or used by the Company.

### 3.22 Employee Matters.

(a) **Schedule 3.22(a)** identifies each director and employee of the Company as of the date of this Agreement, and as of the Closing Date, after giving effect to the

resignations delivered pursuant to **Section 1.3(a)(x)**, the Company shall not have directors or Employees other than those appointed by Buyer. **Schedule 3.22(a)** sets forth and describes any Contracts for the provision of services by any other Person to the Company, whether as independent contractors, consultants, distributors, salespersons, insurance agents or otherwise. Except as set forth on **Schedule 3.22(a)**, the Company does not have any other directors, full time or part time employees, independent contractors, consultants, distributors, salespersons, insurance agents or persons performing similar functions (collectively, “**Employees**”). The Company is not a party to or obligated under, and does not have any liabilities or obligations with respect to, any employment, consulting or agency Contract with any Person other than as set forth on **Schedule 3.22(a)**.

(b) The Company does not have any liabilities or obligations of any nature whatsoever to any Employee or to any current or former officer or director of the Company or any Affiliate of the Company, including, pursuant to (i) any indemnification Contracts, (ii) the Company’s Governing Documents, as currently in effect or as in effect at any time since the Company’s formation, or (iii) any other Contract (any such obligation or liability referred to herein as an “**Employee Related Liability**”).

(c) The Company has not maintained, contributed to, been obligated to contribute to, nor does it currently have, nor has it ever had liability (including, potential or contingent liability under Title IV of ERISA or any liability incurred by an ERISA Affiliate) with respect to any Employee Benefit Plan (any such obligation or liability referred to herein as a “**Benefit Related Liability**”). The Company has at no time had any employee, profit sharing, stock option, stock purchase, pension, retirement, bonus, severance or deferred compensation plan or arrangement or any other welfare or benefit plan or any unfunded liabilities in respect of any such plan or arrangement, and the Company is not and has not been a party to any employment Contract, with any Person, nor is it or has it been a party to any Contract with any labor union.

(d) The Company is not a party to or otherwise obligated under any collective bargaining Contract or other agreement or arrangement.

(e) In entering into this Agreement or carrying out the transactions contemplated hereby, Buyer shall assume no liability or responsibility with respect to any Employee Related Liability or Benefit Related Liability of the Company or its Affiliates, or with respect to any Contract or other agreement or arrangement of the Company or any of its Affiliates with any Employee (including any commissions or fees owed in connection therewith).

(f) There are no Actions, complaints, charges or claims against the Company pending or, to Advanta’s Knowledge, threatened to be brought or filed with or by any Authority, arbitrator or court based on, arising out of, in connection with, or otherwise relating to the employment or termination of employment of any Employee by the Company, and the Company has not received any notice of such Action, complaint, charge or claim.

### 3.23 Producers, Agents and Brokers.

(a) Each insurance producer, agent and broker (collectively, “**Producers**”), at the time such Producer solicited, negotiated, sold or produced any insurance business of the Company, to the extent required by applicable Law, was duly and appropriately licensed as a Producer (for the type of business solicited, negotiated, sold or produced by such Producer), in each case, in the particular jurisdiction in which such Producer solicited, negotiated, sold or produced such insurance business.

(b) The Company is not and has never been a party to any profit sharing, contingent fee, placement service, market service or similar Contract with any Producer. The Company does not pay and has at no time paid any Producer, any fees, commissions, overrides, production bonuses or other amounts based upon (i) the amount of business placed with the Company by clients of such Producer, (ii) such Producer’s clients’ rate of renewal of policies with the Company or (iii) the profitability of the business placed by such Producer. The Company has never provided or submitted a false, sham, phony or otherwise artificial bid or quote with respect to prospective insurance business. To Advanta’s Knowledge, no Producer has violated any term or provision of any applicable Law applicable to any aspect (including, but not limited to, the soliciting, negotiating, marketing, sale or production) of the Company’s insurance business.

(c) **Schedule 3.23(c)** contains a true and complete list of (i) all Contracts with Producers and (ii) all marketing Contracts, true and complete copies of which (or summaries thereof to the extent oral), have been made available to Buyer, which are or were in force or effective at any time during the period from January 1, 2004 through the date hereof, to which the Company is or was a party or by which any of its assets is, was, may be or may have been bound, as such agreements may have been modified to the date hereof.

3.24 Powers of Attorney. Other than any powers of attorney granted to insurance commissioners in connection with state licensing matters, all powers of attorney granted by the Company have expired or have been revoked prior to the date hereof.

3.25 Insurance Coverage. **Schedule 3.25** contains a complete and correct list of all insurance policies maintained by Advanta or its Affiliates (other than the Company) which provide coverage for the Company or its Employees. All such policies are in full force and effect and all premiums which are due thereon have been paid. The Company is a named insured on each such policy and, as of the Closing Date, will be removed as a named insured on each such policy. The Company maintains no insurance policies which provide coverage for it or its Employees.

3.26 Contracts. **Schedule 3.26** sets forth all Contracts and commitments to which the Company is a party or by which the Company or its Property or assets are or may be bound or to which the Company or its Property or assets are or may be subject, true and complete copies of which (or summaries thereof to the extent oral), have been provided to Buyer. As of the Closing Date, Contracts and commitments designated as “Closing Contracts” on **Schedule 3.26** will constitute the only Contracts and commitments to which the Company is a party or by which the Company or its Property or assets are or may be bound or to which the Company or its Property or assets are or may be subject.



3.27 Policyholder Complaints. Neither the Company nor any of its Affiliates, nor, to Advanta's Knowledge, any governmental Authority (including the Insurance Department of the State of Arizona) has received any complaints by policyholders or certificateholders of the Company of the nature which would customarily be recorded by insurance companies on a policyholder complaint log.

3.28 Insurance Business; Insurance Contracts.

(a) The Company is not required pursuant to applicable Law or the terms of any insurance policy, certificate or Contract issued by or on behalf of the Company to issue or renew any insurance policy, certificate or Contract.

(b) Insurance Contracts.

(i) **Schedule 3.28(b)(i)** sets forth a true and complete list of all forms of insurance policies, certificates or Contracts issued by the Company since January 1, 2002, true and correct copies of which forms have been delivered by Advanta to Buyer.

(ii) All benefits claimed by, or paid, payable, or credited to, any person under any insurance policy, certificate or Contract issued by the Company have in all material respects been paid or credited (or provision as required under SAP for payment thereof has been made) in accordance with the terms of the applicable insurance policy, certificate or Contract under which they arose and such payments, credits or provisions were not materially delinquent and were paid or credited (or will be paid or credited) without fines or penalties (including interest), except for any such claim for benefits for which there is a reasonable basis to contest payment under the terms of the applicable insurance policy, certificate or Contract.

(iii) All insurance policies, certificates or Contracts issued by the Company have been administered and operated in all material respects in accordance with the applicable rates and rules and in a manner consistent with their terms and with all applicable statements of additional information, selling, advertising, marketing or disclosure materials and applicable Law.

(iv) Each insurance policy, certificate or Contract issued by the Company is exempt from the registration requirements of the Securities Act and applicable state securities Laws.

3.29 Brokers and Finders. No broker, finder or investment banker is entitled to any fee or commission in connection with the transactions contemplated hereby based upon any arrangements made by or on behalf of Advanta or the Company.

3.30 Accuracy of Documents; Disclosure of all Material Matters. All copies of minute books, stock records and other documents delivered by Advanta or the Company to Buyer in connection with the transactions contemplated hereby have been accurate and complete copies of such minute books, stock records or other documents. All corporate books and records of the Company are maintained in compliance in all material respects with all applicable Laws, including requirements as to their location. No representation or warranty of Advanta set forth in

this Agreement (including all information in any Schedules pertaining thereto or in the Statutory Financial Statements) contains any untrue statement or omits to state a material fact necessary to make it, in light of the circumstances in which it was made, not misleading.

## ARTICLE IV

### CONDITIONS PRECEDENT TO OBLIGATIONS

4.1 Conditions to Obligations of Buyer. Buyer's obligations to purchase the Shares and to take the other actions required to be taken by it at the Closing are subject to the satisfaction, at or prior to the Closing, of each of the following conditions (unless waived in writing by Buyer):

(a) Entry of Sale Order. The Sale Order shall have been entered by the Bankruptcy Court and it shall have become a Final Order.

(b) Representations and Warranties. The representations and warranties of Advanta contained in this Agreement shall have been true and correct in all material respects (except that the representations and warranties qualified by materiality shall have been true and correct in all respects) on the date hereof and shall be true and correct in all material respects (except that the representations and warranties qualified by materiality shall be true and correct in all respects) on and as of the Closing Date with the same force and effect as though made on and as of the Closing Date, except that any such representations and warranties that are given as of a particular date and relate solely to a particular date or period shall be true and correct as of such date or period.

(c) Performance of Agreement. Advanta and the Company shall have performed and complied with the covenants and obligations they are required to perform or to comply with pursuant to this Agreement at or prior to the Closing in all material respects, including the delivery or tender (subject only to Closing) of each item required under **Section 1.3(a)**.

(d) Consents. (i) Each of the Consents shall have been obtained and shall be in full force and effect without conditions reasonably found objectionable by Buyer, (ii) all conditions required to be satisfied prior to the Closing imposed by the terms of any Consents shall have been satisfied, and (iii) all waiting periods required by applicable Law or any Consents prior to consummation of the transactions contemplated by this Agreement shall have expired.

(e) No Adverse Change. There shall not have been any material adverse change in the business operations, assets, or financial position of the Company since the date of this Agreement. Since the date of this Agreement, the Company shall have conducted its business, operations, activities and practices only in the ordinary course of business substantially consistent with past practice and shall not have taken any of the actions prohibited by **Section 5.1** and shall have taken each of the actions required to be taken by **Section 5.1**.

(f) No Adverse Proceeding. There shall not be pending or threatened any Action against Buyer, Advanta or the Company seeking to restrain, prohibit or otherwise

challenge the transactions contemplated by this Agreement, the Buyer Closing Documents or Advanta Closing Documents, the sale of the Shares to Buyer or for the purpose of enjoining or preventing the consummation of this Agreement, or otherwise claiming that this Agreement or the consummation of the transactions contemplated hereby is illegal; nor shall any Authority have notified Buyer, Advanta or the Company or any of their respective Affiliates (and not subsequently withdrawn such notice) that the consummation of the transactions contemplated by this Agreement would constitute a violation of applicable Law and that it intends to commence an Action to restrain consummation of such transactions, to force divestiture of Property by the Company or Buyer if such transactions are consummated or to materially modify the terms or the results of such transactions.

(g) Certificate. Each of AIC and AC shall have delivered to Buyer a certificate signed on its behalf by its President or Vice President and Secretary or Assistant Secretary, dated the date of the Closing, to the effect that the conditions set forth in this **Section 4.1** have been satisfied to the extent capable of being satisfied prior to the Closing.

(h) Shares. Advanta shall have tendered to Buyer (subject only to Closing) the certificates representing the Shares described in **Section 1.3(a)(i)**, which shall be registered in the name of Buyer, or duly endorsed for transfer to Buyer or accompanied by duly executed stock powers.

(i) Resignation of Officers and Directors. There shall have been tendered to Buyer evidence of the resignation of the directors, officers and employees of the Company (effective as of the Closing Date and subject only to Closing) in a form reasonably satisfactory to Buyer.

(j) Capital and Surplus. The policyholder capital and surplus of the Company at the Closing Date is only in the form of Permitted Investments.

(k) Assets and Liabilities. Advanta shall have delivered to Buyer the Closing Date Balance Sheet. The Closing Date Balance Sheet shall reflect Permitted Investments reasonably acceptable to Buyer, and shall reflect no liabilities or obligations of any kind or nature not reflected on the Latest Balance Sheet. The assets of the Company shall consist only of Permitted Investments and bonds or deposits with certain states as required to obtain or maintain Insurance Permits in such states.

(l) Statement of Purchase Price. Advanta shall have delivered to Buyer the statement of assets and valuation provided for in **Section 5.9** and the statement of the Purchase Price provided for in **Section 5.10**.

(m) Form of Documents. The Advanta Closing Documents shall be in the form specified in this Agreement or, in the absence of such specification, in a form reasonably satisfactory to Buyer.

(n) Advanta shall have delivered to Buyer a duly executed certificate of non-foreign status signed by AIC and in the form and manner that complies with Section 1445 of the Code and the Treasury Regulations promulgated thereunder.

(o) Section 338(h)(10) Election. Advanta shall have tendered to Buyer, subject only to Closing, an effective and irrevocable election under Section 338(h)(10) of the Code with respect to the Company in form and substance reasonably satisfactory to Buyer.

(p) The Company shall have obtained the approval of the insurance departments of Arizona, Arkansas, Georgia, Nevada, New Mexico and South Carolina to reduce the amount of the Company's special deposits to no more than 105% of the minimum amount required by applicable Law and such excess special deposits shall have been released to the Company.

(q) Advanta shall have delivered to Buyer a true, correct and complete copy of the KPMG Report.

(r) Each of the parties to the Advanta Closing Documents shall have entered into such agreements, fully executed originals of which shall have been delivered to Buyer.

4.2 Conditions to Obligations of Advanta. Advanta's obligations to sell the Shares and to take the other actions required to be taken by it at the Closing are subject to the satisfaction, at or prior to the Closing, of each or the following conditions (unless waived in writing by Advanta):

(a) Representations and Warranties. The representations and warranties of Buyer contained in this Agreement shall have been true and correct in all material respects (except that the representations and warranties qualified by materiality shall have been true and correct in all respects) on the date hereof and shall be true and correct in all material respects (except that the representations and warranties qualified by materiality shall be true and correct in all respects) on and as of the Closing Date with the same force and effect as though made on and as of the Closing Date, except that any such representations and warranties that are given as of a particular date and relate solely to a particular date or period shall be true and correct as of such date or period.

(b) Performance of Agreement. Buyer shall have performed and complied with the covenants and obligations it is required to perform or to comply with pursuant to this Agreement at or prior to the Closing in all material respects, including the delivery or tender (subject only to Closing) of each item required under **Section 1.3(b)**.

(c) Consents. (i) Each of the Consents shall have been obtained and shall be in full force and effect without conditions found reasonably objectionable by Advanta, (ii) all conditions required to be satisfied prior to the Closing imposed by the terms of any Consents and applicable Law shall have been satisfied, and (iii) all waiting periods required by applicable Law or such Consents prior to consummation of the transactions contemplated by this Agreement shall have expired.

(d) No Adverse Proceeding. There shall not be pending or threatened any Action against Buyer, Advanta or the Company seeking to restrain, prohibit or otherwise challenge the transactions contemplated by this Agreement, the Buyer Closing Documents or Advanta Closing Documents, the sale of the Shares to Buyer or for the purpose of enjoining or preventing the consummation of this Agreement, or otherwise claiming that this Agreement or

the consummation of the transactions contemplated hereby is illegal; nor shall any Authority have notified Buyer, Advanta or the Company or any of their respective Affiliates (and not subsequently withdrawn such notice) that the consummation of the transactions contemplated by this Agreement would constitute a violation of applicable Law and that it intends to commence an Action to restrain consummation of such transactions or to materially modify the terms or the results of such transactions.

(e) Certificate. Buyer shall have delivered to Advanta a certificate signed on its behalf by its President or Vice President and Secretary or Assistant Secretary, dated the date of the Closing, to the effect that the conditions set forth in this **Section 4.2** have been satisfied to the extent capable of being satisfied prior to the Closing.

(f) Purchase Price. Buyer shall have tendered to Advanta (subject only to Closing) the Purchase Price pursuant to **Section 1.3(b)(i)**.

(g) Form of Documents. The Buyer Closing Documents shall be in the form specified in this Agreement or, in the absence of such specification, in a form reasonably satisfactory to Advanta.

## ARTICLE V

### COVENANTS

5.1 Conduct of Business of the Company prior to the Closing. Advanta covenants and agrees that on and after the date hereof and prior to the Closing, and except as provided on **Schedule 5.1** or as otherwise expressly contemplated or permitted by this Agreement or as approved by Buyer in writing, Advanta shall take Commercially Reasonable Efforts to cause the following:

(a) The business, operations, activities and practices of the Company shall be conducted (i) only in the ordinary course of business and consistent with past practice and (ii) in compliance in all material respects with all applicable Laws;

(b) The Company shall not take any action or fail to take any action as a result of which any of the changes or events listed in **Section 3.17** would be reasonably likely to occur;

(c) The Company shall preserve and maintain in full force and effect the Insurance Permits set forth on **Schedule 1.2(a)**;

(d) The Company shall not sell, lease, assign, transfer, pledge, mortgage or otherwise dispose of any of its properties or assets other than (A) investment portfolio transactions in the ordinary course of business consistent with past practice and (B) such other dispositions which would not reasonably be expected to, individually or in the aggregate, have a Material Adverse Effect;

(e) The Company shall not merge or consolidate with any other Person or acquire a material amount of assets of any other Person;

(f) No dividend shall be declared or paid or other distribution (whether in cash, stock, property or any combination thereof) or payment declared or made in respect of the capital stock of the Company, nor shall the Company purchase, acquire, redeem or split, combine or reclassify any shares of its capital stock;

(g) Except as otherwise provided for by the terms of this Agreement, Advanta shall not permit the Company to (i) issue or sell or commit to issue or sell, any shares of its capital stock, (ii) grant or commit to grant any options, warrants or rights to subscribe for, purchase, or otherwise acquire any shares of its capital stock, (iii) issue or commit to issue any securities convertible into or exchangeable for shares of its capital stock, (iv) either declare, set aside, pay or commit to pay any dividend or other distribution with respect to its capital stock or transfer any asset for any other purpose, (v) directly or indirectly redeem, purchase or otherwise acquire or dispose of, or commit to acquire or dispose of any shares of its capital stock, (vi) effect a split, modification or reclassification of its capital stock or a recapitalization of the Company, (vii) change the Governing Documents of the Company, (viii) make, or agree to make, any borrowings or guarantee, or agree to guarantee, the borrowings of any other Person, (ix) enter into or become party to any Contract or commitment other than the Advanta Closing Documents, (x) write any insurance or reinsurance business, or engage in any business except as may be specifically contemplated in this Agreement (xi) take any action that would cause the Company to incur any Employee Related Liability, Benefit Related Liability, or liability of the nature described in **Section 3.22**, (xii) take any action that would cause the Company to incur any other liability whatsoever not fully indemnified hereby or that would have the effect of impairing the value of the assets or the validity of any Insurance Permit, (xiii) enter into any new employment, severance or consulting contracts or otherwise hire any employees, contract with any independent contractors or appoint any insurance agents, (xiv) subject any of its Properties or assets to any Liens, or (xv) except as set forth herein, take any action not in the ordinary course of the Company's business or which would be inconsistent with delivering to Buyer a corporation as otherwise contemplated in this Agreement.

(h) The Company shall not materially change any method or principle of accounting in a manner that is inconsistent with past practice except as a result of changes to SAP and after prior written notice to Buyer;

(i) The Company shall not fail to discharge or satisfy any mortgage, Lien, claim or encumbrance or fail to pay or satisfy any obligation or Liability (whether absolute, accrued, contingent or otherwise) arising from its operations when the same shall become due and payable;

(j) The Company shall not permit or allow any material property or asset to be subjected to any mortgage, Lien, claim or encumbrance, or enter into any conditional sale or other title retention agreement with respect to any material property or asset;

(k) The Company shall not make any payment to any shareholder of the Company or to any of such shareholder's Affiliates, or forgive any indebtedness due or owing from such shareholder or such shareholder's Affiliates to the Company; provided, however, that the Company may reimburse Advanta or its Affiliates in the ordinary course of business

consistent with past practice for costs incurred by them on the Company's behalf or for services provided by them to the Company;

(l) The Company shall not enter into any agreement with any labor union or association representing any Employee, or grant any wage or salary increase or bonus, or increase in any other manner direct or indirect compensation, for or to any of its officers, directors or Employees;

(m) The Company shall not enter into, amend, terminate or fail to renew any Contract or commitment except as contemplated by this Agreement and except for the purchase or sale of investment assets in the ordinary course of business consistent with past practice;

(n) The Company shall not make any capital expenditures, capital additions or capital improvements;

(o) The Company shall not materially restructure or change its investment securities portfolio through purchases, sales or otherwise, or the manner in which the portfolio is classified or reported;

(p) Advanta shall not and shall not permit the Company to, take any action or omit to take any action that would reasonably be expected to, individually or in the aggregate, result in a breach of any representation or warranty of Advanta contained in this Agreement;

(q) The Company shall make any filings as may be required in order to seek the approval of the insurance departments of Arizona, Arkansas, Georgia, Nevada, New Mexico and South Carolina to reduce the amount of the Company's special deposits to no more than 105% of the minimum amount required by applicable Law and shall take such additional actions as may be necessary to cause the release of all of such excess amounts to the Company.

(r) Neither Advanta nor the Company shall not take any action inconsistent with fulfilling the conditions to Buyer's obligation to close under **Section 4.1**; and

(s) The Company shall not enter into any Contract or commitment to do any of the foregoing.

## 5.2 Competing Transactions.

(a) Until termination of this Agreement as herein provided, Advanta shall not, and shall use Commercially Reasonable Efforts to cause the Company not to, directly or indirectly through any officer, director, agent, employee, Representative or otherwise, make, solicit, initiate or encourage the submission of proposals or offers from any person (including any of its officers or employees) relating to any re-capitalization, merger, consolidation or other business combination involving the Company, any sale of all or a substantial portion of the assets of the Company, or the sale of the Shares or any equity interest in the Company (any of the foregoing, a "**Competing Transaction**").

(b) Until termination of this Agreement as herein provided, Advanta shall not, and shall use Commercially Reasonable Efforts to cause the Company not to, directly or

indirectly, participate in any negotiations regarding, furnish to any other person any information with respect to, or otherwise cooperate, assist or participate in any effort or attempt by any third party to propose or effect any Competing Transaction; provided, that the foregoing will not apply to any Person who makes a Superior Company Proposal unless Advanta or the Company or any of their respective officers, directors, agents, employees, or Representatives made, solicited, initiated or encouraged the submission of such Superior Company Proposal in violation of **Section 5.2(a)**.

(c) Without limiting the scope of subsections (a) and (b), Advanta shall, during the term of this Agreement, vote the Shares against (i) any Competing Transaction, (ii) any action or Contract that would compete with, impede, interfere with or attempt to discourage the transactions contemplated by this Agreement or (iii) any action or Contract that would result in a material breach of this Agreement.

(d) Advanta shall promptly communicate to Buyer the terms of any Competing Transaction which it, the Company, or any other Person on their behalf may receive.

5.3 Access to Records. From the date of this Agreement until the Closing, Advanta, at reasonable times and upon reasonable notice, shall make or cause to be made fully available to Buyer, and its Representatives, for examination the assets and Property of the Company and all books, Contracts, records and documents relating to the Company's business, including, the books and records of Advanta to the extent that they pertain to the Company. Advanta shall cause its officers and employees and the officers and employees of the Company to furnish to Buyer, upon reasonable prior notice, such financial data and other information with respect to the assets and the conduct of the business of the Company as Buyer may from time to time reasonably request in such manner so as not to interfere unreasonably with the operation of the business of Advanta, the Company or their Affiliates, and shall provide Buyer with access to such officers and employees during normal business hours and in such manner so as not to interfere unreasonably with the operation of the business of Advanta, the Company or their Affiliates.

5.4 Filings. Buyer, with the cooperation of Advanta and the Company, shall, within thirty (30) days of the date of execution of this Agreement, prepare and file (unless any delay is due to any action or inaction of Advanta or the Company): (a) with the Insurance Department of the State of Arizona and any other applicable state insurance department the Form A filing and such other applications or notifications as may be required in order to obtain any Buyer Consents and shall provide Advanta with a copy of such filing(s), and (b) such other pre-acquisition applications or notifications as may be required by any Authority to be made prior to Closing in order for the Company to maintain, following the Closing, the Insurance Permits set forth on **Section 1.2(a)**. Insofar as any such applications and notifications are required to be executed or acknowledged by Advanta or the Company, Advanta shall cause the same to be duly executed or acknowledged by the appropriate party in a timely fashion. Each Party shall use Commercially Reasonable Efforts to cause any conditions imposed by any Authorities to the consummation of the transactions contemplated hereby to be satisfied, it being understood that none of Advanta, Buyer or the Company shall be required to agree to any such condition which, in such party's reasonable judgment, would have a material adverse effect on such party or its



Affiliates or would otherwise materially adversely affect the economic or business benefits to such party of the transactions contemplated by this Agreement.

5.5 Insurance Holding Company Filings; Bankruptcy Court Filings.

(a) Prior to the Closing, Buyer shall file with all applicable Authorities such registrations or other information as may be required to comply with all applicable state insurance holding company statutes, including, the filing of a Form A with the Insurance Department of the State of Arizona.

(b) Advanta shall make available to Buyer all information and materials in its possession, custody, or control required by the Insurance Department of the State of Arizona or any other Authority relating to Advanta or the Company in order to obtain as promptly as practicable the Buyer Consents and the Advanta Consents. Buyer shall make available to Advanta all information and materials in its possession, custody, or control required by the Insurance Department of the State of Arizona or any other Authority relating to Buyer in order to obtain as promptly as practicable Buyer Consents and the Advanta Consents.

(c) As promptly as practicable following the execution of this Agreement, AC shall file the Sale Motion. AC shall use its reasonable best efforts to obtain approval from the Bankruptcy Court of the termination fee set forth in **Section 7.2(b)** and the Sale Order, and the Buyer agrees to cooperate with AC in connection with such efforts.

(d) Each Party will supply the other Party with copies of all filings made by it pursuant to this **Section 5.5** upon the filing of same and will provide the other Party notice as soon as practicable when all approvals required to be obtained by it under this **Section 5.5** have been obtained.

5.6 Preparation of Financial Statements.

(a) With respect to any period ending on or prior to the Closing Date for which Statutory Financial Statements are required to be filed, Advanta shall cause the Company to prepare and file with the Insurance Department of the State of Arizona, on a basis consistent with past practices, all Statutory Financial Statements of the Company. Advanta shall promptly provide to Buyer, at least five (5) Business Days prior to the due date, including any extensions for the filing thereof, such Statutory Financial Statements together with such other information reasonably requested by Buyer in connection with such Statutory Financial Statements, including schedules and work papers. Following receipt of any such Statutory Financial Statements prepared by Advanta, Buyer shall promptly notify Advanta if it disputes any of the information contained in such Statutory Financial Statements. The Parties shall cooperate to promptly resolve any such dispute. Advanta shall and shall cause the Company to give consideration to any comments Buyer provides to them with respect to such Statutory Financial Statements; provided, that neither Advanta nor the Company shall have any duty under this Agreement to change or delay the filing of any such Statutory Financial Statement in response to any such comments. Subsequent to the Closing, Advanta shall provide Buyer with such assistance in the preparation of Statutory Financial Statements of the Company as may reasonably be requested by Buyer or the Company. Subsequent to the Closing, Advanta shall also provide to Buyer such

information as may reasonably be requested for the financial reporting period in which the Closing occurs and for subsequent reporting periods.

(b) Advanta shall, promptly following the execution of this Agreement and Bankruptcy Court approval, engage KPMG to conduct an audit of the Company's Year End Statutory Financial Statements for the year ended December 31, 2009. Promptly upon receipt of KPMG's independent auditor's report in respect of such Year End Statutory Financial Statements (the "**KPMG Report**"), Advanta shall deliver a true, correct and complete copy thereof to Buyer. Buyer shall reimburse Advanta for the fees and expenses of KPMG in connection with the preparation of the KPMG Report, as invoiced by KPMG, promptly upon receipt of such invoices, but in any event no later than thirty (30) days after receipt.

5.7 Filing Fees. On or prior to the Closing Date, the Company shall have paid all remaining Filing Fees due as of the Closing Date or within thirty (30) days after the Closing Date, as set forth on **Schedule 5.7**.

5.8 Closing Date Balance Sheet. Advanta shall provide Buyer with a draft of the Closing Date Balance Sheet for the Company not less than one (1) Business Day prior to the Closing Date.

5.9 Statement of Assets. Advanta shall provide Buyer with a complete list and specific description of the assets which shall be held by the Company upon Closing (collectively, the "**Closing Assets**") not later than 6:00 p.m. (Eastern Time) on the day immediately prior to the Closing Date (the "**Valuation Date**"). Such description shall include a valuation of the Closing Assets at fair market value as of the Valuation Date. The fair market value of the Closing Assets shall be determined as follows: (i)(x) Cash and Cash Equivalents shall be valued at face value and (y) investment securities traded in a recognized public market shall be valued at their closing composite price on the Valuation Date as reported by Bloomberg LP or, if such values are not reported by Bloomberg LP, for the Business Day preceding the Valuation Date as reported by *The Wall Street Journal* (if there is no closing price, then the average bid and asked prices shall be used); provided, however, that if the investment security is quoted only on a yield or discount rate basis, then such security shall be valued at the price calculated in accordance with generally accepted financial practice for the mean of the quoted bid and asked yield or rate.

5.10 Statement as to Purchase Price. On the day immediately prior to the Closing Date, Advanta shall present Buyer with a statement of the Purchase Price, determined in accordance with **Section 1.2(a)**.

5.11 Satisfaction of Closing Conditions. Advanta and Buyer shall cooperate in using Commercially Reasonable Efforts to cause the conditions to the Closing under **Sections 4.1** and **4.2** to be satisfied as soon as practicable, including obtaining the Advanta Consents and the Buyer Consents.

5.12 Statutory Examination. In the event a statutory examination of the financial condition or market conduct of the Company by the Insurance Department of the State of Arizona or any other Authority (a "**Statutory Examination**") occurs or commences prior to

the Closing Date, Advanta hereby agrees to use Commercially Reasonable Efforts to cooperate and cause the Company to cooperate with the Insurance Department of the State of Arizona and its agents (and, to the extent such Statutory Examination continues after Closing, to cooperate with the Company and Buyer) in connection with such Statutory Examination including, but not limited to, providing such information and materials in the possession or control of Advanta as may be requested from time to time by the Insurance Department of the State of Arizona or Buyer.

5.13 Pending or Threatened Action. Between the date of this Agreement and the Closing Date, Advanta and Buyer shall each inform the other, promptly after Knowledge thereof, of any pending or threatened Action by any Authority which could reasonably be anticipated (i) to prohibit or restrain or impair the consummation of the transactions contemplated by this Agreement, the Buyer Closing Documents or Advanta Closing Documents or the performance by the Parties of their respective obligations hereunder or thereunder (including by causing any of the conditions to the Closing under **Sections 4.1 and 4.2** not to be satisfied), (ii) to have a Material Adverse Effect or Buyer Material Adverse Effect or (iii) to have the effect of impairing the value of the Closing Assets or other Property of the Company or the validity of any Insurance Permit.

5.14 Compliance with Arizona Insurance Laws. During the period from the date hereof to the Closing Date, Advanta shall, and shall cause the Company to, comply in all material respects with the requirements of the Arizona insurance Laws.

5.15 Change of Name. Advanta and Buyer shall cooperate to, upon the Closing or as promptly as practicable thereafter, and consistent with the filing requirements of the various state insurance Authorities, cause the Company to change its name to “Prosperity Life Insurance Company” or such other name as may be selected by Buyer. Buyer shall not issue any policies or otherwise use in commerce the name “ADVANTA;” provided, that (i) statements by Buyer and its Affiliates that reference the name “ADVANTA” in regulatory documents, public filings required by applicable Law or otherwise consented to by Advanta in writing that it has purchased the Company from AIC and disclosures related thereto and (ii) in a non-promotional manner solely for purposes of historical reference and use, including reference to and use in insurance policies issued by the Company prior to the Closing, shall not in either case of clauses (i) or (ii) be deemed to be a breach of this **Section 5.15**.

5.16 Notification of Changes.

(a) Advanta shall, promptly after Knowledge thereof but not later than the Closing Date, notify Buyer in writing of any event or the existence of any state of facts that (i) is reasonably likely to make any of its representations and warranties in this Agreement untrue, (ii) would be reasonably likely to constitute a Material Adverse Effect, (iii) would materially impair the ability of Advanta to perform its obligations under this Agreement, including, the indemnification provisions contained herein or (iv) would materially impair the ability of Advanta or the Company, as applicable, to execute, deliver and perform its obligations under any Advanta Closing Document.

(b) Buyer shall, promptly after Knowledge thereof but not later than the Closing Date, notify Advanta in writing of any event or the existence of any state of facts that (i) is reasonably likely to make any of its representations and warranties in this Agreement untrue, (ii) would be reasonably likely to constitute a Buyer Material Adverse Effect, (iii) would materially impair the ability of Buyer to perform its obligations under this Agreement, including, the indemnification provisions contained herein or (iv) would materially impair the ability of Buyer to execute, deliver and perform its obligations under any of the Buyer Closing Documents.

(c) If the Party receiving notice under **Sections 5.16(a)** or **(b)** has the unilateral right to terminate this Agreement pursuant to **Section 7.1** by reason of the information disclosed in such notice, that Party will be deemed to have waived that right as to that information unless it exercises such right within the period of fifteen (15) Business Days of receiving notice pursuant to this **Section 5.16**. In the event that the Party receiving such notice does not elect to terminate within such fifteen (15) Business Day period pursuant to the immediately preceding sentence, the information disclosed in such notice will be deemed to have amended and qualified the representations and warranties contained in **Article II** or **III** above, as applicable, and to have cured any misrepresentation or breach of warranty that otherwise might have existed hereunder by reason of such information, solely for purposes of satisfaction of the conditions set forth in **Sections 4.1, 4.2** and **7.1**, as applicable. Nothing in this **Section 5.16(c)** shall affect a Party's right to indemnification in accordance with **Article VIII**.

5.17 Payment of Brokers' or Finders' Fees. At or prior to the Closing, Buyer shall pay the finder's fee due to the Shapiro Network, Inc.

5.18 Post Closing Filings; Post Closing Assistance. Except to the extent provided in **Section 6.1** with respect to Taxes, to the extent any regulatory filings, audits, information reports to policyholders, certificateholders, businesses, reinsurers, regulatory and Tax Authorities and any other similar filings or reports of the Company or associated with ownership of the Company are required by applicable Law after the Closing Date (a) Advanta shall complete and file such filings or reports if associated with Advanta's ownership of the Company, and (b) Buyer shall complete and file (or cause the Company to complete and file) such reports if required of the Company or associated with Buyer's ownership of the Company. The applicable Party shall file all such reports and filings when due. Advanta shall cooperate with Buyer to provide any information that Buyer may require after the Closing, at no cost to the Buyer, associated with the Company's prior business activities, regulatory matters and other similar matters.

5.19 Redomestication. Advanta shall and shall cause the Company to cooperate with Buyer in effecting a redomestication of the Company to any jurisdiction selected by Buyer, at Buyer's sole cost and expense; provided, that the completion of such redomestication shall not constitute a condition to Buyer's obligation to close under **Section 4.1**.

5.20 Termination of Contracts; Intercompany Accounts. Advanta shall and shall cause the Company to terminate the Contracts set forth on **Schedule 5.20** or, to the extent specified on **Schedule 5.20**, to amend such Contract to remove the Company as a party thereto, and to discharge the Company from any and all obligations, liabilities or commitments thereunder, effective prior to or as of the Closing Date. Advanta shall cause (i) all intercompany

agreements and arrangements (including all loans, debentures, letters of credit and guarantees) between Advanta and/or its Affiliates, on the one hand, and the Company, on the other hand, to be terminated with effect as of the date immediately prior to the Closing Date; and (ii) all intercompany accounts and liabilities (including any open balances), between Advanta and/or its Affiliates, on the one hand, and the Company, on the other hand, payable under such intercompany agreements and arrangements to be terminated pursuant to this **Section 5.20**, to be settled in full without any further liability or obligation on the part of Advanta, any Affiliate of Advanta or the Company.

#### 5.21 Confidentiality.

(a) For purposes of this Agreement, “**Confidential Information**” means non public information of or regarding a Party or its Affiliates (the “**Disclosing Party**”) delivered by or on behalf of Disclosing Party to the other Party (the “**Receiving Party**”) or its Representatives, whether furnished before or after the date of this Agreement, and regardless of the manner in which it is furnished, together with all analyses, compilations, studies or other documents or records prepared by Receiving Party and/or its Representatives to the extent such analyses, compilations, studies, documents or records contain, otherwise reflect, or are generated from such information.

(b) Receiving Party and its Representatives (i) will use the Confidential Information solely for exercising the Receiving Party’s rights and fulfilling its obligations under this Agreement or as expressly permitted hereunder, and (ii) will keep the Confidential Information strictly confidential and will not (except as required by applicable Law, regulation or legal process, and only after compliance with **Section 5.21(d)**), without Disclosing Party’s prior written consent, disclose any information in the Confidential Information. Notwithstanding the foregoing, the Confidential Information (or portions thereof) may be disclosed to those of Receiving Party’s Affiliates and their respective Representatives who need to know such information for purposes permitted under the preceding sentence (it being understood that prior to such disclosure Receiving Party’s or its Affiliate’s Representatives who need to know such information for the purpose of considering the Transaction will be informed of the confidential nature of the Confidential Information and shall have agreed to be bound by this Agreement or bound by substantially similar contractual or professional duties of confidentiality). Receiving Party agrees to be responsible for any breach of this Agreement by its Representatives.

(c) The term “Confidential Information” does not include any information to the extent Receiving Party can establish that (i) at the time of disclosure or thereafter it was generally known by the public (other than as a result of its disclosure by Receiving Party or its Representatives in violation of this Agreement); (ii) was available to Receiving Party on a non confidential basis from a Person who was not otherwise bound to a confidentiality agreement with Disclosing Party or its Representatives or was not otherwise prohibited from transmitting the information to Receiving Party; provided, that disclosure of Confidential Information of the Company to Buyer or its Affiliates before the Closing shall not remove such information from the definition of Confidential Information after the Closing. Notwithstanding the foregoing, customer and consumer information subject to the Gramm Leach Bliley Act or similar federal or state laws regarding privacy or security of customer information, and their implementing

regulations and agency guidance, shall be deemed to be Confidential Information, whether or not covered by (i) or (ii) above.

(d) In the event that Receiving Party is requested or required to disclose all or any part of the information contained in the Confidential Information pursuant to the terms of a valid and effective subpoena or order issued by a court of competent jurisdiction or a federal, state or local governmental or regulatory body or pursuant to a civil investigative demand or similar judicial process, Receiving Party shall unless prohibited by such subpoena, order, demand or judicial process, (i) notify Disclosing Party immediately of the existence, terms and circumstances surrounding such request or requirement, (ii) consult with Disclosing Party on the advisability of taking legally available steps to resist or narrow such request or requirement, (iii) if disclosure of any such information is required, disclose only that portion of the information which, upon written advice of Receiving Party's legal counsel, Receiving Party is legally required to disclose, and (iv) exercise Receiving Party's Commercially Reasonable Efforts to obtain a protective order or other reliable assurance that confidential treatment will be accorded to such information. In any event, Receiving Party will not oppose action by Disclosing Party to obtain such a protective order or other assurance.

(e) Receiving Party agrees that Disclosing Party has not granted Receiving Party any license, copyright, or similar right with respect to any of the Confidential Information or any other information provided to Receiving Party by Disclosing Party.

(f) Upon termination of this Agreement pursuant to **Article VII**, Receiving Party will promptly, at Receiving Party's option, deliver to Disclosing Party or destroy all of the Confidential Information, including all copies, reproductions, summaries, analyses or extracts thereof or based thereon in Receiving Party's possession or in the possession of any of Receiving Party's Affiliates or their respective Representatives. Receiving Party will promptly certify to Disclosing Party that it has returned or destroyed the Confidential Information, as applicable, pursuant to the preceding sentence. Notwithstanding the delivery or destruction of the Confidential Information, Receiving Party agrees that it, its Affiliates and its Representatives shall continue to be bound by its obligations under this **Section 5.21**.

(g) Except as set forth in **Section 9.3**, the Confidentiality Agreement is hereby terminated in its entirety and shall be of no further force or effect.

5.22 Distribution of the Shares to AC. Prior to Closing AIC shall, and AC shall cause AIC to, distribute to AC all of the Shares. In connection with the foregoing, Advanta shall prepare and cause to be filed a Form D statement of Prior Notice of a Transaction with the Insurance Department of the State of Arizona or any other filing as may be required by applicable Law in the State of Arizona or any other applicable jurisdiction necessary to obtain approval or non-disapproval, as the case may be, from any applicable Authority necessary to consummate such distribution. Advanta shall provide Buyer with a copy of any such filing(s) and shall provide Buyer a reasonable amount of time to review and comment upon any such filing prior to submission to the applicable Authority. Advanta shall submit any such filings simultaneously with Buyer's submission of its Form A filing pursuant to **Section 5.4** hereof. Simultaneous with the distribution of the Shares required by this **Section 5.22**, AIC shall be deemed to have assigned its rights and delegated its obligations hereunder to AC and such

assignment and delegation shall be effective without any further action of the Parties hereto or the execution of any further instrument or document, and AIC shall no longer be a party to this Agreement and shall have no further liability of any kind hereunder, whether such liabilities arise or accrue before or after such distribution and whether the events, acts or omissions on which such liability is based occur before or after such distribution. After such distribution, all references to “Advanta” and “AIC” in this Agreement shall refer to AC only.

## ARTICLE VI

### TAX COVENANTS

#### 6.1 Tax Covenants.

(a) Advanta shall include the Company in Advanta’s federal consolidated income Tax Returns, and all other Tax Returns of an Advanta Affiliated Group, for all taxable periods ending on or before the Closing Date. Advanta shall prepare or cause to be prepared in a manner consistent with past practice and timely file or cause to be filed on a timely basis including extensions, all Tax Returns of the Company for taxable periods ending on or before the Closing Date, and shall pay all Taxes attributable to such Tax Returns. Such Tax Returns, as of the time of filing, will be complete and accurate. Buyer shall cause the Company to furnish Tax information to Advanta for inclusion in such Tax Returns in accordance with the Company’s past custom and practice or as otherwise reasonably requested by Advanta.

(b) Without the prior written consent of Buyer, which consent shall not be unreasonably withheld, conditioned or delayed, none of Advanta, the Company, and any Affiliate of Advanta shall, to the extent it may affect or relate to the Company, make or change any Tax election, change any annual Tax accounting period, adopt or change any method of Tax accounting, file any amended Tax Return, enter into any closing Contract, settle any Tax claim or assessment, surrender any right to claim a Tax refund, offset or other reduction in Tax liability, consent to any extension or waiver of the limitations period applicable to any Tax claim or assessment or take or omit to take any other action, if any such action or omission would have the effect of increasing the Tax liability or reducing any Tax Asset of the Company, Buyer or any of Buyer’s Affiliates.

(c) Buyer may, at its option, cause the Company to elect, where permitted by applicable Law, to carry forward any Tax Asset that would, absent such election, be carried back to a Pre-Closing Tax Period in which the Company was included in a consolidated, combined or unitary Tax Return filed by Advanta or any of its Affiliates. Notwithstanding **Section 6.5**, if the Company is, under applicable Law, entitled to carry back any Tax attribute arising in a Post-Closing Tax Period to a Pre-Closing Tax Period, to the extent doing so would not materially increase the Tax liability or reduce any Tax Asset of Advanta or any member of an Advanta Affiliated Group, Advanta shall cooperate at Buyer’s request (and at Buyer’s expense) in securing a Tax refund and shall pay the amount received to Buyer within thirty (30) days after Advanta or any member of an Advanta Affiliated Group receives such refund in cash or such refund is credited against the Tax liability of Advanta or any member of an Advanta Affiliated Group.

(d) Prior to the Closing, the Company shall not make any payment of, or in respect of, any Tax to any Taxing Authority or any other Person, except to the extent such payment is in respect of a Tax that is due or payable or has been properly estimated in accordance with applicable Law as applied in a manner consistent with past practice of the Company.

(e) If Advanta or any of its Affiliates is responsible for filing after Closing any Tax Return which requires the signature of an officer of the Company, Advanta shall present a completed version of such Tax Return for the signature of the officer and shall supply any support for such Tax Return that the officer may reasonably request. The officer, after review, shall promptly sign the Tax Return and deliver it to Advanta unless such officer demonstrates a good faith objection to so doing. Advanta shall use Commercially Reasonable Efforts to make Tax Returns available for review as required under this section sufficiently in advance of the due date for filing such Tax Returns to provide Buyer's officers a meaningful opportunity to analyze and comment on such Tax Returns and have such Tax Returns modified before filing.

(f) Prior to the Closing, Advanta shall prepare pro forma Premium Tax filings based on the Company's operations through the month-end immediately preceding the Closing Date. Buyer shall cause the Company to prepare and timely file or cause to be filed on a timely basis including extensions, all Tax Returns of the Company for all Straddle Periods and, subject to Buyer's right to indemnification pursuant to **Section 6.4**, to pay all Taxes attributable to such Tax Returns. Buyer shall cause such Tax Returns, as of the time of filing, to be complete and accurate in all material respects. Advanta shall furnish Tax information to Buyer for inclusion in such Tax Returns as reasonably requested by Buyer.

6.2 Transfer Taxes. Transfer Taxes arising from the transactions contemplated by this Agreement shall be paid by the party legally responsible therefor when due, which shall, at its own expense, file all necessary Tax Returns and other documentation with respect to all such Transfer Taxes, and, if required by applicable Law, the other party shall (at its own expense), and shall cause its Affiliates to, join in the execution of any such Tax Returns and other documentation. The non-paying party shall reimburse the paying party one-half of any such Transfer Taxes, promptly upon notice of such payment, which notice shall include reasonable documentation of such Transfer Taxes and their payment.

6.3 Tax Sharing and Similar Agreements. All Tax sharing, Tax allocation, Tax indemnification and similar Contracts with respect to or involving the Company (other than this Agreement), including, but not limited to, the Tax sharing, Tax allocation, Tax indemnification and similar Contracts set forth on **Schedule 3.11(f)**, shall be terminated as of the Closing Date and will have no further effect for any taxable period and, after the Closing Date, the Company shall not be bound thereby. The Company shall not, after the Closing Date, have any further liability under any such Tax sharing, Tax allocation, Tax indemnification or similar Contracts to Advanta or Advanta's Affiliates or otherwise.

6.4 Tax Indemnification.

(a) Subject to **Sections 8.3** and **8.6** and except to the extent corresponding to accrued liabilities deducted from the Purchase Price pursuant to **Section 1.2(a)(iv)**, AIC and AC



shall jointly and severally be liable for and shall indemnify and hold harmless Buyer, the Company, and their respective Affiliates, directors, officers, stockholders, employees, agents, successors and assigns (each, a “**Buyer Indemnitee**”) from and against any losses, damages, expenses, liabilities, claims, Taxes, assessments and judgments (including reasonable costs and attorneys’ fees and other expenses arising out of any claim, or the defense or investigation thereof, made with respect to any of the foregoing) (each a “**Tax Loss**” and together, the “**Tax Losses**”) incurred or suffered by such Persons arising out of, based upon or resulting from (i) any breach of Advanta’s representations and warranties contained in **Section 3.11**, (ii) any breach of Advanta’s covenants pertaining to Taxes contained in this **Article VI**, (iii) any liability for Taxes of the Company (described in clause (i) of the definition of “Tax”) for any Pre-Closing Tax Period, (iv) any liability for Taxes described in clause (ii) of the definition of “Tax”, (v) any liability for Taxes resulting from the application of Section 280G of the Code to any payment made pursuant to this Agreement or to any payment made as a result of, or in connection with, any transaction contemplated by this Agreement, (vi) any liability for Taxes of the Company resulting from a termination of any Tax Sharing Agreement pursuant to **Section 6.3**, and (vii) any liabilities for Taxes resulting from, arising out of or based on the Section 338(h)(10) Elections.

(b) Subject to **Sections 8.3** and **8.6** and except with respect to any Transfer Taxes as to which **Section 6.2** shall apply, Buyer shall be liable for and shall indemnify and hold harmless Advanta, its Affiliates and their respective directors, officers, stockholders, successors and assigns (each, a “**Advanta Indemnitee**” and, collectively with the Buyer Indemnitees, “**Tax Indemnitees**”) from and against any Tax Losses incurred or suffered by such Persons arising out of, based upon or resulting from (i) any breach of Buyer’s covenants pertaining to Taxes contained in this **Article VI**, and (ii) any liability for Taxes of the Company for or with respect to any Post-Closing Tax Period.

(c) In the case of any Straddle Period, the Company’s liability for (x) real, personal and intangible property Taxes (“**Property Taxes**”) for the Pre-Closing Tax Period shall equal the amount of such property Taxes for the entire Straddle Period multiplied by a fraction, the numerator of which is the number of days during the Straddle Period that are in the Pre-Closing Tax Period and the denominator of which is the number of days in the Straddle Period, (y) Property Taxes for the Post-Closing Tax Period shall equal the amount of such property Taxes for the entire Straddle Period multiplied by a fraction, the numerator of which is the number of days during the Straddle Period that are in the Post-Closing Tax Period and the denominator of which is the number of days in the Straddle Period and (z) Taxes other than property Taxes for any Post-Closing Tax Period or Pre-Closing Tax Period, as applicable, shall be computed based upon a hypothetical closing of the books of the Company at the end of the Closing Date.

(d) If the Indemnified Party provides the Indemnifying Party with written notice of a Tax Loss prior to the date on which the relevant Tax Loss is required to be paid to the relevant Tax Authority, the Indemnifying Party may, upon written notice to the Indemnified Party, discharge its obligation to indemnify the Indemnified Party against such Tax Loss by making payments to the relevant Taxing Authority on or prior to such date in an aggregate amount equal to the amount of such Tax Loss; provided, that doing so will not discharge any

obligation under this **Section 6.4** to indemnify for other Tax Losses indemnifiable hereunder, including costs of defense and investigation associated with the Tax Loss so paid.

6.5 Cooperation and Controversies. With respect to Taxes of or relating to the Company or the transactions contemplated by this Agreement, Advanta and Buyer shall (i) reasonably cooperate; and shall cause their respective Affiliates and Representatives reasonably to cooperate, in preparing and filing all Tax Returns (including making available to each other records necessary or reasonably useful in connection with the preparation of such Tax Returns), (ii) retain all books and records with respect to Tax matters pertaining to the Company relating to any Pre-Closing Tax Period, and to abide by all record retention Contracts entered into with any Tax Authority, (iii) give the other party reasonable written notice prior to destroying or discarding any such books and records and, upon request by the other Party, allowing such Party to take possession of books and records intended to be destroyed or discarded, and (iv) upon request of the other Party (and, except with respect to any certificates relating to Transfer Taxes, as to which **Section 6.2** shall apply, or as otherwise specifically provided in this Agreement, at such requesting Party's sole expense) to use Commercially Reasonable Efforts to obtain any certificate or other document from any Authority or any other Person as may be necessary to mitigate, reduce or eliminate any Tax that could be imposed (including with respect to the transactions contemplated hereby) on such requesting Party.

6.6 Section 338(h)(10) Elections. Advanta and Buyer shall join with each other in making a timely, irrevocable and effective joint election under Section 338(h)(10) of the Code and under similar provisions of state or local Law with respect to the purchase of the Shares (collectively, the "**Section 338(h)(10) Elections**"). No later than sixty (60) calendar days after the Closing Date, Buyer shall deliver to Advanta a Form 8883 and any other forms necessary to make the Section 338(h)(10) Elections, setting forth an allocation of the aggregate deemed sale price, as defined in Treasury Regulations Section 1.338-4 (but without regard to any Party's transaction costs). Buyer shall make such revisions to the forms delivered pursuant to the preceding sentence as are reasonably requested by Advanta (such forms, incorporating such revisions, the "**338(h)(10) Forms**"). The allocation in 338(h)(10) Forms shall be made in accordance with the valuation of the Closing Assets as determined pursuant to **Sections 1.2(a)** and **5.9** and the Purchase Price attributable to the assets described in clauses (x) and (y) of **Section 1.2(a)** and in accordance with Section 1.338-6 of the Treasury Regulations. Advanta shall execute and deliver to Buyer any 338(h)(10) Forms requiring Advanta's signatures with respect to the purchase of the Shares hereunder and Buyer shall timely file such forms with the relevant Authorities and submit evidence of the filings to Advanta. The Parties shall (i) be bound by the Form 8883 for purposes of determining any Taxes and (ii) shall prepare and file (and cause their Affiliates to prepare and file) Tax Returns on a basis consistent with the Form 8883. In the event that the Form 8883 is disputed by any Authority, any Party receiving notice of such dispute shall promptly notify the other Party of the dispute.

## ARTICLE VII

### TERMINATION

7.1 Termination of Agreement. Subject to **Section 7.2**, this Agreement may be terminated by notice at any time prior to the Closing:

- (a) by the mutual written consent of Buyer and Advanta;
- (b) by Advanta upon any Default of Buyer not waived by Advanta in writing;
- (c) by Buyer upon any Default of Advanta not waived by Buyer in writing;
- (d) by Buyer if the satisfaction of any of the conditions set forth in **Section 4.1** shall not have been met or shall have become impossible to meet on or before the one hundred and twentieth (120th) day following the date of this Agreement (other than through the failure of Buyer to comply with its obligations hereunder);
- (e) by Advanta if the satisfaction of any of the conditions to Advanta's obligation to close under **Section 4.2** shall not have been met or shall have become impossible to meet on or before the one hundred and twentieth (120th) day following the date of this Agreement (other than through the failure of Advanta to comply with its obligations hereunder);
- (f) by Advanta if (i) Advanta receives a Superior Company Proposal, (ii) in light of such Superior Company Proposal a majority of the AIC's or AC's board of directors, as applicable, determines in good faith, after consultation with outside counsel, that the failure to withdraw or modify its recommendation of this Agreement to the Bankruptcy Court would be inconsistent with the board's exercise of its fiduciary duty under applicable Law, (iii) Advanta notifies Buyer in writing of the determinations described in clause (ii) above, (iv) at least five Business Days following the notice referred to in clause (iii) above, and taking into account any revised proposal made by Buyer after such notice, such Superior Company Proposal remains a Superior Company Proposal and a majority of the applicable board of directors again makes the determinations referred to in clause (ii) above, (v) the applicable board of directors concurrently approves, and Advanta concurrently enters into, subject to Bankruptcy Court approval, a definitive agreement providing for the implementation of such Superior Company Proposal, and (vi) the transaction contemplated by the Superior Company Proposal is approved by the Bankruptcy Court and consummated by the parties thereto; and
- (g) by Buyer if the Bankruptcy Court does not approve the termination fee set forth in **Section 7.2(b)**, and payment thereof as an administrative expense pursuant to Section 503(b) of the Bankruptcy Code.

## 7.2 Effect of Termination.

(a) Each Party's right of termination under **Section 7.1** is in addition to any other rights it may have under this Agreement or otherwise, and the exercise of such right of termination will not be an election of remedies. If this Agreement is terminated pursuant to **Section 7.1**, all obligations of the parties under this Agreement will terminate, except as provided in **Section 7.4**; provided, however, that if this Agreement is terminated pursuant to **Section 7.1(b)** or **(c)** 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 Default, the terminating party's right to pursue all legal remedies will survive such termination unimpaired.

(b) Upon termination of this Agreement pursuant to **Section 7.1(f)**, Advanta shall pay Buyer a termination fee in an amount equal to any and all out-of-pocket fees, costs and

expenses incurred by Buyer in connection with the negotiation, drafting, execution and delivery of this Agreement and the transactions contemplated hereby whether incurred prior or subsequent to the date of this Agreement, including the fees, costs and expenses of Buyer's advisors and legal counsel, as reflected on invoices provided by Buyer to Advanta, by wire transfer of immediately available funds no more than three (3) Business Days after the later of the date of such termination and the date on which Buyer provides Advanta with wire transfer instructions and such invoices. The Parties agree that payment of the termination fee provided for in this **Section 7.2(b)** will constitute liquidated damages and is a reasonable estimate of the monetary damages that may be incurred by Buyer by reason of a termination of this Agreement pursuant to **Section 7.1(f)** and that such termination fee is the only remedy available to Buyer in the event of a termination of this Agreement pursuant to **Section 7.1(f)**.

7.3 Extensions and Waiver. At any time prior to the Closing Date, Buyer and Advanta may by mutual written agreement extend the time for performance of any of the obligations or other acts of Buyer, Advanta or the Company; waive any untruths, inaccuracies or omissions in the representations and warranties of Buyer or Advanta contained herein or in any document delivered pursuant hereto; waive compliance with any of the covenants or conditions precedent contained herein; or extend the Closing Date. Any agreement to any such extension or waiver shall be valid only if set forth in an agreement in writing and executed by the Party entitled to so waive.

7.4 Survival. **Article IX** and **Sections 5.21, 7.2**, and this **Section 7.4** shall survive any termination of this Agreement.

## ARTICLE VIII

### INDEMNIFICATION AND LIMITATIONS

8.1 Indemnification by Advanta. Subject to **Sections 8.3** and **8.4** and except to the extent corresponding to accrued liabilities deducted from the Purchase Price pursuant to **Section 1.2(a)(iv)**, AIC and AC shall, jointly and severally, indemnify and hold harmless the Buyer Indemnitees from and against any and all liabilities, claims, Liens, obligations, damages, losses, costs, fees and expenses (including fines, guaranty fund and other assessments, penalties and reasonable investigatory and attorney's fees and disbursements) (collectively, "Losses") incurred or suffered by such Persons arising out of, based upon or resulting from:

(a) any breach by Advanta of or inaccuracy of Advanta's representations, warranties or covenants contained in this Agreement;

(b) past or in force insurance policies or certificates issued or assumed by the Company at any time prior to the Closing, including (i) any extra contractual obligations or liabilities related thereto and (ii) any Actions related thereto, whether commenced prior to or after the date of this Agreement;

(c) any pending or threatened Action set forth on **Schedule 3.6(a)**;

(d) any Action based upon the conduct of the Company's business or any actions taken or omissions made by the Company, in either case, at any time during the period from the formation of the Company through the Closing;

(e) any violation or alleged violation of applicable Law based upon the conduct of the Company's business at any time during the period from the formation of the Company through the Closing;

(f) any liabilities of the Company arising out of or relating to activities of any Producer prior to the Closing Date;

(g) any claim against the Company by any employee, officer or director of the Company during the period prior to the Closing, including, any Employee Related Liability and any Benefit Related Liability; and

(h) any liabilities of the Company arising out of or relating to the Assumed Risk Agreements or any other reinsurance Contract or arrangement entered into or issued by the Company at any time during the period from the formation of the Company through the Closing.

8.2 Indemnification by Buyer. Subject to **Sections 8.3** and **8.4**, Buyer shall indemnify and hold harmless the Advanta Indemnitees from and against any and all Losses incurred or suffered by such Persons arising out of, based upon or resulting from:

(a) any breach by Buyer of or inaccuracy of Buyer's representations, warranties or covenants contained in this Agreement;

(b) any Action based upon the conduct of the Company's business at any time after the Closing;

(c) any violation or alleged violation of applicable Law based upon the conduct of the Company's business at any time after the Closing;

(d) any liabilities of the Company arising out of or relating to activities of any Producer after the Closing; and

(e) any claim against the Company by any employee, officer or director of the Company after the Closing, including, any Employee Related Liability and any Benefit Related Liability.

8.3 Survival; Time Limitations.

(a) Subject to **Sections 8.3(b)** through **(e)**, the representations and warranties and, as applicable, covenants and obligations of the Parties contained in this Agreement shall survive the Closing and the consummation of the transactions contemplated hereby.

(b) Except where otherwise expressly provided, and except for claims for indemnification with respect to any Losses arising from fraud, willful misrepresentation or acts of concealment by Advanta or Buyer prior to the Closing Date and except as provided in

**Sections 8.3(c), (d) and (e)**, neither Buyer nor Advanta may commence a claim for indemnification under this **Article VIII** with respect to any Losses after the date that is two (2) years following the Closing Date.

(c) Notwithstanding anything to the contrary herein, Buyer and Advanta may commence claims for indemnification for Tax Losses under **Sections 6.4** or for Losses under **Section 8.1** in respect of any breach or inaccuracy of Advanta's representations and warranties in **Section 3.11** until the expiration of all applicable statutes of limitations (giving effect to any waiver, extension and mitigation thereof).

(d) Notwithstanding anything to the contrary herein, Buyer may commence claims for indemnification for Losses under this **Article VIII** in respect of (i) any breach or inaccuracy of any Advanta Specified Representations (which shall survive the Closing indefinitely) or (ii) under **Sections 8.1(b)** through **(h)**, in each case, indefinitely.

(e) Notwithstanding anything to the contrary herein, Advanta may commence claims for indemnification for Losses under this **Article VIII** (i) indefinitely (A) in respect of any breach or inaccuracy of any Buyer Specified Representations (which shall survive the Closing indefinitely), or (B) under **Sections 8.2(b)** through **(e)**, and (ii) until the expiration of all applicable statutes of limitations in respect of any breach of Buyer's representation in **Section 2.4**.

#### 8.4 Limitations on Liability for Certain Losses.

(a) A Party shall have no liability to indemnify under this **Article VIII** (an "**Indemnity Obligation**") unless and until the aggregate amount of indemnifiable Losses which may be recovered from such Party under this **Article VIII** equals or exceeds Fifty Thousand Dollars (\$50,000), in which case such Party shall be liable for the such Losses from the "first dollar," subject to **Section 8.4(b)**; provided, that this **Section 8.4(a)** shall not apply to Claims for indemnification for (i) Tax Losses under **Section 6.4**, (ii) Losses under **Section 8.1** in respect of any breach or inaccuracy of Advanta's representations and warranties in **Section 3.11** or (iii) pursuant to **Section 8.1(h)**.

(b) Except for Losses described in **Sections 8.1(b)** through **(h)** and **8.2(b)** through **(e)**, a Party's aggregate Indemnity Obligations for Losses under **Sections 8.1(a)** or **8.2(a)**, as the case may be, shall not **exceed** the amount of the portion of the Purchase Price described in **Section 1.2(a)(i)**; provided, that Losses described in **Sections 8.1(b)** through **(h)** and **8.2(b)** through **(e)** shall be taken into account in determining whether a Party's aggregate Indemnity Obligations would exceed such limitation.

8.5 Additional Provisions Regarding Tax Losses. Except as expressly provided in this **Article VIII**, this **Article VIII** shall not apply to the indemnification with respect to Taxes as provided in **Article VI**. If there shall be any conflicts between the provisions of this **Article VIII** and **Article VI**, the provisions of **Article VI** shall govern with respect to Taxes.

#### 8.6 Third Party Actions.

(a) In the event that a Party (an “**Indemnified Party**”) has Knowledge of any third-party claim or Action, instituted or threatened, which involves or appears reasonably likely to involve a Tax Loss or Loss indemnifiable under **Sections 6.4** or this **Article VIII** (separately and collectively, a “**Claim**”), the Indemnified Party will, promptly provide notice of such Claim to the Party that would bear the Indemnity Obligation for such Tax Loss or Loss (the “**Indemnifying Party**”), which notice shall describe such Claim in reasonable detail, including sufficient information to allow the Indemnifying Party to assess the amount of such Claim and whether it is indemnifiable under **Section 6.4** or this **Article VIII**. Any delay or failure to so notify the Indemnifying Party of a Claim will relieve the Indemnifying Party from liability under **Section 6.4** or this **Article VIII** only to the extent that such failure materially adversely affects the ability of the Indemnifying Party to defend its interests in connection with the Claim.

(b) Except with respect to any Claim involving a Tax Loss (a “**Tax Claim**”) with respect to a Straddle Period which Buyer shall control, the Indemnifying Party (at its expense) shall have the right and be given the opportunity to defend against each Claim. If the Indemnifying Party does not undertake the defense of any Claim within a reasonable period after receipt of notice of the same, the Indemnified Party shall have the right to elect to undertake the defense of such Claim, subject to the right of the Indemnifying Party to assume the defense at any time prior to the final determination or settlement of the Claim. Regardless of whether the Indemnifying Party assumes defense of a Claim, the Indemnified Party may, at its own expense, monitor the defense of such Claim. The Indemnified Party shall use Commercially Reasonable Efforts to provide the Indemnifying Party with any information it may reasonably request for the investigation or defense of a Claim and otherwise to cooperate and to cause its Affiliates and Representatives to cooperate in such investigation and defense. In the case of a Tax Claim, the Party defending such Claim shall not settle or compromise such proceedings without the prior written consent of the other Party, if the settlement or compromise would adversely affect the Tax liability of that Party or any of its Affiliates. The Indemnified Party shall not make any settlement with respect to any Claim without prior written consent of the Indemnifying Party, which consent shall not be unreasonably withheld, conditioned or delayed.

8.7 Subrogation. The Indemnifying Party shall be subrogated to any right or cause of action which the Indemnified Party may have against any other Person with respect to any matter giving rise to a claim for indemnification under **Section 6.4** or this **Article VIII**.

8.8 Tax Treatment of Payments. All payments made pursuant to this **Article VIII** or **Section 6.4** shall be treated for tax purposes as adjustments to the Purchase Price.

8.9 Exclusive Remedy. After the Closing, and except for claims of fraud or intentional misrepresentation and except for the specific performance of covenant, where appropriate under generally applicable Law, the obligations to indemnify under **Section 6.4** and this **Article VIII** will provide the exclusive remedy against a Party for any breach of any representation, warranty, covenant or other claim arising out of or relating to this Agreement or any other document, certificate, schedule or instrument required to be delivered or executed in connection herewith and or the transactions contemplated hereby.





9.3 Entire Agreement. This Agreement, the Advanta Closing Documents and the Buyer Closing Documents and the Buyer Parent Support Letter Agreement embody the entire agreement and understanding of the Parties with respect to the subject matter hereof and supersede all prior and contemporaneous agreements and understandings relative to said subject matter, including the Confidentiality Agreement (the “**Confidentiality Agreement**”), dated July 1, 2009, by and between Black Diamond Capital Partners I, L.P. and AIC and the Letter of Intent, dated July 6, 2009 by and between Black Diamond Capital Partners I, L.P. and AIC, as amended; provided, that the Parties do not intend to release any claims, known or unknown, accrued as of the date of this Agreement for breach of the Confidentiality Agreement.

9.4 Binding Effect; Assignment. This Agreement and the various rights and obligations arising hereunder shall inure to the benefit of and be binding upon Buyer, its successors and assigns, and Advanta, its successors and assigns. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be transferred or assigned (by operation of law or otherwise) by any Party without the prior written consent of the other Party, except (a) Buyer shall have the right to assign its rights and obligations hereunder and to transfer and assign ownership of the Company or its assets and Property to any directly or indirectly wholly owned Subsidiary of Buyer or any Affiliate of Buyer, (b) if AIC is dissolved, AIC shall have the right to assign its rights and obligations hereunder to AC; provided, that if such dissolution and assignment occurs prior to the Closing, the Shares are also assigned to AC and (c) in accordance with **Section 5.22** hereof. No assignment shall operate in any way to modify or discharge any of the obligations of the assigning Party contemplated by this Agreement, except pursuant to **Section 5.22** hereof.

9.5 No Third Party Beneficiaries. Subject to **Section 9.4**, nothing herein, expressed or implied, is intended or shall be construed to confer upon or give to any person, firm, corporation or legal entity, other than the Parties, any rights, remedies or other benefits under or by reason of this Agreement.

9.6 Counterparts. This Agreement may be executed simultaneously in multiple counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. The signatures to this Agreement may be evidenced by facsimile copies or PDF copies reflecting a Party’s signature, and any such facsimile copy or PDF copy will be sufficient to evidence the signature of such Party as if it were an original signature.

9.7 Captions. The article and section headings of this Agreement are inserted for convenience only and shall not constitute a part of this Agreement in construing or interpreting any provision hereof.

9.8 Expenses and Transactions. Each of the Parties will bear its own costs and expenses (including legal fees and expenses and any finder’s fees) incurred in connection with this Agreement and the transactions contemplated hereby.

9.9 Waiver; Consent. This Agreement may not be changed, amended, terminated, augmented, rescinded or discharged (other than in accordance with its terms), in whole or in part, except by a writing executed by the Parties, and no waiver of any of the

provisions or conditions of this Agreement or any of the rights of a Party shall be effective or binding unless such waiver shall be in writing and signed by the party claimed to have given or consented thereto.

9.10 Further Assurances. The parties shall, in good faith, execute such other and further instruments, assignments or documents as may be necessary for the consummation of the transactions contemplated by this Agreement and consistent with its provisions and shall use Commercially Reasonable Efforts to assist and cooperate with each other in connection with these activities. Without limiting the generality of the foregoing, in the event at any time after the Closing any further action is necessary or desirable to carry out the purposes of this Agreement, each of the Parties will take such further action (including the execution and delivery of such further instruments and documents) as reasonably requested by the other Party and at the sole cost and expense of the requesting Party (unless the requesting party is entitled to indemnification therefore under **Article VIII**). Upon reasonable notice, each Party shall furnish or cause to be furnished to the other Party and its Representatives access, during normal business hours, to such information and records relating to the Company and such employees of Advanta as is reasonably necessary for financial reporting and accounting matters, insurance regulatory reporting requirements, the preparation and filing of any Tax Returns, reports or forms, or the defense of any Tax related claim or assessment; provided, that neither Party shall be required to take any action that would unreasonably interfere with the conduct of the business of such Party or its Affiliates or Representatives or unreasonably disrupt their normal operations; provided, further, that the Party requesting such access shall pay or promptly reimburse any reasonable costs or expenses incurred by the Party providing such access.

9.11 Governing Law. This Agreement shall in all respects be construed in accordance with and governed by the Laws of the State of Delaware, without regard to any such Laws relating to choice or conflict of laws that would apply the Laws of any other jurisdiction. The Parties agree that the state and federal courts located in New Castle County, Delaware shall be the exclusive jurisdiction for the resolution of all disputes between the Parties arising out of or related to this Agreement. Each of the parties hereto hereby irrevocably waives any and all right to trial by jury in any legal proceeding arising out of or related to this Agreement or the transactions contemplated hereby.

9.12 Public Announcement. Neither Buyer nor Advanta shall, without the prior written consent of the other, make any public announcement or any release to trade publications or to the press or make any statement to any competitor, customer or any other third party with respect to the transactions contemplated herein, except such announcement, release or statement necessary in the opinion of its counsel in order for Buyer or Advanta or any of their respective Affiliates to comply with applicable requirements of federal or state Law.

9.13 Construction. In this Agreement, unless a clear contrary intention appears:

- (a) the singular number includes the plural number and vice versa;
- (b) reference to any Person includes such Person's successors and assigns but, if applicable, only if such successors and assigns are not prohibited by this Agreement, and

reference to a Person in a particular capacity excludes such Person in any other capacity or individually;

(c) reference to any Contract, document or instrument, including Governing Documents, means such Contract, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof and any addenda, exhibits, or schedules thereto;

(d) reference to any Law means such Law as amended, modified, codified, replaced or reenacted, in whole or in part, and in effect from time to time, including rules and regulations promulgated thereunder, and reference to any section or other provision of any Law means that provision of such Law from time to time in effect and constituting the substantive amendment, modification, codification, replacement or reenactment of such section or other provision;

(e) “Article,” “Section,” “Schedule,” and “Exhibit” refer to articles, sections, schedules and exhibits of or to this Agreement;

(f) “hereunder,” “hereof,” “hereto,” and words of similar import shall be deemed references to this Agreement as a whole and not to any particular Article, Section or other provision hereof;

(g) “including” (and with correlative meaning “include”) means including without limiting the generality of any description preceding such term; and

(h) “or” is used in the inclusive sense of “and/or”.

9.14 Certain Definitions. In the context of this Agreement, the following terms, when utilized in this Agreement and unless the context otherwise requires, shall have the meanings indicated, which meaning shall be equally applicable to both the singular and plural forms of such terms. Whenever the context requires, words used in the singular shall be construed to mean or include the plural and vice versa, and pronouns of any gender shall be deemed to include and designate the masculine, feminine or neuter gender.

“338(h)(10) Forms” has the meaning set forth in **Section 6.6**.

“AC” has the meaning set forth in the introductory paragraph hereto.

“Actions” has the meaning set forth in **Section 2.5**.

“Advanta” has the meaning set forth in the introductory paragraph hereto.

“Advanta Affiliated Group” means an affiliated group (as that term is defined by Section 1504(a) of the Code without regard to the limitations contained in Section 1504(b) of the Code) that, at any time on or before the Closing Date, includes or has included AIC or AC or any predecessor of or successor to them (or another such predecessor or successor), or any other group of corporations that, at any time on or before the Closing Date, files or has filed Tax

Returns on a combined, consolidated or unitary basis with AIC or AC or any predecessor of or successor to them (or another such predecessor or successor).

*“Advanta Closing Documents”* has the meaning set forth in **Section 3.2**.

*“Advanta Consent”* means any notice, consent, approval, order or authorization of, or registration, declaration or filing with, any Authority or any third party that is required in connection with Advanta’s or the Company’s execution and delivery of this Agreement and each Advanta Closing Document to which it is a party or its performance of the terms hereof or thereof, including so called “bulk reinsurance” statutes, which generally require a ceding company to provide notification to or obtain the approval of the insurance department of the applicable jurisdiction prior to or in connection with the transfer by reinsurance of all or substantially all of the ceding company’s business or a given line of business.

*“Advanta’s Disclosure Schedule”* means **Schedule 1.2(a)**, **Schedules 3.1** through **3.30**, **Schedule 5.1**, **Schedule 5.7** and **Schedule 5.20**.

*“Advanta Indemnitees”* has the meaning set forth in **Section 6.4(b)**.

*“Advanta Specified Representations”* means the following representations and warranties of Advanta: **Section 3.1** (Organization), **Section 3.2** (Authorization), **Section 3.4** (Capitalization and Security Holders), **Section 3.5** (Share Ownership and Authority), **Section 3.11** (Tax Matters), **Section 3.14** (Insurance; Reinsurance), **Section 3.15** (No Restrictions on Business), **Section 3.16** (Undisclosed Liabilities), **Section 3.18** (State Licenses; Compliance with Law), **Section 3.22** (Employee Matters), **Section 3.23** (Producers, Agents and Brokers), and **Section 3.29** (Brokers and Finders).

*“Affiliate”* with respect to any Person means any other Person controlled by, controlling or under common control with such Person. For the purposes of this definition, “control” (including the correlative terms “controlling”, “controlled by” and “under common control with”), with respect to any Person, means possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or by Contract or otherwise.

*“Affiliated Group”* means an affiliated group (as that term is defined by Section 1504(a) of the Code without regard to the limitations contained in Section 1504(b) of the Code) that, at any time on or before the Closing Date, includes or has included the Company or any predecessor of or successor to the Company (or another such predecessor or successor), or any other group of corporations that, at any time on or before the Closing Date, files or has filed Tax Returns on a combined, consolidated or unitary basis with the Company or any predecessor of or successor to the Company (or another such predecessor or successor).

*“Agreement”* has the meaning set forth in the introductory paragraph hereto.

*“AIC”* has the meaning set forth in the introductory paragraph hereto.

*“Assumed Risk Agreements”* has the meaning set forth in **Section 3.14**.

“*Authority*” means any federal, state, local or foreign governmental or regulatory court, legislative body, agency, commission, department, bureau, instrumentality or other governmental authority.

“*Bankruptcy Court*” means the United States Court for the District of Delaware or such other court that exercises jurisdiction over the chapter 11 cases of AC and certain of its affiliates, which are being jointly administered under Case No. 09-13931 (KJC).

“*Benefit Related Liability*” has the meaning set forth in **Section 3.22(c)**.

“*Business Day*” means any day other than a Saturday, Sunday or other day on which commercial banks in New York, New York are authorized or required by Law to close.

“*Buyer*” has the meaning set forth in the introductory paragraph hereto.

“*Buyer Closing Documents*” has the meaning set forth in **Section 2.2**.

“*Buyer Consent*” means any notice, consent, approval, order or authorization of, or registration, declaration or filing with, any Authority or any third party that is required in connection with Buyer’s execution and delivery of this Agreement and each Buyer Closing Document to which it is a party or its performance of the terms hereof or thereof.

“*Buyer Indemnitee*” has the meaning set forth in **Section 6.4(a)**.

“*Buyer Material Adverse Effect*” means a material adverse effect on the ability of Buyer to consummate the transactions contemplated hereby or to perform its obligations hereunder.

“*Buyer Parent Support Letter Agreement*” means the letter agreement between Black Diamond Capital Partners I, L.P. and Advanta in the form attached hereto as **Exhibit A**.

“*Buyer’s Disclosure Schedule*” means **Schedules 2.1** through **2.9**.

“*Buyer Specified Representations*” means the following representations and warranties of Buyer: **Section 2.1** (Organization), **Section 2.2** (Authorization) and **Section 2.8** (Brokers and Finders).

“*Cash*” means United States dollars.

“*Cash Equivalents*” means, as at any date of determination and as reflected on a balance sheet in accordance with SAP: marketable securities (i) issued or directly and unconditionally guaranteed as to interest and principal by the United States federal government or (ii) issued by any agency of the United States the obligations of which are backed by the full faith and credit of the United States federal government, in each case maturing within one (1) year after such date.

“*Claim*” has the meaning set forth in **Section 8.6(a)**.

“*Closing*” has the meaning set forth in **Section 1.1**.

“*Closing Assets*” has the meaning set forth in **Section 5.9**.

“*Closing Date*” has the meaning set forth in **Section 1.3**.

“*Closing Date Balance Sheet*” means a balance sheet of the Company prepared by Advanta in accordance with SAP, dated as of the Closing Date.

“*Code*” means the Internal Revenue Code of 1986.

“*Commercially Reasonable Efforts*” means, with respect to any Person, the commercially reasonable and good faith efforts of such Person without the requirement that such party incur any unreasonable out of pocket expenses or other unreasonable burden, or commence or pursue litigation in any action, suit or proceeding, whether administrative, civil, criminal or otherwise.

“*Company*” has the meaning set forth in the recitals hereto.

“*Competing Transaction*” has the meaning set forth in **Section 5.2(a)**.

“*Confidential Information*” has the meaning set forth in **Section 5.21(a)**.

“*Confidentiality Agreement*” has the meaning set forth in **Section 9.3**.

“*Consents*” means the Advanta Consents and Buyer Consents.

“*Contract*” means any agreement, contract, Lease, consensual obligation, promise, commitment, arrangement or undertaking (whether written or oral and whether express or implied).

“*Default*” means with respect to any Party (i) the failure of (a) any of the representations or warranties of such Party in this Agreement not qualified by materiality to be true and correct in all material respects or (b) any representation or warranty of such Party qualified by materiality to be true and correct in all respects, or (ii) such Party’s material breach of any covenant or obligation under this Agreement or the failure to perform any such covenant or obligations at or prior to the time specified in this Agreement.

“*Disclosing Party*” has the meaning set forth in **Section 5.21(a)**.

“*Employee Benefit Plan*” means any “employee benefit plan” (as such term is defined in section 3(3) of ERISA), and any other retirement, pension, profit sharing, thrift, savings, target benefit, employee stock ownership, cash or deferred, deferred or incentive compensation, bonus, stay bonus, stock option, employee stock purchase, phantom stock, stock appreciation, change in control, retention compensation, medical, dental, vision, psychiatric or other counseling, employee assistance, tuition reimbursement, vacation, holiday, sick pay, disability, salary continuation, termination allowance, severance, employee relocation, death benefit, survivor income, dependent care assistance, legal assistance or fringe benefit (cash or non cash) plan, program, policy, practice or arrangement, or any cafeteria plan under Section 125 of the Code, in which any current or former officer, director, independent contractor or employee of the Company or any ERISA Affiliate has ever had any present or contingent obligation, including any obligation to make contributions.

“*Employee Related Liability*” has the meaning set forth in **Section 3.22(b)**.

“*Employees*” has the meaning set forth in **Section 3.22(a)**.

“*Enforceability Exceptions*” has the meaning set forth in **Section 2.2**.

“*Environmental Claim*” means any Action, hearing, communication (written or oral), demand, claim, citation, notice or notice of violation, warning, consent decree, judgment or order by any Person alleging, claiming, concerning or finding liability or potential liability (including, liability or potential liability for investigatory costs, clean up costs, governmental response or oversight costs, natural resources damages, property damages, penalties, personal injuries, death or any other damages or costs, including, litigation and settlement costs and consultants’ and attorneys’ fees) arising out of, based on or resulting from, in whole or in part, (a) the actual or alleged presence, threatened release, release, emission, disposal, storage, treatment, transportation, generation, manufacture or use of any Hazardous Material at or from any location or (b) circumstances forming the basis of any violation, or alleged violation, of any Environmental Law or (c) under any Environmental Law.

“*Environmental Law*” means the Federal Water Pollution Control Act, the Federal Resource Conservation and Recovery Act of 1976, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, each as amended, and any other Law concerning pollution or protection of the environment, natural resources or human health, including any Law relating to emissions, discharges, releases or threatened releases of any Hazardous Material into ambient air, surface water, ground water or lands or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of any Hazardous Material. Without limiting the definition of the term “Laws” hereunder, for purposes of the foregoing, “Laws” specifically includes nuisance, trespass or “toxic tort”.

“*Environmental Permit*” means any authorization, approval, registration or license or Permit relating to the Environmental Laws.

“*ERISA*” means the Employee Retirement Income Security Act of 1974.

“*ERISA Affiliate*” means any entity that is, or ever has been, required to be aggregated with the Company as a single employer under Sections 414(b), (c), (m) or (o) of the Code.

“*Filing Fees*” has the meaning set forth in **Section 3.13(b)**.

“*Final Order*” means an order or judgment of the Bankruptcy Court that has not been reversed, vacated, or stayed, and as to which (a) the time to appeal, petition for certiorari, or move for a new trial, reargument, or rehearing has expired, and as to which no appeal, petition for certiorari, or other proceedings for a new trial, reargument, or rehearing shall then be pending, or (b) if an appeal, writ of certiorari, new trial, reargument, or rehearing thereof has been sought, such order or judgment of the Bankruptcy Court shall have been affirmed by the highest court to which such order was appealed, or certiorari shall have been denied, or a new trial, reargument, or rehearing shall have been denied or resulted in no modification of such order, and the time to take any further appeal, petition for certiorari or move for a new trial, reargument, or rehearing shall have expired; provided, however, that the possibility that a motion

under Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Federal Rules of Bankruptcy Procedure or the local court rules, may be filed relating to such order shall not cause such order to not be a Final Order.

“*Governing Documents*” means (a) as to a corporation, the certificate or articles of incorporation and bylaws, (b) as to a limited partnership or limited liability partnership, the certificate of limited partnership or limited liability partnership, as the case may be, and the partnership agreement, and (c) as to a limited liability company, the certificate of limited liability company and limited liability company agreement.

“*Hazardous Material*” means any material, substance, waste, pollutant, contaminant, chemical or other matter that is defined as a hazardous material, hazardous substance, hazardous waste, toxic material, toxic substance or other term having a similar meaning under applicable Law or is otherwise subject to elimination, abatement, removal, remediation or cleanup under applicable Law.

“*Indemnified Party*” has the meaning set forth in **Section 8.6(a)**.

“*Indemnifying Party*” has the meaning set forth in **Section 8.6(a)**.

“*Indemnity Obligation*” has the meaning set forth in **Section 8.4(a)**.

“*Insurance Permit*” means Permits to issue, underwrite, assume, place, sell or otherwise transact the business of insurance or reinsurance.

“*Knowledge*” means (a) for an individual, the actual knowledge of a particular fact, circumstance, event or other matter in question after reasonable independent inquiry and investigation, (b) for a corporation, the Knowledge of any individual serving as a director or officer of such corporation (except that, solely with respect to the representations and warranties in **Section 3.11**, Advanta’s Knowledge includes the Knowledge of Donald Albert), (c) for a partnership, limited partnership or limited liability partnership, the Knowledge of any general partner of such partnership or of any individual occupying a fiduciary role in the management of such partnership substantially similar to that of a corporate officer, (d) for a limited liability company, the Knowledge of any manager or managing member of such company or of any individual occupying a fiduciary role in the management of such company substantially similar to that of a corporate officer.

“*KPMG*” has the meaning set forth in **Section 5.6(b)**.

“*KPMG Report*” has the meaning set forth in **Section 5.6(b)**.

“*Law*” means any law, statute, rule, ordinance or regulation, and any judgment, writ, decree, injunction, order or requirement, established principle of common law, directive or administrative ruling of any Authority.

“*Latest Balance Sheet*” means the balance sheet contained in the Statutory Financial Statements of the Company for the quarterly period ended December 31, 2009.



“*Latest Balance Sheet Date*” means December 31, 2009.

“*Liability*” or “*Liabilities*” has the meaning set forth in **Section 3.16**.

“*Liens*” shall refer to any lien (including but not limited to liens for unpaid taxes), pledge, mortgage, security interest, charge, adverse claim, attachment, automatic or other stay in bankruptcy or insolvency proceeding, or other encumbrance of any kind.

“*Losses*” has the meaning set forth in **Section 8.1**.

“*Material Adverse Effect*” means a material adverse effect on the Properties, assets, liabilities, business, results of operations or condition (financial or otherwise) or prospects of the Company, taken as a whole.

“*New Business Termination Date*” has the meaning set forth in **Section 3.14**.

“*Party*” means a party to this Agreement.

“*Permit*” means any federal, state, local or other governmental consent, license, permit, grant, eligibility, qualification or authorization.

“*Permitted Investments*” means (a) Cash, (b) Cash Equivalents, or (c) other investment grade marketable securities reasonably acceptable to Buyer.

“*Person*” means any natural person, corporation, limited liability company, unincorporated organization, partnership, limited partnership, limited liability partnership, association, joint stock company, joint venture, trust or government, or any agency or political subdivision of any government.

“*Post-Closing Tax Period*” shall mean any taxable period that begins after the Closing Date and, in the case of any Straddle Period, the portion of such period beginning after the Closing Date.

“*Pre-Closing Tax Period*” means any taxable period ending before the Closing Date and, in the case of any Straddle Period, the portion of such period ending on the Closing Date.

“*Producers*” has the meaning set forth in **Section 3.23(a)**.

“*Property*” means any real, personal or mixed property, whether tangible or intangible.

“*Property Taxes*” has the meaning set forth in **Section 6.4(c)**.

“*Purchase Price*” has the meaning set forth in **Section 1.2(a)**.

“*Receiving Party*” has the meaning set forth in **Section 5.21(a)**.

“*Regulatory Filings*” has the meaning set forth in **Section 3.13(a)**.

“*Representatives*” means, with respect to a Person, that Person’s officers, employees, attorneys, auditors and other agents and representatives.

“*SAP*” means the statutory accounting practices prescribed or permitted by the Insurance Department of the State of Arizona.

“*Sale Motion*” means the motion, in form and substance reasonably satisfactory to the Buyer, to be filed by Advanta with the Bankruptcy Court seeking order(s) (i) approving the termination fee set forth in Section 7.2(b) and (ii) authorizing and approving, pursuant to Section 363 of the Bankruptcy Code, the transactions contemplated herein and the private sale of the Shares to Buyer pursuant to this Agreement, free and clear of all liens, security interests, claims, charges and encumbrances, subject to the terms of this Agreement.

“*Sale Order*” means an order of the Bankruptcy Court, in form and substance satisfactory to Buyer, that shall, among other things, (i) approve the sale of the Shares to Buyer on the terms and conditions set forth in this Agreement and authorize AC to proceed with the transactions in this Agreement, (ii) include a specific finding that Buyer is a good faith purchaser of the Shares for purposes of Section 363(m) of the Bankruptcy Code, (iii) state that the Shares shall be sold and transferred to Buyer free and clear of all liens, security interests claims, charges and encumbrances, (iv) provide for a waiver of the stays contemplated by Bankruptcy Rules 6004(h) and 6006(d), (v) provide that any amounts due to Buyer under the indemnification provisions in this Agreement will be accorded administrative expense priority pursuant to sections 503(b) and 507 of the Bankruptcy Code, (vii) contain a finding that Buyer has not engaged in any of the acts prohibited by Section 363(n) of the Bankruptcy Code, and (viii) contain such other findings of fact, conclusions of law and orders reasonably required by Buyer and its counsel.

“*Section 338(h)(10) Elections*” has the meaning set forth in **Section 6.6**.

“*Securities*” has the meaning set forth in **Section 3.8**.

“*Securities Act*” has the meaning set forth in **Section 2.4**.

“*Shares*” has the meaning set forth in the recitals hereto.

“*Statutory Examination*” has the meaning set forth in **Section 5.12**.

“*Statutory Financial Statements*” means the annual and quarterly Statements of the Condition and Affairs of the Company filed with the Insurance Department of the State of Arizona, in each case including all exhibits, interrogatories, notes and schedules thereto and any actuarial opinion, affirmation or certification or other supporting documentation filed in connection therewith.

“*Straddle Period*” means a taxable period that includes but does not end on the Closing Date.

“*Subsidiary*” means, with respect to any Person, any corporation, limited liability company, partnership, association or other business entity of which (i) if a corporation, a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other subsidiaries of that Person or a combination thereof, or (ii) if a limited liability company, partnership, association or other business entity, a majority of the partnership or other similar ownership interest thereof is at the time owned or controlled, directly or indirectly, by any Person or one or more subsidiaries of that Person or a combination thereof. For purposes hereof, a Person or Persons shall be deemed to have a majority ownership interest in a limited liability company, partnership, association or other business entity if such Person or persons shall be allocated a majority of limited liability company, partnership, association or other business entity gains or losses or shall be or control any managing director or general partner of such limited liability company, partnership, association or other business entity.

“*Superior Company Proposal*” means any proposal made by any Person other than an Affiliate of Advanta to acquire all or substantially all the equity securities or assets of the Company, pursuant to merger, consolidation, liquidation or dissolution, recapitalization, sale of all or substantially all its assets or otherwise, (i) on terms which AIC’s or AC’s board of directors, as applicable, determines in good faith, after consultation with outside legal counsel and financial advisors, to be more favorable from a financial point of view to Advanta than the transactions contemplated by this Agreement, taking into account all the terms and conditions of such proposal, and this Agreement (including any proposal by Buyer to amend the terms of this Agreement) and (ii) that is reasonably capable of being completed, taking into account all financial, regulatory, legal and other aspects of such proposal; provided, that the applicable board of directors shall not so determine that any such proposal is a Superior Company Proposal prior to the time that is 48 hours after the time at which Advanta has complied in all material respects with **Section 5.2(d)** with respect to such proposal.

“*Tax*” means (i) any federal, state, local or foreign net income, gross income, gross receipts, windfall profit, severance, property, production, sales, use, license, excise, franchise, employment, payroll, withholding, alternative or add on minimum, ad valorem, value added, transfer, stamp, or environmental tax (including taxes under Code Section 59A), escheat payments or any other tax, custom, duty, governmental fee or other like assessment or charge of any kind whatsoever, together with any interest or penalty, addition to tax or additional amount imposed by any governmental authority and (ii) any liability of the Company or any Subsidiary of the Company for the payment of amounts determined by reference to amounts described in clause (i) as a result of being a member of an affiliated, consolidated, combined or unitary group, or as a result of any obligation of the Company under any written or unwritten agreement or arrangement providing for the allocation or payment of such assessments or charges or payment for benefits with respect to such assessments or charges (or the Laws providing for them) between the Company and any other Person (including, but not limited to, members of any Affiliated Group other than the Company).

“*Tax Asset*” means any net operating loss, net capital loss, investment tax credit, foreign tax credit, charitable deduction or any other credit or tax attribute that could be carried forward or back to reduce Taxes (including deductions and credits related to alternative minimum Taxes).

*“Tax Claim”* has the meaning set forth in **Section 8.6(b)**.

*“Tax Loss”* and *“Tax Losses”* has the meaning set forth in **Section 6.4(a)**.

*“Tax Indemnitee”* has the meaning set forth in **Section 6.4(b)**.

*“Tax Return”* means any return, report or similar statement required to be filed with any Authority with respect to any Tax (including any attached schedules), including, any information return, claim for refund, amended return or declaration of estimated Tax.

*“Transfer Tax”* means all transfer, conveyance, documentary, sales, use, value added, stamp, registration and other similar Taxes and fees imposed by a taxing Authority or by an insurance regulatory Authority (including any penalties, interest or additions to Taxes).

*“Treasury Regulations”* means the final and temporary Treasury Regulations promulgated under the Code. Any reference to a Treasury Regulation that is subsequently amended, modified, recodified or otherwise superseded shall be deemed to be a reference to the superseding Treasury Regulation(s) to the greatest extent possible so as to achieve the result originally intended, if possible, under this Agreement.

*“Unauthorized States”* has the meaning set forth in **Section 1.2(c)**.

*“Undisclosed Liabilities”* has the meaning set forth in **Section 3.16**.

*“Valuation Date”* has the meaning set forth in **Section 5.9**.

*“Year End Statutory Financial Statements”* has the meaning set forth in **Section 3.12(a)**.

**[SIGNATURE PAGE FOLLOWS]**

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed as of the day and year first written above.

**ADVANTA INSURANCE COMPANY**

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

**ADVANTA CORP.**

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

**PROSPERITY LIFE INSURANCE CORP.**

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

Form of Buyer Parent Support Letter Agreement

[Black Diamond Letterhead]

April 21, 2010

Advanta Insurance Company  
Welsh & McKean Roads  
P.O. Box 844  
Spring House, PA 19477-0844

Advanta Corp.  
Welsh & McKean Roads  
P.O. Box 844  
Spring House, PA 19477-0844

Re: Advanta Life Insurance Company Stock Purchase Agreement

Ladies and Gentlemen:

Reference is hereby made to that certain Stock Purchase and Sale Agreement (the "Purchase Agreement"), dated as of the date hereof, by and among Prosperity Life Insurance Corp. (the "Buyer"), Advanta Insurance Company ("AIC") and Advanta Corp. ("AC" and, together with AIC, collectively, "Advanta"). This letter agreement (this "Letter Agreement") sets forth certain understandings among AIC, Advanta and Black Diamond Capital Partners I, L.P. ("Parent" and, collectively with Advanta, the "Parties") in respect of Buyer's obligations to close the transactions contemplated by the Purchase Agreement and to pay the Purchase Price to AIC at the Closing in accordance with the terms and conditions of the Purchase Agreement. Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Purchase Agreement.

In accordance with the foregoing, Parent, in consideration of the undertakings of AIC and Advanta set forth in the Purchase Agreement, hereby agrees with Advanta, and confirms to Advanta, for the benefit of Advanta as follows:

Parent will transfer to, or deposit into an account of, Buyer, not less than 24 hours preceding the Closing Date, immediately transferable funds in an amount equal to not less than the Purchase Price; and further agrees with, and confirms to Advanta that Parent will cause Buyer to consummate its obligation to purchase the Shares and to effect the due and punctual payment in full of the Purchase Price at the Closing (upon satisfaction or waiver of each of the conditions, agreements and covenants set forth in the Purchase Agreement), all in accordance with and subject to the terms and conditions of the Purchase Agreement.

Subject to the terms and conditions of the Purchase Agreement, Parent will not take or cause or permit Buyer or any of Parent's Affiliates to take any action or omit to take any action which would reasonably be expected to prevent or materially impair or delay the consummation of the transactions contemplated by the Purchase Agreement.

This Letter Agreement shall in all respects be construed in accordance with and governed by the Laws of the State of Delaware, without regard to any such Laws relating to choice or conflict of laws that would apply the Laws of any other jurisdiction. The Parties agree that the state and federal courts located in New Castle County, Delaware shall be the exclusive jurisdiction for the resolution of all disputes between the Parties arising out of or related to this Letter Agreement. Each of the Parties hereby irrevocably waives any and all right to trial by jury in any legal proceeding arising out of or related to this Letter Agreement or the transactions contemplated hereby.

This Letter Agreement may not be changed, amended, terminated, augmented, rescinded or discharged (other than in accordance with its terms), in whole or in part, except by a writing executed by the Parties, and no waiver of any of the provisions or conditions of this Letter Agreement or any of the rights of a Party shall be effective or binding unless such waiver shall be in writing and signed by the Party claimed to have given or consented thereto.

This Letter Agreement and the various rights and obligations arising hereunder shall inure to the benefit of and be binding upon the Parties and their respective permitted successors and assigns. Neither this Letter Agreement nor any of the rights, interests or obligations hereunder shall be transferred or assigned (by operation of law or otherwise) by any Party without the prior written consent of the other Party, except that if AIC is dissolved or if AIC distributes the Shares to AC, AIC shall have the right to assign its rights and obligations hereunder to AC; provided, that if such dissolution and assignment occurs prior to the Closing, the Shares are also assigned to AC. Simultaneous with the distribution of the Shares required by the preceding sentence, AIC shall be deemed to have assigned its rights and delegated its obligations hereunder to AC and such assignment and delegation shall be effective without any further action of the Parties or the execution of any further instrument or document, and AIC shall no longer be a party to this Letter Agreement and shall have no further liability of any kind hereunder, whether such liabilities arise or accrue before or after such distribution and whether the events, acts or omissions on which such liability is based occur before or after such distribution. After such distribution, all references to "Advanta" and "AIC" in this Agreement shall refer to AC only. Except as expressly provided in the preceding two sentences, no assignment shall operate in any way to modify or discharge any of the obligations of the assigning Party contemplated by this Agreement and any assignment in violation of this paragraph shall be null and void.

The Parties hereto agree that money damages shall not be a sufficient remedy for any breach of this Letter Agreement by Parent and that Advanta shall be entitled, in addition to any other rights or remedies that it may have, to equitable relief, including injunction and specific performance in the event of any breach of any of the provisions of this Letter Agreement. Such remedy shall not be deemed to be the exclusive remedy for a breach of this Letter Agreement, but shall be in addition to all other remedies available at law or in equity.

This Letter Agreement embodies the entire agreement and understanding of the Parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings relative to said subject matter; provided, that (i) Parent hereby acknowledges and agrees that it shall be bound by the confidentiality provisions set forth in **Section 5.21** of the Purchase Agreement as if it were a party thereto and (ii) Advanta and Parent hereby acknowledge and agree that the Confidentiality Agreement is hereby terminated in accordance with **Section 5.21(g)** of the Purchase Agreement and shall be of no further force and effect except as set forth in **Section 9.3** of the Purchase Agreement.

This Letter Agreement may be executed simultaneously in multiple counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. The signatures to this Letter Agreement may be evidenced by facsimile copies or PDF copies reflecting a Party's signature, and any such facsimile copy or PDF copy will be sufficient to evidence the signature of such Party as if it were an original signature.

*[Signature page follows]*



If the terms of this Letter Agreement are in accordance with your understanding of the subject matter hereof, please sign and return this Letter Agreement, whereupon this Letter Agreement shall constitute a binding agreement between the Parties.

Very truly yours,

BLACK DIAMOND CAPITAL PARTNERS I, L.P.

By: Black Diamond General Partner, L.P., its general partner

By: Black Diamond Investors, L.P., its general partner

By: Black Diamond Holdings, L.L.C., its general partner

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

Name:

Title:

Acknowledged and Agreed:

ADVANTA INSURANCE COMPANY

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

Name:

Title:

ADVANTA CORP.

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

Name:

Title:

Sidley Draft  
April 20, 2010



515 Congress Avenue, Suite 2220  
Austin, Texas 78701  
Tel: (512) 450-5002 Fax: (512) 473-0582

April 21, 2010

Advanta Insurance Company  
Welsh & McKean Roads  
P.O. Box 844  
Spring House, PA 19477-0844

Advanta Corp.  
Welsh & McKean Roads  
P.O. Box 844  
Spring House, PA 19477-0844

Re: Advanta Life Insurance Company Stock Purchase Agreement

Ladies and Gentlemen:

Reference is hereby made to that certain Stock Purchase and Sale Agreement (the "Purchase Agreement"), dated as of the date hereof, by and among Prosperity Life Insurance Corp. (the "Buyer"), Advanta Insurance Company ("AIC") and Advanta Corp. ("AC" and, together with AIC, collectively, "Advanta"). This letter agreement (this "Letter Agreement") sets forth certain understandings among AIC, Advanta and Black Diamond Capital Partners I, L.P. ("Parent" and, collectively with Advanta, the "Parties") in respect of Buyer's obligations to close the transactions contemplated by the Purchase Agreement and to pay the Purchase Price to AIC at the Closing in accordance with the terms and conditions of the Purchase Agreement. Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Purchase Agreement.

In accordance with the foregoing, Parent, in consideration of the undertakings of AIC and Advanta set forth in the Purchase Agreement, hereby agrees with Advanta, and confirms to Advanta, for the benefit of Advanta as follows:

Parent will transfer to, or deposit into an account of, Buyer, not less than 24 hours preceding the Closing Date, immediately transferable funds in an amount equal to not less than the Purchase Price; and further agrees with, and confirms to Advanta that Parent will cause Buyer to consummate its obligation to purchase the Shares and to effect the due and punctual payment in full of the Purchase Price at the Closing (upon satisfaction or waiver of each of the conditions, agreements and covenants set forth in the Purchase Agreement), all in accordance with and subject to the terms and conditions of the Purchase Agreement.

Subject to the terms and conditions of the Purchase Agreement, Parent will not take or cause or permit Buyer or any of Parent's Affiliates to take any action or omit to take any action which would reasonably be expected to prevent or materially impair or delay the consummation of the transactions contemplated by the Purchase Agreement.

This Letter Agreement shall in all respects be construed in accordance with and governed by the Laws of the State of Delaware, without regard to any such Laws relating to choice or conflict of laws that would apply the Laws of any other jurisdiction. The Parties agree that the state and federal courts located in New Castle County, Delaware shall be the exclusive jurisdiction for the resolution of all disputes between the Parties arising out of or related to this Letter Agreement. Each of the Parties hereby irrevocably waives any and all right to trial by jury in any legal proceeding arising out of or related to this Letter Agreement or the transactions contemplated hereby.

This Letter Agreement may not be changed, amended, terminated, augmented, rescinded or discharged (other than in accordance with its terms), in whole or in part, except by a writing executed by the Parties, and no waiver of any of the provisions or conditions of this Letter Agreement or any of the rights of a Party shall be effective or binding unless such waiver shall be in writing and signed by the Party claimed to have given or consented thereto.

This Letter Agreement and the various rights and obligations arising hereunder shall inure to the benefit of and be binding upon the Parties and their respective permitted successors and assigns. Neither this Letter Agreement nor any of the rights, interests or obligations hereunder shall be transferred or assigned (by operation of law or otherwise) by any Party without the prior written consent of the other Party, except that if AIC is dissolved or if AIC distributes the Shares to AC, AIC shall have the right to assign its rights and obligations hereunder to AC; provided, that if such dissolution and assignment occurs prior to the Closing, the Shares are also assigned to AC. Simultaneous with the distribution of the Shares required by the preceding sentence, AIC shall be deemed to have assigned its rights and delegated its obligations hereunder to AC and such assignment and delegation shall be effective without any further action of the Parties or the execution of any further instrument or document, and AIC shall no longer be a party to this Letter Agreement and shall have no further liability of any kind hereunder, whether such liabilities arise or accrue before or after such distribution and whether the events, acts or omissions on which such liability is based occur before or after such distribution. After such distribution, all references to "Advanta" and "AIC" in this Agreement shall refer to AC only. Except as expressly provided in the preceding two sentences, no assignment shall operate in any way to modify or discharge any of the obligations of the assigning Party contemplated by this Agreement and any assignment in violation of this paragraph shall be null and void.

The Parties hereto agree that money damages shall not be a sufficient remedy for any breach of this Letter Agreement by Parent and that Advanta shall be entitled, in addition to any other rights or remedies that it may have, to equitable relief, including injunction and specific performance in the event of any breach of any of the provisions of this Letter Agreement. Such

remedy shall not be deemed to be the exclusive remedy for a breach of this Letter Agreement, but shall be in addition to all other remedies available at law or in equity.

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This Letter Agreement may be executed simultaneously in multiple counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. The signatures to this Letter Agreement may be evidenced by facsimile copies or PDF copies reflecting a Party's signature, and any such facsimile copy or PDF copy will be sufficient to evidence the signature of such Party as if it were an original signature.

*[Signature page follows]*

If the terms of this Letter Agreement are in accordance with your understanding of the subject matter hereof, please sign and return this Letter Agreement, whereupon this Letter Agreement shall constitute a binding agreement between the Parties.

Very truly yours,

BLACK DIAMOND CAPITAL PARTNERS I, L.P.

By: Black Diamond General Partner, L.P., its general partner

By: Black Diamond Investors, L.P., its general partner

By: Black Diamond Holdings, L.L.C., its general partner

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

Name:

Title:

Acknowledged and Agreed:

ADVANTA INSURANCE COMPANY

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

Name:

Title:

ADVANTA CORP.

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

Name:

Title:

*[Signature Page –Letter Agreement]*

**BUYER'S DISCLOSURE SCHEDULES**

### **Schedule 2.3**

1. Filing of a Form A Statement with, and obtaining the approval from the Arizona Department of Insurance.
2. Filing a copy of the Form A Statement filed with the Arizona Department of Insurance with the Florida Office of Insurance Regulation, and obtaining any required approval or non-disapproval.

**SELLER'S DISCLOSURE SCHEDULES**



## Schedule 1.2(a)

### Licenses and Permits

Alaska	Life, Health
Arizona	Life and Disability
Arkansas	Life and Disability
Colorado	Credit Life and Credit A&H
Delaware	Life, including annuities, Credit Life, Health and Credit Health
District of Columbia	Group Accident and Health, Group Life, Individual Accident and Health, Individual Life, and Life and Health
Florida	Accident and Health, Group Life and Annuities, Life
Georgia	Life , Accident and Sickness
Hawaii	Accident and Health or Sickness, Life
Idaho	Disability, Excluding Managed Care, Life
Indiana	Accident and Health - Life, Life and Annuities - Life
Kansas	*Life* and *Accident and Health*
Louisiana	Life, Health & Accident
Maryland	Life, Health
Minnesota	Life, Accident and Health
Montana	Reinsurance Only
Nebraska	Life Insurance, Sickness and Accident Insurance
Nevada	Life and Health
New Mexico	Life and/or Health
Ohio	Life, Health & Annuities
Oklahoma	Life, Accident & Health
Oregon	Life, Health
South Carolina	Life, Accident & Health
South Dakota	Life, Health
Tennessee	Life; Accident and Health
Texas	Life; Accident and Health
Utah	Life, Annuity, Disability
West Virginia	Life, Accident & Sickness
Wisconsin	Life insurance and annuities (nonparticipating), Life disability insurance
Wyoming	Life and Disability

## **Schedule 3.1**

### **Organization**

#### Jurisdictions in Which the Company is Qualified to Do Business as a Foreign Corporation

Colorado

Florida

Georgia

Utah

West Virginia

Wisconsin

#### Power and Authority

This Agreement requires approval by the Bankruptcy Court pursuant to a Final Order.

## **Schedule 3.2**

### **Authority**

This Agreement requires approval by the Bankruptcy Court pursuant to a Final Order.

## **Schedule 3.5**

### **Share Ownership and Authority**

This Agreement requires approval by the Bankruptcy Court pursuant to a Final Order.

## **Schedule 3.6**

### **Legal Proceedings**

The state of Arizona is currently conducting a routine examination of the Company with respect to 2004-2008.

On March 8, 2010, the Company received notice from the State of Hawai'i Insurance Division, assessing a penalty for delinquent quarterly premium tax statement in the amount of \$2,200. The Company is in the process of paying the penalty.

The Company was named a defendant in Christine P.C. Sullivan v. Chase Home Finance, L.L.C., Chase Manhattan Mortgage Corp., Chase Manhattan Bank USA, Advanta Mortgage Corp. USA, Advanta National Bank, Advanta Life Insurance Company, Swiss Reinsurance Company, Ltd and Does 1 through 100, In the Superior Court of the State of California in and for San Mateo County. This case was dismissed without prejudice as to the Company on January 14, 2010.

## Schedule 3.7

### Bank Accounts

Advanta Life Insurance Company  
Cash and Invested Assets

			12/31/2009		
<u>Bank</u>	<u>Account No.</u>	<u>Investment</u>	<u>Balance</u>	<u>Address and Phone No.</u>	<u>Contact Person</u>
U S Bank	584942800	U. S. Treasury Note- statutory deposit for GA Dept of Insurance*	30,000.00	Wachovia Bldg., One W 4 <sup>th</sup> St., 77 <sup>th</sup> Floor, Winston Salem, NC 27101 1-877- 877-2143	Debby Blackburn
U S Bank	141402615	U. S. Treasury Note- statutory deposit for AZ Dept of Insurance*	3,105,000.00	Wachovia Bldg., One W 4 <sup>th</sup> St., 77 <sup>th</sup> Floor, Winston Salem, NC 27101 1-877- 877-2143	Debby Blackburn
U S Trust	74-01-101- 0234609	U. S. Treasury Note- statutory deposit for AR Dept of Insurance*	213,000.00	Trust Operations, P O Box 989010, Boston, MA 02298- 9010 501-378-1913	Branda Nichols
Bank of New York	116557	U. S. Treasury Note- statutory deposit for NV Dept of Insurance*	200,000.00	One Wall Street, 14 <sup>th</sup> Floor, New York, NY	Teana Moore
U S Bank	121060012000	U. S. Treasury Note- statutory deposit for SC Dept of Insurance*	130,000.00	One Enterprise, 225 Water St., 7 <sup>th</sup> Floor, Jacksonville, FL 32202 1-800-575-6387	Carol Millican
Bank of Albuquerque	77-0047-78-5	U. S. Treasury Note- statutory deposit for NM Dept of Insurance*	105,000.00	P O Box 1270, Tulsa, OK 74101-1270	David Mundis
Bank of New York	1705	Dreyfus Treasury Cash Management Fund	403,202.85	One Wall Street, 14 <sup>th</sup> Floor, New York, NY 315-223- 8571	Joshua Paquariello
Republic First Bank	1173278	Cash	117,216.14	423 W. Germantown Pike Plymouth Meeting, PA 19462	Chuck Papantoniu

\*Deposit pledged to indicated state's department of insurance.

Balances for U S Treasury Notes represent par values.

**Schedule 3.8**

**Form of Capital and Surplus and Other Assets**

See **Schedule 3.7**

### **Schedule 3.9**

#### **No Conflicts; Compliance with Law**

3.9(a) This Agreement requires approval by the Bankruptcy Court pursuant to a Final Order.

3.9(c) On March 8, 2010, the Company received notice from the State of Hawai'i Insurance Division, assessing a penalty for delinquent quarterly premium tax statement in the amount of \$2,200. The Company is in the process of paying the penalty.



**Schedule 3.10**

**Advanta Consents**

Final Order of the Bankruptcy Court approving this Agreement.

## **Schedule 3.11**

### **Tax Matters**

#### 3.11(a) (Timely Payment of Taxes):

On March 8, 2010, the Company received notice from the State of Hawai'i Insurance Division, assessing a penalty for delinquent quarterly premium tax statement in the amount of \$2,200. The Company is in the process of paying the penalty.

#### 3.11(b) (Tax Actions):

On March 8, 2010, the Company received notice from the State of Hawai'i Insurance Division, assessing a penalty for delinquent quarterly premium tax statement in the amount of \$2,200. The Company is in the process of paying the penalty.

#### 3.11(f) (Tax Sharing Agreements):

Fourth Amended and Restated Tax Sharing Agreement dated May 1, 1995 by and between Advanta Corp. and its subsidiaries.

## **Schedule 3.12**

### **Financial Statements; Reserves**

#### 3.12(a):

The Company's 2008 and 2009 annual Statutory Financial Statements incorrectly stated the authorized and outstanding capital stock of the Company on page 19.2, Note 13(1).

### Schedule 3.13

#### Reports; Required Filings

3.13(a) (Regulatory Filings):

On March 8, 2010, the Company received notice from the State of Hawai'i Insurance Division, assessing a penalty for delinquent quarterly premium tax statement in the amount of \$2,200. The Company is in the process of paying the penalty.

The Company's September 30, 2009 quarterly Statutory Financial Statements incorrectly stated on page 7, note 10, that the Company did not earn premiums after June 2, 2009. The Company did earn premium after that date, as reflected in line 1 of the Summary of Operations in the Company's September 30, 2009 quarterly Statutory Financial Statements.

The Company's 2008 and 2009 annual Statutory Financial Statements incorrectly stated the authorized and outstanding capital stock of the Company on page 19.2, Note 13(1).

3.13(b) (Filing Fees):

Name	Invoice Date	Description	Amount	Check Date
DC TREASURER	2008-12-20	Notice of Assessment	1,000.00	2009-01-13
NEW MEXICO PUBLIC REGULATION COMMISSION	2009-01-12	Annual Stmt Filing Fee	200.00	2009-01-27
D.C.DEPARTMENT OF INSURANCE,	2009-01-16	Renewal Request	200.00	2009-01-27
MINNESOTA DEPT. OF COMMERCE	2009-01-20	Insurance Co Renewal Info	850.00	2009-01-27
WEST VIRGINIA SECRETARY OF STATE	2009-01-09	Annual Attorney In Fact Filing	25.00	2009-01-21
		<b>Total 1/09</b>	<b>2,275.00</b>	
IDAHO DEPT. OF INSURANCE	2009-01-27	Premium Tax Annual Return	1,000.00	2009-02-03
OKLAHOMA INSURANCE DEPARTMENT	2009-01-26	Premium Tax Annual Return	1,570.00	2009-02-03
FLORIDA DEPT OF REVENUE	2009-02-26	Premium Tax Annual Return	263.00	2009-02-27
NAIC	2009-02-26	NAIC Annual Filing Fee	484.00	2009-02-27
TENNESSEE DEPT. OF COMMERCE & INSURANCE	2009-02-04	Premium Tax Annual Return	1,570.00	2009-02-10
SOUTH CAROLINA DEPT. OF INSURANCE	2009-02-04	Premium Tax Annual Return	1,570.00	2009-02-10
WYOMING INSURANCE DEPT.	2009-02-13	Premium Tax Annual Return	1,570.00	2009-02-18
TREASURER OF STATE OF OHIO	2009-02-12	Premium Tax Annual Return	641.00	2009-02-18
COMMISSIONER OF INSURANCE	2009-01-26	Premium Tax Annual Return	1,900.00	2009-02-03

STATE TREASURER OF ARKANSAS	2009-02-13	Premium Tax Annual Return	766.00	2009-02-24
MARYLAND INSURANCE ADMIN.	2009-02-17	Premium Tax Annual Return	70.00	2009-02-24
INDIANA DEPT OF INSURANCE	2009-01-28	Premium Tax Fee Statement	1,570.00	2009-02-10
SOUTH DAKOTA DIVISION OF INSURANCE	2009-02-04	Premium Tax Year End Tax Payment	1,320.00	2009-02-10
GEORGIA INSURANCE DEPT.	2009-02-10	Premium Tax Annual Return	340.56	2009-02-18
ARIZONA DEPT. OF INSURANCE	2009-02-13	Premium Tax Annual Return	1,800.00	2009-02-18
OFFICE OF COMMISSIONER OF INSURANCE -GEORGIA	2009-01-30	Fee Statement	700.00	2009-02-10
COMMISSIONER OF INSURANCE -WISCONSIN	2009-02-13	Premium Tax Return Payment	1,570.00	2009-02-18
WEST VIRGINIA INSURANCE COMMISSIONER	2009-02-12	Premium Tax Year End Tax Payment	320.00	2009-02-18
STATE COMPTRROLLER -TEXAS	2009-02-13	Premium Tax Maintenance Tax	1,570.00	2009-02-18
NEW MEXICO PUBLIC REGULATION COMMISSION	2009-02-06	Annual Statement Filing Fee	200.00	2009-02-24
NEBRASKA DEPT. OF INSURANCE	2009-01-26	Premium Tax Annual Description	1,570.00	2009-02-03
COMMISSIONER OF INSURANCE - LOUISIANA	2009-02-10	Premium Tax Annual Return	1,189.00	2009-02-18
COLORADO DIVISION OF INSURANCE	2009-02-10	Premium Tax Annual Premium Tax	1,570.00	2009-02-18
DEPT. OF CONSUMER & BUSINESS SVCS. -OREGON	2009-02-04	Premium Tax Annual Return	1,570.00	2009-02-10
NEVADA DIVISION OF INSURANCE	2009-01-01	Annual Statement Filing Fee	2,501.00	2009-02-18
MINNESOTA REVENUE	2009-02-11	Premium Tax Annual Return	720.00	2009-02-24
ALASKA DIVISION OF INSURANCE	2009-02-09	Premium Tax Annual Return	-2,350.00	2009-02-13
ALASKA DIVISION OF INSURANCE	2009-02-09	Premium Taxes	2,350.00	2009-02-13
COMMISSIONER OF INSURANCE -LOUISIANA	2009-02-09	Premium Tax Annual Return	-1,239.00	2009-02-18
IDAHO DEPT. OF INSURANCE	2009-01-28	Premium Tax Annual Return	-2,500.00	2009-02-10
		<b>Total 2/09</b>	<b>26,175.56</b>	
WNGATES.COM	2009-03-16	Publication For State-GA	80.00	2009-03-24
DISTRICT OF COLUMBIA LIFE & HEALTH	2009-03-16	Class A Assessment	500.00	2009-03-24
WNGATES.COM	2009-03-16	Publication For State-NV	60.00	2009-03-24
DEPARTMENT OF COMMERCE & CONSUMER - HAWAII	2009-02-25	Quarterly Premium Tax Late Filing Pen	600.00	2009-03-10
TREASURER STATE OF OHIO	2009-02-28	Renewal Cert Of Authority A/C	175.00	2009-03-17
MINNESOTA DEPT. OF COMMERCE	2009-02-06	4th Qtr 2008indirect Desk Audit	109.64	2009-03-24
		<b>Total 3/09</b>	<b>1,524.64</b>	
FLORIDA DEPT OF REVENUE	2009-04-08	Quarterly Premium Tax	15.00	2009-04-14
THE STATE INSURANCE DEPT.- ARKANSAS	2009-03-25	Filing Fee	50.00	2009-04-14
MINNESOTA DEPT. OF	2009-04-23	1st Qtr 2009 Indirect Desk	99.56	2009-04-28

COMMERCE		Audi		
COMMISSIONER OF INSURANCE - LOUISIANA	2009-04-08	1Q09 License Tax	143.00	2009-04-14
DEPARTMENT OF COMMERCE & CONSUMER - HAWAII	2009-03-10	Assessment Of Admin And Genera	977.00	2009-04-02
WNGATES.COM	2009-04-03	Publication For State - Co	310.00	2009-04-14
WYOMING STATE TREASURER	2009-04-01	Assessment Fee	2,375.00	2009-04-14
FLORIDA DEPT OF REVENUE	2009-04-08	Quarterly Premium Tax	250.00	2009-04-14
		<b>Total 4/09</b>	<b>4,219.56</b>	
FLORIDA DEPT OF FINANCIAL SERVICES	2009-05-01	Renewal Certificate Of Authority	1,000.00	2009-05-12
STATE INSURANCE DEPT - ARKANSAS	2009-05-20	Antifraud Assessment Adv Life	400.00	2009-05-26
OKLAHOMA INSURANCE DEPARTMENT	2009-04-30	Anti Fraud Assessment	750.00	2009-05-26
STATE TREASURER OF ARKANSAS	2009-05-11	Quarterly Estimated Premium Tax	284.00	2009-05-12
LIFE & HEALTH INSURANCE GUARANTY CORP. -MARYLAND	2009-05-15	Class "A" Assessment	300.00	2009-05-26
		<b>Total 5/09</b>	<b>2,734.00</b>	
FLORIDA DEPT OF REVENUE	2009-06-08	Quarterly Premium Tax	5.00	2009-06-09
WEST VIRGINIA INSURANCE COMMISSIONER	2009-05-19	Exam Assessment Fee	1,050.00	2009-06-16
STATE OF MARYLAND	2009-06-03	Annual Report Filing Fees	300.00	2009-06-09
KANSAS INSURANCE DEPARTMENT	2009-06-04	Quarterly Premium Tax	730.00	2009-06-09
GEORGIA INSURANCE DEPT.	2009-06-04	Quarterly Premium Tax	206.00	2009-06-09
FLORIDA DEPT OF REVENUE	2009-06-08	Quarterly Premium Tax	250.00	2009-06-09
NEW MEXICO LIFE INSURANCE GUARANTY ASSOC	2009-06-01	Class A Assessment	150.00	2009-06-16
TREASURER STATE OF OHIO	2009-05-31	Renew Cert Of Authority	175.00	2009-06-23
THE STATE INSURANCE DEPT. - ARKANSAS	2009-05-20	Financial Regulation Fee	500.00	2009-06-02
		<b>Total 6/09</b>	<b>3,366.00</b>	
NEVADA DIVISION OF INSURANCE	2009-07-01	State Fraud Assess. Adv. Life	500.00	2009-07-14
COMMISSIONER OF INSURANCE - LOUISIANA	2009-06-29	2009 Premium Tax	143.00	2009-07-08
ARIZONA DEPT. OF INSURANCE	2009-07-10	AZ Annual Assessment	1,250.00	2009-07-21
GEORGIA INSURANCE DEPT.	2009-07-01	Assessment Special Insurance .Fraud	53.97	2009-07-08
TREASURER STATE OF OHIO	2009-06-30	Annual Fee Adv. Life Ins. Co.	650.00	2009-07-14
		<b>Total 7/09</b>	<b>2,596.97</b>	
MARYLAND INSURANCE ADMIN.	2009-07-27	Assessment	300.00	2009-08-11
MARYLAND INSURANCE ADMINISTRATION	2009-07-27	Assessment Fee Adv. Life Ins.	300.00	2009-08-25
STATE TREASURER OF ARKANSAS	2009-08-10	Quarterly Estimated Prem. Tax	284.00	2009-08-11
		<b>Total 8/09</b>	<b>884.00</b>	
CASPER STAR-TRIBUNE - WYOMING	2009-06-08	Legal Ad #850905	471.80	2009-09-11
DC TREASURER	2009-09-05	2009 Annual Assessment	100.00	2009-09-15
INSURANCE EXAMINERS REVOLVING FUND	2009-07-31	1201 Planning	423.60	2009-09-02

NEW MEXICO PUBLIC REGULATION COMMISSION	2009-09-08	Assessment	200.00	2009-09-09
TREASURER STATE OF OHIO	2009-07-24	Appointment Renewal Inv.	20.00	2009-09-09
NEVADA DIVISION OF INSURANCE	2009-08-06	Administration & Enforcement	650.00	2009-09-09
UTAH INSURANCE DEPARTMENT	2009-08-13	Fraud Assessment Fee	150.00	2009-09-02
GEORGIA INSURANCE DEPT.	2009-09-10	Quarterly Premium Tax	206.00	2009-09-11
MINNESOTA DEPT. OF COMMERCE	2009-07-18	Quarterly Indirect Desk Audit	88.83	2009-09-09
DIVISION OF HEALTH CARE FINANC& POLICY	2009-09-01	Health Care Containment Fee 09	2,217.00	2009-09-15
		<b>Total 9/09</b>	<b>4,527.23</b>	
NEVADA LIFE AND HEALTH INSURANCE	2009-10-01	Assessment	300.00	2009-10-20
CITY OF KENNESAW – GEORGIA	2009-9-11	Annual Business License Renewal	75.00	2009-10-13
FLORIDA DEPARTMENT OF REVENUE	2009-10-12	Quarterly Statement Filing Fee	250.00	2009-10-13
ALL PRINTING AND PUBLICATIONS	2009-09-23	Publication	40.00	2009-10-13
OHIO TREASURER	2009-09-10	Premium/Retaliatory Tax	610.00	2009-10-07
WYOMING LIFE AND HEALTH GUARANTY ASSOCIATION	2009-09-11	Class A Assessment	150.00	2009-10-07
COMMISSIONER OF INSURANCE LOUISIANA	2009-10-12	Q309 Premium Tax	143.00	2009-10-13
		<b>Total 10/09</b>	<b>1,568.00</b>	
STATE TREASURER OF ARKANSAS	2009-11-01	Q309 Premium Tax	284.00	2009-11-13
WEST VIRGINIA LIFE AND HELTH INSURANCE	2009-11-12	Class A Assessment	300.00	2009-11-20
FLORIDA LIFE AND HEALTH INSURANCE GUARANTY	2009-11-10	2009 FLAHIGA Class A Assessment	250.00	2009-11-20
LOUISIANA LIFE AND HEALTH INSURANCE	2009-10-26	2010 Class A Assessment	150.00	2009-11-20
ALASKA LIFE AND HEALTH	2009-11-06	Assessment	250.00	2009-11-20
		<b>Total 11/09</b>	<b>1,234.00</b>	
COLORADO SECRETARY OF STATE	2009-12-23		150.00	2009-12-29
ALL PRINTING AND PUBLICATIONS	2009-09-23	Publication	40.00	2009-12-22
GEORGIA INSURANCE DEPARTMENT	2009-12-10	Premium Tax	206.00	2009-12-14
OKLAHOMA LIFE AN DHEALTH INSURANCE	2009-11-23	Class A Assessment	150.00	2009-12-14
KANSAS INSURANCE DEPARTMENT	2009-12-10	Estimated Taxes	730.00	2009-12-14
D.C. REGULATORY TRUST FUND BUREAU	2009-12-03	2009 Dues	25.00	2009-12-04
LIFE & HEALTH INSURANCE PROTECTION ASSO – CO.	2009-12-03	2009 Class A Assessment	150.00	
		<b>Total 12/09</b>	<b>1,451.00</b>	
		<b>TOTAL 2009</b>	<b>\$52,556.96</b>	
IDAHO DEPARTMENT OF INSURANCE	2010-01-25	Premium tax annual return	1,000.00	2010-01-26
WYOMING STATE TREASURER	2010-01-25	Premium tax annual return	1,685.00	2010-01-26

TENNESSEE DEPT OF COMMERCE & INSURANCE	2010-01-25	Premium tax annual return	1,685.00	2010-01-26
SOUTH CAROLINA DEPT OF INSURANCE	2010-01-25	Premium tax annual return	1,685.00	2010-01-26
SOUTH CAROLINA DIVISION OF INSURANCE	2010-01-25	Premium tax annual return	1,435.00	2010-01-26
INDIANA DEPT OF INSURANCE	2010-01-25	Premium tax annual return	1,685.00	2010-01-26
DELAWARE INSURANCE DEPARTMENT	2010-01-25	Premium tax annual return	2,235.00	2010-01-26
COMMISSIONER OF INSURANCE – MONTANA	2010-01-22	Premium tax annual return	1,900.00	2010-01-26
DEPARTMENT OF CONSUMER & BUS. SERVICES-OR	2010-01-22	Premium tax annual return	1,685.00	2010-01-26
ARIZONA DEPARTMENT OF INSURANCE	2010-01-05	Fee for Certificate of Authorization/Deposit	186.00	2010-01-07
UTAH INSURANCE DEPARTMENT	2010-01-21	Certificate of Authority Renewal	375.00	2010-01-12
DC TREASURER	2010-01-07	Certificate of Authority Renewal	200.00	2010-01-12
MINNESOTA DEPARTMENT OF COMMERCE	2010-01-07	Certificate of Authority Renewal	850.00	2010-01-12
DC TREASURER	2009-12-20	2010 Annual Assessment	1,000.00	2010-01-12
STATE INSURANCE DEPARTMENT – ARKANSAS	2010-01-12	Antifraud Assessment	400.00	2010-01-19
GEORGIA INSURANCE DEPARTMENT	2010-01-21	Premium tax annual return	113.50	2010-01-26
MINNESOTA DEPT OF REVENUE	2010-01-13	Premium tax annual return	835.00	2010-01-26
SOUTH DAKOTA DIVISION OF INSURANCE	2009-12-31	Examination Assessment	150.00	2010-01-26
NEBRASKA DEPT OF INSURANCE	2010-01-22	Premium tax annual return	1,685.00	2010-01-26
COMMISSIONER OF INSURANCE LOUISIANA	2010-01-22	Premium tax annual return	1,256.00	2010-01-26
OKLAHOMA INSURANCE DEPARTMENT	2010-01-22	Premium tax annual return	1,685.00	2010-01-26
COMMISSIONER OF INSURANCE WISCONSIN	2010-01-25	Premium tax annual return	1,685.00	2010-01-26
		<b>Total 1/10</b>	<b>25,415.50</b>	
NEW MEXICO REGULATION COMMISSION	2010-02-04	Annual Statement filing fee	200.00	2010-02-23
STATE COMPTROLLER – TEXAS	2010-02-09	Premium tax annual return	1,685.00	2010-02-23
COLORADO DIVISION OF INSURANCE	2010-02-08	Premium tax annual return	1,685.00	2010-02-09
WEST VIRGINIA INSURANCE COMMISSIONER	2010-02-03	Premium tax annual return	435.00	2010-02-09
MARYLAND INSURANCE ADMINISTRATION	2010-02-09	Premium tax annual return	185.00	2010-02-16
TREASURER STATE OF OHIO	2010-02-08	Premium tax annual return	725.00	2010-02-16
STATE OF KANSAS COMMISSIONER OF INSURANCE	2010-02-03	Premium tax annual return	225.00	2010-02-09
STATE TREASURER OF ARKANSAS	2010-02-05	Premium tax annual return	833.00	2010-02-09
ALASKA DIVISION OF INSURANCE	2010-02-01	Premium tax annual return	2,350.00	2010-02-03
GEORGIA INSURANCE DEPARTMENT	2010-02-25	Filing fee and premium tax	700.00	2010-02-25
NEW MEXICO PUBLIC REGULATION COMMISSION	2010-01-11	Annual statement filing fee	200.00	2010-02-02
WEST VIRGINIA SECRETARY OF STATE	2010-01-29	Annual Attorney in Fact filing	25.00	2010-02-02



ARIZONA DEPARTMENT OF INSURANCE	2010-02-01	Premium tax return annual	1,800.00	2010-02-02
NEVADA DIVISION OF INSURANCE	2010-01-25	Annual statement filing fee	3,801.00	2010-02-09
FLORIDA DEPARTMENT OF STATE	2010-02-02	Annual Report	150.00	2010-02-09
		<b>Total 2/10</b>	<b>14,999.00</b>	
SOUTH DAKOTA DIVISION OF INSURANCE	2010-03-25	Premium tax	250.00	2010-03-30
SECRETARY OF STATE - GEORGIA	2010-03-12	GA Annual Report	30.00	2010-03-29
DISTRICT OF COLUMBIA	2010-03-19	Class A Assessment	500.00	2010-03-30
DEPARTMENT OF COMMERCE & CONSUMER	2010-03-08	Penalty delinquent Q409 premium tax	2,200.00	2010-03-16
GEORGIA INSURANCE DEPARTMENT	2010-03-04	Premium taxes	234.00	2010-03-09
TREASURER STATE OF OHIO	2010-02-28	Annual Statement filing fee	175.00	2010-03-09
INSURANCE EXAMINERS REVOLVING FUND - AZ	2010-03-11	Examination-AZ Dept of Insurance	251.60	2010-03-23
WNGATES	2010-03-05	Publication - GA	80.00	2010-03-09
WNGATES	2010-03-10	Publication - Nevada	60.00	2010-03-16
		<b>Total 3/10</b>	<b>3,780.60</b>	
COMMISSIONER OF INSURANCE LOUISIANA	2010-03-30	Q110 Premium tax	171.00	2010-04-06
FLORIDA DEPT OF REVENUE	2010-03-30	Q110 Premium tax	250.00	2010-04-06
INSURANCE EXAMINERS REVOLVING FUND - AZ	2010-03-31	Examination-AZ Dept of Insurance	2,956.30	2010-04-13
WNGATES	2010-03-30	Publication-CT	300.00	2010-04-06
WYOMING STATE TREASURER	2010-03-30	Assessment	1,645.00	2010-04-13
STATE OF MARYLAND	2010-04-05	Personal Property Return	300.00	2010-04-16
MINNESOTA DEPT OF COMMERCE	2010-01-23	Balance due on Q409 Premium tax	104.87	2010-04-16
INSURANCE EXAMINERS REVOLVING FUND - AZ	2010-04-08	Examination-AZ Dept of Insurance	3,270.80	2010-04-19
		<b>Total 4/10</b>	<b>8,997.97</b>	
<b>ESTIMATED FEES 4/21/10 TO 12/31/10*</b>				
<b>Name</b>		<b>Description</b>	<b>Amount</b>	
FLORIDA DEPT OF FINANCIAL SERVICES		Renewal of Certificate of Authority	1,000.00	
INSURANCE EXAMINERS REVOLVING FUND - AZ		Examination-AZ Dept of Insurance	5,000.00	
FLORIDA DEPT OF REVENUE		Quarterly Statement Filing Fee	250.00	
THE STATE INSURANCE DEPT.- ARKANSAS		Filing Fee	50.00	
MINNESOTA DEPT. OF COMMERCE		1st Qtr 2010 Indirect Desk Audit	100.00	
STATE INSURANCE DEPT.- ARKANSAS		Antifraud Assessment Adv Life	400.00	
OKLAHOMA INSURANCE DEPARTMENT		Anti Fraud Assessment	750.00	
STATE TREASURER OF ARKANSAS		Quarterly Estimated Premium Tax	284.00	
LIFE & HEALTH INSURANCE GUARANTY CORP. -MARYLAND		Class "A" Assessment	300.00	

WEST VIRGINIA INSURANCE COMMISSIONER		Exam Assessment Fee	1,050.00
STATE OF MARYLAND		Annual Report Filing Fees	300.00
KANSAS INSURANCE DEPARTMENT		Quarterly Premium Tax	730.00
GEORGIA INSURANCE DEPT.		Quarterly Premium Tax	206.00
NEW MEXICO LIFE INSURANCE GUARANTY ASSOC		Class A Assessment	150.00
TREASURER STATE OF OHIO		Renew Cert Of Authority	175.00
THE STATE INSURANCE DEPT. - ARKANSAS		Financial Regulation Fee	500.00
NEVADA DIVISION OF INSURANCE	7/09	State Fraud Assess. Adv. Life	500.00
COMMISSIONER OF INSURANCE - LOUISIANA		2009 Premium Tax	143.00
ARIZONA DEPT. OF INSURANCE		AZ Annual Assessment	1,250.00
GEORGIA INSURANCE DEPT.		Assessment Special Insurance .Fraud	53.97
TREASURER STATE OF OHIO	7/09	Annual Fee Adv. Life Ins. Co.	650.00
MARYLAND INSURANCE ADMIN.	8/09	Assessment	300.00
STATE TREASURER OF ARKANSAS		Quarterly Estimated Premium tax	284.00
CARPER STAR TRIBUNE - WYOMING		Legal Ad	471.80
DC TREASURER		2010 Annual Assessment	100.00
NEW MEXICO PUBLIC REGULATION COMMISSION		Assessment	200.00
STATE TREASURER OHIO		Appointment Renewal	20.00
NEVADA DIVISION OF INSURANCE		Administration and Enforcement	650.00
UTAH INSURANCE DEPARTMENT		Fraud Assessment	150.00
GEORGIA INSURANCE DEPARTMENT		Quarterly Premium Tax	206.00
MINNESOTA DEPT OF AUDIT		Quarterly Indirect Desk Audit	88.83
DIVISION OF HEALTH CARE FINANCIAL AND POLICY		Health Care Containment Fee	2,217.00
NEVADA LIFE AND HEALTH INSURANCE		Assessment	300.00
CITY OF KENNESAW – GEORGIA		Annual Business License Renewal	75.00
FLORIDA DEPARTMENT OF REVENUE		Quarterly Statement Filing Fee	250.00
ALL PRINTING AND PUBLICATION		Publication	40.00
OHIO TREASURER		Premium/Retaliatory tax	610.00
WYOMING LIFE & HEALTH GUARANTY		Class A Assessment	150.00
COMMISSIONER OF INSURANCE LOUISIANA		Premium tax	143.00
STATE TREASURER OF ARKANSAS		Premium tax	284.00
WEST VA LIFE AND HEALTH INSURANCE		Class A Assessment	300.00
FL LIFE & HEALTH INSURANCE GUARANTY		2010 FLAHIGA Assessment	250.00
LOUISIANA LIFE AND HEALTH INSURANCE		2011 Class A Assessment	150.00
ALASKA LIFE AND HEALTH		Assessment	250.00
ALL PRINTING AND PUBLICATION		Publication	40.00

GEORGIA INSURANCE DEPARTMENT		Premium tax	206.00	
OKLAHOMA LIEF AND HELATH INSURANCE		Class A Assessment	150.00	
KANSAS INSURANCE DEPARTMENT		Estimated taxes	730.00	
DC REGULATORY TRUST FUND BUREAU		2010 Dues	25.00	
LIFE AND HEALTH PROTECTION ASSO.- COLORADO		2010 Class A Assessment	150.00	
		<b>Total 4/21/10/ to 12/31/10</b>	<b>22,497.60</b>	

\* Estimates are based on the assumption that 2010 fees will not differ from 2009 fees. Seller does not represent or warrant that this assumption is correct. Seller notes that the fees paid for the first three months of 2010 (approximately \$43,196) are approximately 44% higher than the fees paid in the first three months of 2009 (approximately \$29,976). Excepting a one-time \$2,200 fee paid to the state of Hawaii in March 2010, the increase was approximately 37%.

## Schedule 3.14

### Insurance; Reinsurance

#### Schedule 3.14(a)

NONE.

#### Schedule 3.14(b)

- (i) Accident & Health Reinsurance Contract, between the Company and American Bankers Life Assurance Company of Florida (Agreement # D0SL0CJW 3), effective as of April 1, 1998, terminated by letter dated July 31, 2009 as of October 29, 2009 and recaptured by a Recapture and Termination Amendment, effective October 1, 2009.
- (ii) Life Reinsurance Contract between the Company and American Bankers Life Assurance Company of Florida (Agreement # D0SL0CJW 2), effective as of April 1, 1998, terminated by letter dated July 31, 2009 as of October 29, 2009 and recaptured by a Recapture and Termination Amendment, effective October 1, 2009.
- (iii) Accident & Health Reinsurance Contract between the Company and American Bankers Insurance Company of Florida (Agreement # D0SL0CJW 4), effective as of April 1, 1998, terminated by letter dated July 31, 2009 as of October 29, 2009 and recaptured by a Recapture and Termination Amendment, effective October 1, 2009.
- (iv) Accident and Health and Life Reinsurance Contract between the Company and Union Security Life Insurance Company of New York (Agreement #DSFG 20070610), effective as of July 1, 2007, terminated by letter dated July 31, 2009 as of October 29, 2009 and recaptured by a Recapture and Termination Amendment, effective October 1, 2009.

#### Schedule 3.14(c)

- (i) Swiss Re Agreement. The insurance policy issued by the Company to insure lives of certain mortgagors of AC Mortgage Corporation USA (“AMCUSA”) has been reinsured on 100% coinsurance basis to Swiss Re Life & Health America Inc. (“Swiss Re”) pursuant to Reinsurance Agreement #7046 1, effective as of February 28, 2001 (the “Swiss Re Agreement”), by and between the Company and Swiss Re, a copy of which has been provided to Buyer, which Swiss Re Agreement has been filed and accepted by the Insurance Department of the State of Arizona and is in full force and effect. Advanta and the Company are not in violation of or in default in the performance, observance or fulfillment of any representation, warranty, obligation, agreement, covenant or condition contained in the Swiss Re Agreement. Advanta and the Company have not received any notice from Swiss Re that Swiss Re has not performed or intends not to perform, observe or fulfill any of its obligations,

agreements, covenants or conditions under the Swiss Re Agreement. Advanta has informed Buyer that around 548 borrowers had total mortgage loan exposure of approximately \$21.6 million, as of June 30, 2009, on the AMCUSA mortgage portfolio reinsured to Swiss Re.

- (ii) ABLAC of FL Agreement. All insurance policies issued by the Company, other than the policy reinsured to Swiss Re, before July 15, 2009 have been reinsured on 100% coinsurance basis to American Bankers Life Assurance Company of Florida (“**ABLAC of FL**”) pursuant to the Reinsurance Agreement, effective as of April 9, 2001 (the “**ABLAC of FL Agreement**”), by and between the Company and ABLAC of FL, a copy of which has been provided to Buyer, which ABLAC of FL Agreement has been filed and accepted by the Insurance Department of the State of Arizona and was in full force and effect until the termination effective as of July 15, 2009. Losses reported on the policies arising out of incidents occurring prior to July 15, 2009, would still be covered by the ABLAC of FL Agreement. Advanta and the Company are not in violation of or in default in the performance, observance or fulfillment of any representation, warranty, obligation, agreement, covenant or condition contained in the ABLAC of FL Agreement. Advanta and the Company have not received any notice from ABLAC of FL that ABLAC of FL has not performed or intends not to perform, observe or fulfill any of its obligations, agreements, covenants or conditions under the ABLAC of FL Agreement. Advanta has informed Buyer that as of July 15, 2009, there was \$0.0 face amount in force on the policies reinsured to ABLAC of FL through the ABLAC of FL Agreement.

## **Schedule 3.15**

### **Restrictions on Business**

Guaranty agreement with the Insurance Department of the State of Ohio, by which Advanta Corp. guarantees the Company's obligations with regard to maintenance of capital and surplus in lieu of maintaining funds in the state of Ohio, a copy of which has been provided to Buyer, which will be terminated on or prior to the Closing.

**Schedule 3.16**

**Undisclosed Liabilities**

NONE.

**Schedule 3.17**

**Absence of Changes**

NONE.



## **Schedule 3.18**

### **State Licenses; Compliance with Law**

#### 3.18(b) (Notices of Investigation):

The state of Arizona is currently conducting a routine examination of the Company with respect to 2004-2008.

3.18(c) On March 8, 2010, the Company received notice from the State of Hawai'i Insurance Division, assessing a penalty for delinquent quarterly premium tax statement in the amount of \$2,200. The Company is in the process of paying the penalty.

## Schedule 3.22

### Employees

#### 3.22(a) (Directors, Employees and Service Contracts)

##### *Directors*

Dennis Alter  
William Rosoff  
Philip Browne  
Ethan Stone  
Susan Giusti

##### *Employees*

NONE

##### *Contracts for Services*

Management Service Fee Reimbursement Agreement, between the Company and Advanta Insurance Company, dated January 1, 1990

Management Agreement, between the Company and Advanta Corp., dated January 1, 1990, as amended

#### 3.22(c) (Employee Benefit Plans)

Until August 2009, the Company contributed to the following Employee Benefit Plans maintained by Seller:

Savings Plan

Employee Participation in Savings Plan Stock Fund

Employee Stock Ownership Plan

Employee Stock Purchase Plan

Welfare & Flexible Benefits Plan

Vision Benefit

LTD

STD Cobra

Dental

Dependent Care  
Medical  
Basic Life  
Group Travel Accident  
Flex Dollars

Tuition Reimbursement

**Schedule 3.23(c)**

**Producers, Agents and Brokers**

NONE.

## Schedule 3.25

### Insurance Coverage

Directors and Officers Liability/Fiduciary Liability Blend				
Carrier	Policy No.	Policy Period	Limit	Comments
AXIS Insurance Company	MNN714089/01/2008	6/1/2008 – 6/1/2010	\$10,000,000	Primary D&O.
AXIS Insurance Company	MNN714088/01/2008	6/1/2008 – 6/1/2010	\$10,000,000	Primary Fiduciary.
Federal Insurance Company	6804-5991	6/1/2008 – 6/1/2010	\$10,000,000 xs \$10,000,000	Includes \$10 X \$10 D&O and Fiduciary
National Union Fire Insurance Company	538-95-70	6/1/2008 – 6/1/2010	\$10,000,000 xs \$20,000,000	Includes \$10 x \$20 D&O and Fiduciary
Hudson Insurance Company	HN-0303-2239	6/1/2008 – 6/1/2010	\$5,000,000 xs \$30,000,000	Includes \$5 x \$30 D&O; does not recognize Fiduciary
Catlin Insurance Co	XSP-91773-0608	6/1/2008 – 6/1/2010	\$5,000,000 xs \$35,000,000	Includes \$5m x \$35 D&O; \$10 x \$30 Fiduciary
XL Specialty Insurance Co	ELU105068-08	6/1/2008 – 6/1/2010	\$10,000,000 xs \$40,000,000	Recognizes depletion of limits by D&O and Fiduciary claims
Financial Institution Bond				
Carrier	Policy No.	Policy Period	Limit	Comments
National Union Fire Insurance Company	01-825-19-85	5/1/2009 – 5/1/2010	\$10,000,000	Primary
Berkley Regional Insurance Company	BFI 7000061-09	5/1/2009 – 5/1/2010	\$10,000,000 xs \$10,000,000	First Excess
The Fidelity and Deposit Company of Maryland (Zurich)	FIB 0006576 02	5/1/2009 – 5/1/2010	\$10,000,000 xs \$20,000,000	Second Excess
Westchester Fire Insurance Company (ACE)	DOX G24580490 001	5/1/2009 – 5/1/2010	\$5,000,000 xs \$30,000,000	Third Excess
Computer Crime				
Carrier	Policy No.	Policy Period	Limit	Comments
National Union Fire Insurance Company	01-825-18-08	5/1/2009- 5/1/2010	\$10,000,000 xs Retention	Primary
Berkley Regional Insurance Company	BFI 7000062-09	5/1/2009-5/1/2010	\$10,000,000 xs \$10,000,000	First Excess
The Fidelity and Deposit Company of Maryland (Zurich)	FIB 0006577 02	5/1/2009-5/1/2010	\$10,000,000 xs \$20,000,000	Second Excess
Westchester Fire Insurance Company (ACE)	Dox G24579748 001	5/1/2009-5/1/2010	\$5,000,000 xs \$30,000,000	Third Excess
Employment Practices Liability				
Carrier	Policy No.	Policy Period	Limit	Comments
Zurich American Insurance Company	EPL 3681805-08	5/1/2009-5/1/2010	\$15,000,000 xs Retention	Primary
Bankers Professional Liability				
Carrier	Policy No.	Policy Period	Limit	Comments
Marsh LTD	QA0333208	6/1/2009-6/1/2010	10,000,000 xs Retention	Primary - for claims alleging acts before 6/1/2009
Marsh LTD	QA033108	6/1/2009-6/1/2010	\$5,000,000 xs \$10,000,000	First Excess - for claims alleging acts before 6/1/2009
National Union Fire Insurance of Pittsburgh	00-571-04-63	6/1/2009-6/1/2010	\$10,000,000 xs \$15,000,000	Second Excess - for claims alleging acts before 6/1/2009
Marsh LTD	B0509QA076408	6/1/2009-6/1/2010	\$5,000,000 xs \$25,000,000	Third Excess - for claims alleging acts before 6/1/2009
Marsh LTD	B0509QA032909	6/1/2009-6/1/2010	\$5,000,000 xs Retention	Primary - for claims alleging acts after 6/1/2009
Catlin	XSP-95766-0609	6/1/2009-6/1/2010	\$5,000,000 xs \$5,000,000	First Excess - for claims alleging acts after 6/1/2009
West Chester Surplus Lines Insurance Company	G24074523 001	6/1/2009-6/1/2010	\$10,000,000 xs \$10,000,000	Second Excess - for claims alleging acts after 6/1/2009
Everest Indemnity	FL5EE00028-091	6/1/2009-6/1/2010	\$5,000,000 xs	Third Excess - for claims alleging acts after

Insurance Company			\$20,000,000	6/1/2009
Indian Harbor Insurance Company	FLU111652-09	6/1/2009-6/1/2010	\$5,000,000 xs \$25,000,000	Fourth Excess - for claims alleging acts after 6/1/2009
Property/Casualty				
Carrier	Policy No.	Policy Period	Limit	Comments
Lloyd's Of London	B0509zf031109	11/01/2009-11/01/2010	\$10,000,000 (named locations), \$3,000,000 (other locations)	Fine Arts
Continental Insurance Company	Pst295914341	11/01/2009-11/01/2010	\$2,000,000 (aggregate), \$1,000,000 (each occurrence)	Foreign Liability
Valley Forge Insurance Company	2099471070	11/01/09 - 11/01/10	\$1,000,000	Workers Comp
National Fire Insurance Of Hartford	2099470985	11/01/09 - 11/01/10	\$1,000,000	Automobile
Zurich American Insurance Company	Erp9137973-04	11/01/2009 - 11/01/2010	\$40,000,000 (\$50,000 deductible)	Property, All-Risk (Including Flood & Earthquake)
American Guarantee And Liability Insurance Company	Auc-9263269-02	11/01/2009 - 11/01/2010	\$35,000,000 (aggregate and each occurrence)	Excess/Umbrella
National Fire Insurance Of Hartford	2099471022	11/01/2009 - 11/01/2010	\$2,000,000 (aggregate), \$1,000,000 (each occurrence)	General Liability

## Schedule 3.26

### Contracts

See **Schedule 3.7** for investments pledged to certain state departments of insurance.

See **Schedule 3.14** for reinsurance contracts.

Single or Joint Mortgage Group Life Insurance Policy ML-1(DE) (fully reinsured through Swiss Re)\*

ALIC Form AD-0001A High Limit AD Florida Group Policy (terminated and fully reinsured through ABLAC of FL Agreement)

Swiss Re Agreement\*

ABLAC of FL Agreement (terminated, but ABLAC has continuing reinsurance obligations)\*

Agreement between the Company, Advanta Insurance Company and American Telecom, Inc., dated as of September 12, 2000.

Software License Agreement between the Freedom Group, Inc. and the Company, dated as of June 10, 1994.

See **Schedule 5.20** for Contracts to be terminated prior to Closing.

\* indicates "Closing Contracts" that will remain active as of the Closing Date.

**Schedule 3.28(b)(i)**

**Insurance Contracts**

ALIC Form AD-0001A High Limit AD Florida Group Policy



### **Schedule 3.30**

#### **Accuracy of Documents; Disclosure of all Material Matters**

The Company's September 30, 2009 quarterly Statutory Financial Statements incorrectly stated on page 7, note 10, that the Company did not earn premiums after June 2, 2009. The Company did earn premium after that date, as reflected in line 1 of the Summary of Operations in the Company's September 30, 2009 quarterly Statutory Financial Statements.

The Company's 2008 and 2009 annual Statutory Financial Statements incorrectly stated the authorized and outstanding capital stock of the Company on page 19.2, Note 13(1).

## **Schedule 5.7**

### **Filing Fees to Be Paid Prior to Closing**

See **Schedule 3.13(b)** for an estimate of Filing Fees due in 2010. The Company shall pay such Filing Fees as they come due before Closing and will prepay, prior to the Closing Date, any such Filing Fees that become due within 30 days of the Closing Date.

## **Schedule 5.20**

### **Termination of Contracts**

Fourth Amended and Restated Tax Sharing Agreement, dated May 1, 1995 by and between Advanta Corp. and its subsidiaries

Management Service Fee Reimbursement Agreement, between the Company and Advanta Insurance Company, dated January 1, 1990

Management Service Fee Reimbursement Agreement, between the Company and Advanta Insurance Agency, Inc., dated January 1, 1990

Management Service Fee Reimbursement Agreement, between the Company and First Advanta Insurance Agency, dated January 1, 1990

Management Agreement, between the Company and Advanta Corp., dated January 1, 1990, as amended

State of Ohio Department of Insurance Guaranty by Advanta Corp.

Software License Agreement between the Freedom Group, Inc. and the Company, dated as of June 10, 1994

Agreement between the Company, Advanta Insurance Company and American Telecom, Inc., dated as of September 12, 2000