

EXHIBIT A

LIQUIDATION PLAN

By and among
the Special Deputy Receiver of
Lincoln Memorial Life Insurance Company
Memorial Service Life Insurance Company
National Prearranged Services, Inc.

And

The National Organization of Life and Health Insurance Guaranty Associations
And Its Participating Member Life and Health Insurance Guaranty Associations

TABLE OF CONTENTS

	<u>Page</u>
1. RECITALS.....	2
2. DEFINITIONS.....	4
3. ADMINISTRATION OF COVERED OBLIGATIONS – SERVICE AGREEMENT.....	8
4. STANDARD POLICIES – PARTICIPATING ASSOCIATION COVERAGE.....	8
5. DISPUTED POLICIES – PARTICIPATING ASSOCIATION COVERAGE.....	9
6. PAYMENT OF COVERED OBLIGATIONS ARISING UNDER STANDARD POLICIES AND DISPUTED POLICIES.....	11
7. MORATORIA.....	12
8. OWNER, BENEFICIARY, PAYEE AND ASSIGNEE RIGHTS.....	13
9. ASSIGNMENT AND SUBROGATION RIGHTS.....	13
10. CLAIMS AGAINST THE COMPANIES AND RELATED RIGHTS.....	14
11. ASSETS.....	16
12. PARTICIPATING ASSOCIATIONS.....	18
13. SETTLEMENT AND COMPROMISE, RECEIVERSHIP COURT APPROVAL AND DISPUTE RESOLUTION.....	18
14. NOTICE.....	20
15. MISCELLANEOUS – GENERAL PROVISIONS.....	21
EXHIBIT 3.2 – SERVICE AGREEMENT.....	24
EXHIBIT 12.1 – PARTICIPATING ASSOCIATIONS.....	25

LIQUIDATION PLAN

This Liquidation Plan is entered into on the Contract Date and effective as of the Effective Date by and among the Special Deputy Receiver ("SDR") of Lincoln Memorial Life Insurance Company ("Lincoln Memorial"), Memorial Service Life Insurance Company ("Memorial Service"), and National Prearranged Services, Inc. ("NPS") (collectively the "Companies") and the National Organization of Life and Health Insurance Guaranty Associations ("NOLHGA") and its Participating Member Life and Health Insurance Guaranty Associations ("Participating Associations").

1. RECITALS.

1.1. The Companies.

- 1.1.1. Lincoln Memorial¹ is a life insurance company which, as of the Rehabilitation Order Date, was domiciled in Texas and was licensed in all states except Florida, Massachusetts, Michigan, New Hampshire, New Jersey, New Mexico, New York and Puerto Rico.
- 1.1.2. Memorial Service is a stipulated premium life insurance company domiciled in Texas, licensed to transact business in Texas only, and the parent of Lincoln Memorial.
- 1.1.3. NPS is a Missouri based funeral service company and an affiliate of Lincoln Memorial and Memorial Service. NPS acted as the general agent for both Insolvent Insurers, in addition to its other relationships with the Insolvent Insurers.

1.2. Supervision, Rehabilitation and Liquidation.

- 1.2.1. On October 24, 2007, Lincoln Memorial and Memorial Service were each placed under a Confidential Order Creating State of Supervision and Appointing Supervisor in Texas.
- 1.2.2. On April 8, 2008, Lincoln Memorial, Memorial Service and NPS consented to be and were placed under a 404 Order by the Texas Department of Insurance ("TDI"). Among other things, the 404 Order included a statement that, "Based on current circumstances, it appears to the Commissioner that RESPONDENTS are inextricably intertwined and that their condition is such as to render the continuance of business hazardous to the public and to policyholders and that RESPONDENTS have failed to comply with certain applicable laws."
- 1.2.3. On May 14, 2008, the Rehabilitation Order Date, Lincoln Memorial, Memorial Service and NPS consented to be and were placed into

¹ Capitalized terms used in the Recitals and throughout the Liquidation Plan are defined in Section 2., Definitions of this Liquidation Plan.

rehabilitation in the Receivership Proceeding, and the Commissioner was appointed as Rehabilitator. The Rehabilitator appointed the SDR effective May 15, 2008. Pursuant to Tex. Ins. Code § 443.102 (b), the SDR is authorized to deal with the property and business of the Companies.

1.2.4. Lincoln Memorial, Memorial Service and NPS are each insolvent. The SDR anticipates filing an application to place Lincoln Memorial, Memorial Service and NPS into liquidation, and to approve this Liquidation Plan. Upon the entry of a Liquidation Order, the SDR will be authorized to perform the duties of the Liquidator pursuant to Tex. Ins. Code § 443.151 *et seq.*

1.3. Regulatory Actions against Companies Related to Disputed Practices. Numerous state regulators with varying degrees of regulatory authority over the Companies, including regulators in Texas, Missouri, Kansas, Iowa, Illinois and others, have expressed significant concerns regarding one or more purportedly improper and/or illegal practices, including but not limited to: (i) assignment and/or transfer of ownership, beneficiary and/or payee rights of Disputed Policies to NPS; (ii) the taking of policy loans from certain whole life policies; (iii) the converting of whole life policies to term life policies; (iv) failing to make premium payments on term life policies; (v) failing to lapse policies for failure to pay premiums; (vi) failing to comply with preneed funeral arrangement statutes in one or more states; (vii) issuing term policies without consideration; (viii) issuing term policies on policy forms not approved by the appropriate states; (ix) failing to utilize policy applications; (x) failing to account for and identify accurately the identity and residency of owners; (xi) failing to reflect accurately the true residency of Insureds; and (xii) failing to issue physical policies even though policies may be reflected or reported on the books and records of the Insolvent Insurers. As a result of these practices, (a) one or more regulators has issued administrative orders and/or made demands that the Companies correct these practices, including among other options a comprehensive re-conversion of term policies to whole life policies, and (b) there are numerous arguments regarding the identity and authority of the owner of many Policies. Among other things, the compromise and settlement in this Liquidation Plan responds to those concerns.

1.4. Coordination with NOLHGA and Participating Associations.

1.4.1. NOLHGA is a voluntary association whose members are all of the state life and health insurance guaranty associations. Pursuant to the Liquidation Plan and their respective Enabling Acts but subject to statutory conditions and limitations on coverage, some of those member guaranty associations may now or hereafter have obligations to assure the payment of the contractual obligations of the Insolvent Insurers under certain policies or to provide benefits or coverage to certain of the policyholders, contract holders, certificate holders, Insureds, beneficiaries, or payees of the Insolvent Insurers under certain of such

policies. One of NOLHGA's major roles is to make unified administration of Covered Obligations available to its member guaranty associations in a single transaction. As specified in NOLHGA's bylaws, MPC rules and procedures, NOLHGA is authorized to execute this Liquidation Plan on behalf of the Participating Associations.

- 1.4.2. While the Insolvent Insurers were in Supervision, NOLHGA and the Affected Associations coordinated a review of the insurance policy records and potential coverage obligations at the request of, and with the assistance of the TDI, subject to the Confidentiality Agreement. That cooperation and review continued after the Rehabilitation Order. The SDR joined in the Confidentiality Agreement after the SDR's appointment. The Confidentiality Agreement continues in effect and is not superseded by this Liquidation Plan except where its terms may conflict directly with the terms of this Liquidation Plan.
- 1.4.3. As a result of the review efforts, the Parties determined that negotiating and entering into this Liquidation Plan was the best available alternative by which the Participating Associations could discharge and fulfill their statutory obligations to provide coverage for insurance consumers of the Insolvent Insurers.
- 1.4.4. The purpose of this Liquidation Plan is to permit the Participating Associations, subject to their Enabling Acts and by means of this negotiated settlement and compromise of disputed claims, to fulfill their statutory obligations by providing benefits and protections to consumers of insurance products.

AGREEMENTS

NOW THEREFORE, in consideration of the mutual covenants set forth in this Liquidation Plan, the Parties agree as follows:

2. DEFINITIONS. Capitalized terms when used in this Liquidation Plan, including the Service Agreement, shall have the meanings set forth below. As used throughout this Liquidation Plan, references to defined terms that are singular include the plural and that are plural include the singular, as appropriate.

- 2.1. "404 Order" means the Chapter 404 Order by Consent, Official Order No. 08-0290 of the Commissioner, dated April 8, 2008.
- 2.2. "Affected Association" means each life and health insurance guaranty association which, in accordance with its respective state governing laws and Enabling Acts, and as a result of the Liquidation Order, has, or may have, Covered Obligations.
- 2.3. "Annuities" means annuities issued or assumptively reinsured (including the issuance of assumption certificates) by either of the Insolvent Insurers and that

give rise to Covered Obligations. Subject to the application of Articles 4 and 5 hereof, an Annuity may be either a Standard Policy or a Disputed Policy.

- 2.4. "Assets" means any and all assets of whatever nature in which one or more of the Companies has any right, title or interest, including but not limited to cash, investments, reinsurance, intellectual property, contract rights, property held in trust, claims, causes of action and the like.
- 2.5. "Commissioner" means the Commissioner of Insurance for the State of Texas.
- 2.6. "Companies" means Lincoln Memorial, Memorial Service and NPS.
- 2.7. "Confidentiality Agreement" means the Confidentiality and Litigation Agreement acknowledging Joint and Common Interests relating to Memorial Service, Lincoln Memorial and affiliates between and among the Commissioner on behalf of the TDI and NOLHGA and its Participating Associations and includes the Supplement to the Confidentiality Agreement adding the SDR as a party thereto.
- 2.8. "Contract Date" means the date on which this Agreement has been signed by representatives of both the SDR and NOLHGA.
- 2.9. "Covered Obligation" means the obligation of a Participating Association to policyholders, beneficiaries and/or payees of a Policy which, pursuant to each Participating Association's Enabling Act, pursuant to the compromise and settlement set forth in this Liquidation Plan, and as a result of the insolvency and liquidation of the Insolvent Insurers, has arisen or will arise on or after entry of the Liquidation Order.
- 2.10. "Disputed Policies" means those Policies identified as such in Article 5 of this Liquidation Plan and in accordance with the Service Agreement.
- 2.11. "Effective Date" means the date on which this Liquidation Plan becomes effective and is the date on which all conditions necessary for commencement and implementation of this Liquidation Plan, including the conditions referenced in Section 13.2 hereof, have been satisfied. While it may not become effective until the Effective Date, the date for purposes of all calculations contemplated by the Liquidation Plan and the Service Agreement shall be as of the Liquidation Order Date.
- 2.12. "Enabling Act" means each specific state life and health insurance guaranty association act in the same state as the respective Participating Association, including the regulatory and related legal authority from the same state interpreting such statutes.
- 2.13. "Indicia of Insurance" means those situations where the appropriate amount of money was paid by the consumer to one of the Companies to be used for the purchase of a Policy and any of the following exist: (i) an insurance application was processed and not denied; (ii) an authorized Company representative stated,

in writing, that a Policy was or would be issued; or (iii) a Policy is reflected on the books and records of an Insolvent Insurer.

- 2.14. "Insolvent Insurers" means Lincoln Memorial and Memorial Service.
- 2.15. "Insured" means the individual whose death triggers the payment of benefits under a life insurance policy and in the case of an annuity, the individual whose life is the measuring life under the annuity.
- 2.16. "Life Policies" means life insurance policies issued or assumptively reinsured (including the issuance of assumption certificates) by either of the Insolvent Insurers and that give rise to Covered Obligations.
- 2.17. "Lincoln Memorial" means Lincoln Memorial Life Insurance Company, including while under a Rehabilitation Order and after entry of a Liquidation Order.
- 2.18. "Receivership Act" means the Insurer Receivership Act, Tex. Ins. Code § 443.001 *et seq.*
- 2.19. "Receivership Court" means the District Court of Travis County, Texas, 250th Judicial District, with jurisdiction over the Receivership Proceeding. The term includes the Special Master appointed by Receivership Court to the extent that matters are referred to the Special Master by the Receivership Court.
- 2.20. "Liquidation Order" means a final order of liquidation with a finding of insolvency entered by the Receivership Court with respect to the Companies, and "Liquidation Order Date" means the date on which the Liquidation Order is entered.
- 2.21. "Liquidation Plan" means this Liquidation Plan by and among the Special Deputy Receiver of Lincoln Memorial, Memorial Service, NPS, and NOLHGA and its Participating Associations.
- 2.22. "Memorial Service" means Memorial Service Life Insurance Company, including while under a Rehabilitation Order and after entry of a Liquidation Order.
- 2.23. "NPS" means National Prearranged Services, Inc., including while under a Rehabilitation Order and after entry of a Liquidation Order.
- 2.24. "NOLHGA" means the National Organization of Life and Health Insurance Guaranty Associations.
- 2.25. "Participating Association" means each Affected Association that agrees to participate in this Liquidation Plan.
- 2.26. "Parties" mean the parties who have executed this Liquidation Plan and are limited to the SDR, NOLHGA and the Participating Associations.

- 2.27. "Policies" mean Life Policies and Annuities and consists of and is limited to the Standard Policies and Disputed Policies and does not include Preneed Funeral Contracts.
- 2.28. "Preneed Funeral Contract" means preneed and/or prearranged funeral contracts or arrangements entered into by NPS or others in order to provide funeral and/or burial services and/or merchandise for one or more individuals and does not include Policies.
- 2.29. "Receivership Proceeding" means the Cause No. D-1-GV-08-000945 in the District Court of Travis County, Texas, the 250th Judicial District.
- 2.30. "Receivership Estates" means the receivership estates of the Companies.
- 2.31. "Rehabilitation Order" means the *Agreed Order Appointing Rehabilitator and Permanent Injunction* entered on May 14, 2008 in the Receivership Proceeding.
- 2.32. "Rehabilitation Order Date" means May 14, 2008, the date on which the Rehabilitation Order was entered.
- 2.33. "RPU" means a reduced paid-up Policy.
- 2.34. "SDR" means the Special Deputy Receiver for the Companies, acting pursuant to her appointment by the Commissioner as Rehabilitator or Liquidator of the Companies, as applicable.
- 2.35. "Service Agreement" means the Service and Early Access Agreement between and among the SDR, NOLHGA and the Participating Associations attached as Exhibit 3.2 hereto.
- 2.36. "Standard Policies" mean those Policies identified as such in Article 4 of this Liquidation Plan and in accordance with the Service Agreement.
- 2.37. "Supervision" means the regulatory control exercised by the TDI over the Insolvent Insurers by which they were placed under the supervision of the TDI on October 24, 2007.
- 2.38. "TDI" means the Texas Department of Insurance.
- 2.39. "Task Force" means the NOLHGA Task Force comprised of Affected Association representatives and appointed in accordance with NOLHGA's, by-laws, rules and procedures related to Lincoln Memorial and Memorial Service.
- 2.40. "Trustee" means the person or persons that is, or was, identified as a trustee with respect to one or more Preneed Funeral Contracts and/or Policies.

3. ADMINISTRATION OF COVERED OBLIGATIONS – SERVICE AGREEMENT.

- 3.1. After entry of the Liquidation Order, continuation of coverage of Policies shall be provided in accordance with Tex. Ins. Code § 443.152 and each respective Participating Association's Enabling Act, subject to the provisions of this Liquidation Plan.
- 3.2. The Covered Obligations arising out of the Policies, shall be administered by the SDR on behalf of the Participating Associations in accordance with the terms and provisions of the Service Agreement. A copy of the Service Agreement is attached hereto as Exhibit 3.2 and incorporated herein by reference.
- 3.3. Initially, the Parties intend for the administration of Covered Obligations to operate on a run-off basis. As notice of claims are received and in accordance with the Service Agreement, the SDR and the Participating Associations shall: (i) evaluate and investigate the claims; (ii) identify whether the applicable Policy is a Standard Policy or is a Disputed Policy; and (iii) arrange for payment of the claims in accordance with this Liquidation Plan and the Service Agreement.
- 3.4. Eventually, the Participating Associations intend, in their sole discretion, that some or all of the Covered Obligations may be subject to transfer by means of one or more assumption reinsurance agreements.

4. STANDARD POLICIES – PARTICIPATING ASSOCIATION COVERAGE.

- 4.1. Standard Policies shall be identified based on the following factors. The factors are intended to serve as an identification guide and are not intended to be all-inclusive. The factors are not dispositive.
 - 4.1.1. The Policy is an Annuity or a whole Life Policy in-force as of the date of the Liquidation Order;
 - 4.1.2. the Policy is a fully-paid single premium whole Life Policy or fully paid Annuity or it requires periodic payment of premiums by someone other than NPS or the Trustee;
 - 4.1.3. neither NPS nor a Trustee is identified as the owner, beneficiary or assignee of the Policy or as having rights under the Policy; and
 - 4.1.4. no policy loan was authorized, requested and/or made by/to NPS and/or a Trustee.
- 4.2. With respect to the Standard Policies allocable to it, each Participating Association shall provide coverage for the Covered Obligations of such Standard Policies in accordance with the terms and provisions of such Standard Policies in force as of the Liquidation Order Date, subject to the Enabling Act of the Participating Association.

- 4.3. To the extent Policies relate to Preneed Funeral Contracts issued by an entity other than NPS and NPS has no right, title, or interest in such Preneed Funeral Contracts, then such Policies shall be treated as Standard Policies.
- 4.4. Initially, coverage provided by the Participating Associations under the Standard Policies will be handled under the Service Agreement. The Participating Associations, in their sole discretion, may provide coverage for Standard Policies by means of an assumption and reinsurance transaction at some future date.

5. DISPUTED POLICIES – PARTICIPATING ASSOCIATION COVERAGE.

- 5.1. Disputed Policies shall be identified based on the following factors. The factors are intended to serve as an identification guide and are not all-inclusive. The factors are not dispositive.
 - 5.1.1. NPS and/or a Trustee is identified as the owner, beneficiary, payee or assignee of the Policy;
 - 5.1.2. NPS took out or arranged for policy loans against the Policy;
 - 5.1.3. NPS converted the Policy or arranged for the conversion from whole life to term life;
 - 5.1.4. NPS caused one or more term life policies to be issued in situations where the Insured (or if the owner is someone other than NPS) was not aware of the term policy;
 - 5.1.5. the Policy was converted to RPU status and is owned by NPS or a Trustee and the RPU does not involve an individual Insured that stopped paying or otherwise interrupted the payment of premiums; or
 - 5.1.6. the address information of Insureds is in error.
- 5.2. All term life insurance policies that were issued by an Insolvent Insurer are either Disputed Policies or will be treated as lapsed. Term life insurance policies that are Disputed Policies are those that were originally issued by an Insolvent Insurer so long as and to the extent that appropriate consideration has been fully paid or continues to be paid by the Insured or someone other than NPS. Term life insurance policies that will be treated as lapsed (and thus not satisfying the defined term “Policies”), are those where premiums were required to be paid by someone other than NPS and such premiums were not paid. To the extent term life insurance policies were issued by an Insolvent Insurer to fill gaps related to original values of whole life insurance policies, no coverage shall be provided for such products because the original death benefit is being paid for the Disputed Policies under this Liquidation Plan.
- 5.3. Decisions regarding the identification of a Policy as a Standard Policy or a Disputed Policy shall be made initially by NOLHGA on behalf of the

Participating Associations with input from the SDR under the Service Agreement. NOLHGA and/or the Participating Associations may change or modify the initial designation of a Policy as a Standard Policy or a Disputed Policy. In the event that the SDR and the Participating Association disagree on such identification or modification and are not able to resolve that disagreement, such dispute shall be resolved in accordance with the dispute resolution procedures set forth in this Liquidation Plan. The Parties acknowledge that the factors for Disputed Policies and Standard Policies are not all-inclusive and do not cover and/or address every nuance or issue that could develop or be discovered. The Parties agree to work together in good faith to resolve such developments or discoveries consistent with this Liquidation Plan.

5.4. With respect to the Disputed Policies allocable to it, the Participating Association shall provide coverage for the Covered Obligations as set forth in this Article 5, subject, in all cases, to the limitations and other provisions of its Enabling Act.

5.4.1. Each Participating Association shall recognize the face amount of the original Policy it is covering at the time such Policy was first issued and pay that amount as the death benefit to the extent a valid death claim is incurred.

5.4.2. There will be no cash value provided with respect to any Disputed Policy. Likewise, no Policy loans or interest accumulation related to cash value will be recognized or permitted with respect to any Disputed Policy.

5.4.3. The face amount and/or death benefits of any Disputed Policy will not grow or increase by any amount unless such growth or increase is expressly provided for in the original Policy and is in the form of a graded death benefit.

5.4.4. To the extent there were policy loans, surrenders, conversions to term, issuance of term products, conversions to RPU status or other actions taken by NPS that purportedly reduced or affected the value of the death benefit face amount, those post-issuance activities shall not apply to reduce or to increase the face amount of death benefits paid by the Participating Association.

5.4.5. The face amount of the original insurance Policies in force on the Liquidation Order Date shall be paid, even if NPS failed to remit the required premiums to the Insolvent Insurer in the past and/or fails to pay premiums in the future, so long as some person other than NPS paid the full amount of the single or periodic payment of consideration to NPS and continues to pay such premiums to the extent required.

5.4.6. Coverage under a Disputed Policy allocable to a specific Participating Association will be provided by such Participating Association so long as there is sufficient Indicia of Insurance.

- 5.4.7. Death benefits that would otherwise be due or payable to NPS will be paid by the Participating Association directly to the funeral home or such other entity that is responsible for providing and actually provides the funeral/burial services and/or merchandise to the Insured.
- 5.4.8. Death benefits that would otherwise be due or payable to a Trustee will be paid by the Participating Association directly to the funeral home that is responsible for providing and actually provides the funeral/burial services and/or merchandise for the benefit of the Insured. For purposes of the Liquidation Plan, the Insured under such Policy shall be considered the owner of the Policy as provided in Article 8.
- 5.4.9. Benefits provided pursuant to Disputed Policies by a Participating Association may not be assigned or transferred by the Insured, owner, beneficiary, or other assignee (except as expressly provided in this Liquidation Plan) unless pre-authorized in writing by the applicable Participating Association in the sole and exclusive discretion of that Participating Association.
- 5.4.10. For those Annuities where NPS is identified as the owner and/or beneficiary, whether directly or by assignment, such ownership and/or beneficiary rights shall be handled in accordance with Article 8 of this Liquidation Plan.
- 5.4.11. For the avoidance of any doubt or confusion, the only Contractual Obligation under a Disputed Policy that is a Life Policy that a Participating Association is obligated to discharge is the payment of the insurance death benefit as determined under this Liquidation Plan, subject to the statutory limitations (as to amount and/or percentages of payments) and other provisions of the Participating Association's Enabling Act.

6. PAYMENT OF COVERED OBLIGATIONS ARISING UNDER STANDARD POLICIES AND DISPUTED POLICIES. The Participating Associations shall pay the Covered Obligations arising under the Standard Policies and the Disputed Policies based on the following allocation methodology to be implemented under the Service Agreement.

- 6.1. Standard Policies shall be allocated to each Participating Association based on the state of residency of the owner as that residency is reflected in the books and records of Lincoln Memorial upon the Liquidation Order Date. Disputed Policies shall be allocated to each Participating Association based on the state of residency of the Insured as that residency is reflected in the books and records of Lincoln Memorial upon the Liquidation Order Date.
- 6.2. All Memorial Service Policies shall be allocated to the Participating Association from Texas.

- 6.3. On a twice-monthly basis (the 1st and 15th of each month or the first business day thereafter), the SDR will send to NOLHGA's designee a report of the total amount of death benefits due. The format of such reporting will be electronic and will otherwise be determined by NOLHGA and the Participating Associations.
- 6.4. Within ten (10) days after receipt from the SDR, NOLHGA's designee shall forward the funding schedule to each applicable Participating Association along with applicable payment instructions as established by NOLHGA.
- 6.5. Within seven (7) days after receipt from NOLHGA's designee, each Participating Association will make its share of payments to the SDR to be used to pay the claims identified as due under the Disputed Policies in accordance with the Service Agreement. All payment obligations of a Participating Association shall be several, not joint.
- 6.6. At the discretion of the Task Force, a periodic review may be undertaken by NOLHGA of the residency of the Insureds used for the payment allocation made under the Policies which review shall include a recommendation regarding whether and to what extent the residency of Insureds should be adjusted. Any proposed adjustment will be submitted to the Task Force and, if approved by the Task Force, circulated to all Participating Associations for true-up. The SDR will cooperate and assist in these reviews and adjustments.
- 6.7. The timing of payments identified in Section 6.3, 6.4 and 6.5 hereof may be modified by the Participating Associations, with reasonable advance written notice to the SDR, so long as such modification permits timely payment of claims under this Liquidation Plan.

7. MORATORIA.

- 7.1. Pursuant to Tex. Ins. Code § 463.257 and each respective Participating Association's Enabling Act, a temporary moratorium shall be imposed on all surrenders, policy loans, change in beneficiary or other policy terms or the exercise of any right to withdraw money from any Standard Policy and/or Annuity. No Moratoria is sought with respect to the Disputed Policies because the negotiated settlement for such Disputed Policies only allows payment of death benefits and does not allow for any actions with respect to the Disputed Policy, including but not limited to changes to the beneficiary or other policy provisions.
- 7.2. This temporary moratorium shall be in force for the first 18 months after the Effective Date of this Liquidation Plan. Applications may be made by the Parties to the Court for the extension of this temporary moratorium.
- 7.3. This temporary moratorium shall be subject to reasonable hardship provisions appropriate under the circumstances as developed by the Participating Associations and the SDR and subject to Receivership Court approval.

8. OWNER, BENEFICIARY, PAYEE AND ASSIGNEE RIGHTS.

- 8.1. None of the Receivership Estates or any other Party shall exercise any rights as owner, beneficiary, payee and/or assignee in any way inconsistent with this Liquidation Plan.
- 8.2. The SDR has determined that the existing trust agreements related to the Preneed Funeral Contracts and Policies will not be utilized in connection with this Liquidation Plan. Such determination does not constitute a release of any trust and/or Trustee and the SDR and all other persons shall retain all rights, claims and remedies related thereto, including but not limited to those pursuant to Chapter 443 of the Texas Insurance Code and those pursuant to the assignment and subrogation rights of each Participating Association. In accordance with Tex. Ins. Code § 443.013(b) and § 443.059, neither the filing of the petition for the Receivership nor the entry of the Liquidation Order constitutes a breach or an anticipatory breach of any trust agreement.
- 8.3. Where NPS or a Trust was previously identified as an owner of a Policy and to the extent an owner needs to be identified or ownership rights may be exercised, then the Insured shall be treated as the owner instead of NPS or the Trust solely for purposes of this Liquidation Plan.
- 8.4. Where NPS or a Trust was previously identified as a beneficiary of a Policy, each of the Receivership Estates acknowledges, agrees and authorizes the Participating Associations to pay any benefits due under a Disputed Policy directly to the respective funeral home providing funeral/burial services and/or merchandise for the Insured in lieu of, and in satisfaction of, making any payments to NPS or the Trust.
- 8.5. Any owner, beneficiary, payee, assignee or other interested person that receives (or whose representative receives) notice of this Liquidation Plan and the petition seeking approval thereof, is hereby prohibited from exercising any rights in any way inconsistent with this Liquidation Plan unless such person: (i) has appeared in the Receivership Court; (ii) has filed an opposition to the approval of the Liquidation Plan; and (iii) such opposition has been granted by and such asserted rights have been specifically confirmed by the Receivership Court and any appeals related thereto have been favorably resolved in favor of such person.

9. ASSIGNMENT AND SUBROGATION RIGHTS.

- 9.1. **Statutory Assignment and Subrogation.** In accordance with Tex. Ins. Code § 463.261(a) and the Enabling Act for each respective Participating Association, effective upon approval of the Liquidation Plan by the Receivership Court and the commitment of each Participating Association to provide the benefits contemplated in this Liquidation Plan, each and every current or future recipient of a benefit under this Liquidation Plan from a Participating Association is considered to have assigned to the respective Participating Association the rights under, and any cause of action relating to, the Policy to the extent of the benefit

provided or to be provided, including but not limited to the benefit of continuing coverage under a Policy, and any other rights provided for under the Enabling Act of the applicable Participating Association. In accordance with Tex. Ins. Code § 463.261(c) and the Enabling Act for each respective Participating Association, each and every Participating Association has all common law rights of subrogation and any other equitable or legal remedy that would have been available to the Insolvent Insurers, the contract holder and/or policy holder with respect to the Policy, and any other rights provided for under the Enabling Act of the applicable Participating Association.

9.2. **Assignment Required for Benefits.** In addition to the statutory assignment and subrogation rights addressed in Section 9.1, in accordance with Tex. Ins. Code § 463.261(a) and the respective Enabling Act for each Participating Association, each and every Participating Association may require a payee, policy or contract owner, beneficiary, and/or Insured to assign in writing to the Participating Association the person's rights and causes of action relating to the Policy as a condition of receiving a right or benefit from the Participating Association. The Participating Associations may require such an assignment as a condition for receipt of payments, and the Participating Associations may develop one or more form assignments consistent with the applicable statutory language that will be utilized by the SDR in the implementation and administration of the Service Agreement.

9.3. **No Waiver or Release.** This Liquidation Plan shall not serve as a waiver or release by the Parties of any rights, claims or causes of action against the Insolvent Insurers, directors, officers, shareholders, representatives, reinsurers, agents, owners, beneficiaries, payees, Trustees, NPS, or any other persons by the Parties. This Liquidation Plan is not intended to and shall not reduce, impair or release the rights of the Parties, whether those rights were acquired through assignment, subrogation or otherwise, to assert, pursue and litigate any and all claims, rights, and causes of actions, including but not limited to any of the matters and/or issues referenced in Section 1.3 of this Liquidation Plan.

9.4. **Offset.** To the extent any payee of any Participating Association has debts owed to one or more of the Companies, the SDR agrees to make a fair and reasonable transfer and/or assignment, in good faith, to the Participating Association of such debts in order to permit the Participating Association to apply such debt as an offset against benefits due to such payee.

10. CLAIMS AGAINST THE COMPANIES AND RELATED RIGHTS.

10.1. Lincoln Memorial, Memorial Service and NPS are each separate entities administered in a common proceeding. The Parties agree that the discrete Assets and liabilities of each of the Receivership Estates shall be separately maintained in accordance with the Receivership Act. Distributions of the Assets of each Receivership Estate shall be made on approved claims against such Receivership Estate.

- 10.2. Any and all persons to whom NPS owed obligations will be required to file claims against NPS in accordance with the Tex. Ins. Code § 443.251 *et seq.*
- 10.3. The obligation of any funeral home to deliver funeral/burial services and/or merchandise on behalf of the Insured, annuitant or other person in accordance with the terms specified in the applicable Preneed Funeral Contract and subject to applicable state law, remains in full force and effect pursuant to contractual commitment and/or statutory mandate and is not released in any way or in any way diminished as a result of this Liquidation Plan regardless of the amount and scope of coverage provided by a Participating Association for a Covered Obligation.
- 10.4. As of the Liquidation Order Date, to the extent any persons are making periodic payments to NPS related to a Policy: (i) the SDR, acting on behalf of NPS, hereby assigns all rights to collect such payments to the applicable Participating Association providing the Covered Obligation related to the Policy; (ii) all payments must continue to be paid to the applicable Participating Association or else the coverage provided under the Policy will lapse; and (iii) the amount of the payment due to NPS (and, after assignment, to the Participating Association) may be prorated and reduced to the extent that the face amount of the Preneed Funeral Contract exceeds the death benefit face amount of the Covered Obligation.
- 10.5. Pursuant to the SDR's authority to allow, disallow, or compromise the amount for which claims will be recommended to the Receivership Court under Tex. Ins. Code § 443.253, the SDR shall recommend the following approach for claim priority levels and/or amounts. This recommendation presumes that any and all claims would be submitted and adjudicated in accordance with the proceedings, terms and provisions required by the Receivership Act and shall not serve to release any persons from such requirements.
- 10.6. Claims against NPS.
 - 10.6.1. The SDR shall classify any of the Participating Association claims against NPS as Class 5 general creditor level claims as defined in Tex. Ins. Code § 443.301(e).
 - 10.6.2. To the extent any person has a claim against NPS for amounts due under Preneed Funeral Contracts, including claims for the difference between the amount of the death benefits under the Policy paid by a Participating Association and the amount of funeral/burial benefits purportedly due under a Preneed Funeral Contract, the SDR shall classify such claim against NPS as a Class 5 general creditor level claim as defined in Tex. Ins. Code § 443.301(e).
 - 10.6.3. Since NPS did not issue policies of insurance, there are no claims against NPS that would qualify as Class 2 claims, as defined in Tex. Ins. Code § 443.301(b).

10.7. Claims against Insolvent Insurers.

- 10.7.1. The overwhelming majority of the Class 2 policyholder level claims against the Insolvent Insurers as defined in Tex. Ins. Code § 443.301(b) will be the claims of the Participating Associations arising out of their Covered Obligations. While the Parties anticipate that there may be some claims not covered by the Participating Associations (i.e. uncovered claims) related to the Policies (e.g. claims of foreign residents), they do not anticipate that such claim amounts will be substantial.
- 10.7.2. Pursuant to Tex. Ins. Code § 443.252 (d), each Participating Association shall have a Class 2 claim as defined in Tex. Ins. Code § 443.301(b) for claim payments made in accordance with this Liquidation Plan.
- 10.7.3. During Rehabilitation and prior to the filing of the petition seeking Receivership Court approval of the Liquidation Plan, the SDR has been operating the Companies so that NPS has continued to make payments to funeral homes under the Preneed Funeral Contract and Lincoln Memorial and Memorial Service have continued to make payments to NPS with respect to the Policies. Payments made by or on behalf of the Insolvent Insurer to NPS or NPS's designee prior to the Liquidation Order Date shall be deemed to have fully satisfied the Insolvent Insurer's duties and obligations under those respective Policies and the Participating Associations shall have no obligations or duties with respect to those Policies. NPS shall have no claim against the Insolvent Insurer and/or any Participating Association for any alleged or purported shortfall in payment of benefits under any contracts, policies or annuities, including any Policy.
- 10.7.4. The Liquidation Plan does not address or modify an Insolvent Insurer's role or obligation as a reinsurer. All claims related thereto and any related disputes shall be resolved in accordance with the Receivership Act.

11. ASSETS.

- 11.1. The SDR will provide the Participating Associations with complete and unrestricted access to information, data, liquidation strategies, and the like for any and all Assets.
- 11.2. The SDR will provide the Participating Associations with meaningful input into the maintenance and liquidation of any and all Assets. Such meaningful input includes, but is not limited to, the following:
 - 11.2.1. The SDR shall coordinate and cooperate with the Participating Associations in the consideration and exercise of their rights to elect to succeed to the rights and obligations of the Insolvent Insurer under any

and all contracts of reinsurance in accordance with Tex. Ins. Code 443.211.

- 11.2.2. The SDR shall involve a working group comprised of no more than five individuals designated by NOLHGA in the resolution of any and all disputes with reinsurers, whether such resolution is by means of negotiation, settlement, compromise, arbitration, litigation or otherwise.
- 11.2.3. The SDR shall consider in good faith options and possibilities to transfer Assets to one or more Participating Associations in partial satisfaction of Participating Association claims against the Companies and their estates.
- 11.2.4. With respect to Assets that are or may be claims, lawsuits, arbitrations, causes of action, and the like, the SDR agrees that NOLHGA and the Participating Associations may elect to enter an appearance and take an active role in such claims, lawsuits, arbitrations, causes of action, and the like. Upon the request of NOLHGA and/or a Participating Association, the SDR shall assist and support such role. Among other things, at the request of NOLHGA and/or a Participating Association, the SDR will assist and support the pursuit of claims, lawsuits, arbitrations and causes of action as co-parties. Where the SDR's assistance is provided at the request of NOLHGA and/or a Participating Association, the costs and expenses associated with such assistance will be paid by the Participating Associations at a reasonable rate only if agreed upon in writing in advance of the provision of such service.
- 11.2.5. Consistent with this Liquidation Plan, the SDR shall transfer and/or assign to the applicable Participating Association rights to collect debts from any person who is a payee of the Participating Association in order to facilitate the application of an offset to such payment.
- 11.2.6. If requested by NOLHGA, the SDR shall consider in good faith establishing one or more trusts for the purposes of liquidating Assets with one or more trustees appointed by NOLHGA and the Participating Associations in addition to those appointed by the SDR.
- 11.3. Pursuant to Tex. Ins. Code § 443.303, within 120 days after entry of the Liquidation Order, or sooner if requested by the Participating Associations after the Effective Date, the SDR will file an application to make early access payments to Participating Associations from the Assets in accordance with Tex. Ins. Code § 443.303(c), (e) and (f). The SDR will make such payments in accordance with, and subject to, the Service and Early Access Agreement and Tex. Ins. Code § 443.303(d).
- 11.4. If a claim, cause of action or recovery related thereto (or portion thereof) is owned by either NPS, Lincoln Memorial or Memorial Service, then any related recovery shall be Assets of that specific Receivership Estate pursuant to this Liquidation Plan. If there is a cause of action, claim or recovery related thereto (or portion

thereof) that may belong to (and has not been assigned or transferred by) two or more of the Companies but that cannot be allocated exclusively to one Company, then any such recovery shall be allocated pro rata among the Receivership Estates based on the percentage of total claims against each Company compared to the total claims against all three Companies.

- 11.5. Any dispute between the SDR and Participating Associations regarding Assets shall be resolved by means of the dispute resolution process described in Section 13.3.2.
- 11.6. In accordance with Tex. Ins. Code § 443.211, the Liquidation of the Insolvent Insurers, including the implementation of this Liquidation Plan, shall not in any way diminish the liability of any reinsurer. The Parties do not waive and expressly retain any and all rights, claims, causes of actions and remedies against any and all reinsurers. Reinsurers are not intended to and shall not be beneficiaries of this Liquidation Plan.

12. PARTICIPATING ASSOCIATIONS.

- 12.1. Designation of Participating Associations. In order to be a Participating Association, the Affected Association must elect to participate in this Liquidation Plan and the Service Agreement in accordance with NOLHGA's by-laws, rules and procedures. On or before the first business day that is forty-five (45) days after the Contract Date, NOLHGA shall certify to the SDR in the form attached as Exhibit 12.1 which of the Affected Associations have elected to become Participating Associations.
- 12.2. Minimum Participation Level of Participating Associations. This Liquidation Plan shall not become effective unless Participating Associations with anticipated dollar exposure on the Policies totaling at least eighty-five (85%) of the aggregate dollar exposure on the Policies elect to become Participating Associations.
- 12.3. Satisfaction of Participating Association Statutory Duties and Obligations. By electing to participate in this Liquidation Plan, each Participating Association satisfies its statutory duties and obligations to provide continuing coverage related to the Insolvent Insurers. The assignment contemplated under this Liquidation Plan and set forth in Exhibit 2.12 of the Service Agreement shall include language of release for the benefit of each Participating Association consistent with this Section 12.3.

13. SETTLEMENT AND COMPROMISE, RECEIVERSHIP COURT APPROVAL AND DISPUTE RESOLUTION.

- 13.1. Compromise and Settlement Agreement of Disputed Claims. This Liquidation Plan and all negotiations, proceedings and statements made in connection with the negotiations of this Liquidation Plan and/or in support of its approval reflect a compromise of differing views and positions on various disputed matters. It shall be without prejudice to any person or Party hereto, shall not be deemed as or

construed to be an admission by any Party hereto of any act, matter, proposition or merit or lack of merit of any claim or defense, shall not be offered in evidence in any action or proceedings, except that the fully executed Liquidation Plan (including all exhibits) may be offered consistent with Section 13.2 hereof in connection with the enforcement of this Liquidation Plan, and shall not constitute a precedent for any purpose whatsoever or be any precedential value as to any person or Party hereto with respect to any other matter, including any other insolvency proceedings.

13.1.1. The Participating Associations are authorized to enter into this Liquidation Plan as part of carrying out their powers and duties and as a settlement of claims and/or potential claims in accordance with Tex. Ins. Code § 463.101(a)(1) and (2) or the respective Enabling Act of the Participating Association.

13.1.2. The SDR is authorized to enter into this Liquidation Plan pursuant to, among others, Tex. Ins. Code §§ 443.102(a), (b) and (e) and 443.104(a). Upon entry of the Liquidation Order and an order approving this Liquidation Plan, the SDR will be authorized to effectuate this Liquidation Plan pursuant to, among others, Tex. Ins. Code § 443.151 *et seq.*, § 443.251 *et seq.* and § 443.303.

13.2. Receivership Court Approval. This Liquidation Plan shall not become effective until after: (i) the Receivership Court has entered a Liquidation Order; (ii) the Receivership Court has approved this Liquidation Plan and the Service Agreement; and (iii) the appeal period related to such Liquidation Order and approval order has expired without the filing of an appeal or all appeals that were filed have been resolved to the satisfaction of all Parties.

13.3. Choice of Law and Jurisdiction.

13.3.1. This Liquidation Plan shall be governed and construed in accordance with the laws of the State of Texas, without giving effect to the principles of conflicts of law thereunder. Except for any and all disputes regarding identifying whether a Policy is a Standard Policy or a Disputed Policy and the benefits provided under Disputed Policies, Covered Obligations of each Participating Association shall be determined in accordance with the laws of the state in which the Participating Association was created and, in particular, with regard to the Enabling Act of such Participating Associations. Each Participating Association reserves the right to challenge the venue and forum of the Receivership Court to the extent that an issue related to the interpretation of the Participating Association's Enabling Act is the subject of the proceeding.

13.3.2. Except as provided in Section 13.3.1 above, the Parties hereby consent to the exclusive jurisdiction of the Receivership Court to resolve any and all disputes among the Parties which arise out of or relate, directly or indirectly, to the Liquidation Plan, the Service Agreement, or the

transactions contemplated hereby. The Parties further agree that service of process shall be effective if sent by certified or registered mail, return receipt requested, to the addresses as shown in Article 14 of this Liquidation Plan.

- 13.4. After a Participating Association makes the death benefit payment contemplated under this Liquidation Plan, its obligations related in any way to such Covered Obligation shall be discharged as to all persons. If the coverage provided by a Participating Association is challenged for any reason related to the coverage or benefits provided under this Liquidation Plan, then such Participating Association reserves all rights to assert, and may assert, any and all defenses, arguments and the like, to the provision of benefits under an insurance policy or annuity issued by an Insolvent Insurer, including but not limited to defenses that there is no coverage provided under the respective Participating Association's Enabling Act at all.

14. NOTICE.

- 14.1. Any notice required or permitted to be given hereunder shall be deemed to be given if delivered by hand or if mailed by first class or certified mail, postage prepaid, or by postal or a commercial express delivery service which issues an individual delivery receipt, to the following address:

- 14.1.1. If to the SDR to:

Special Deputy Receiver, Lincoln Memorial
Donna J. Garrett
1406 Camp Craft Road, Suite 108
Austin, Texas 78746
Phone: (512) 330-9720
Fax: (512) 330-0206

Christopher Fuller - SDR counsel
Fuller Law Group
4612 Ridge Oak Drive
Austin, Texas 78731
Phone: (512) 470-9544
Fax: (512) 374-0957

- 14.1.2. If to NOLHGA to:

Paul Peterson
Vice President, Accounting and Finance
National Organization of Life and Health
Insurance Guaranty Associations
13873 Park Center Road, Suite 329
Herndon, Virginia 20171
Fax: (703) 481-5209

and to:

Franklin D. O'Loughlin, Esq.
Joel A. Glover, Esq.
Rothgerber Johnson & Lyons LLP
1200 17th Street, Suite 3000
Denver, Colorado 80202
Fax: (303) 623-9222

14.1.3. If to a Participating Association, to the person and address on Exhibit 12.1.

14.2. Each Party shall be responsible for notifying, in writing, the other Parties promptly of any change in addressee or address.

15. MISCELLANEOUS – GENERAL PROVISIONS.

15.1. Liquidation. Although the Liquidation Plan is being executed when the Companies are in rehabilitation, the Parties contemplate and agree that this Liquidation Plan will be binding upon NOLHGA, the Participating Associations, the SDR and the Receivership Estates after the Effective Date, including entry of a non-appealable Liquidation Order.

15.2. No Third Party Beneficiaries. Nothing in this Liquidation Plan is intended or shall be construed to give any person, other than the Parties, any legal or equitable right, remedy or claim under or in respect of this Liquidation Plan or any provision contained herein.

15.3. Entire Agreement. This Liquidation Plan (including the Service Agreement and all other exhibits) constitutes the entire agreement and merges and supersedes all prior agreements, term sheets, understandings, and negotiations, both written and oral, among the Parties with respect to the subject matter of this Liquidation Plan.

15.4. Amendment. This Liquidation Plan may be amended or modified only by a writing executed by all the Parties in any way affected by the amendment or modification, and to the extent required by NOLHGA's bylaws, MPC rules and procedures, by the Participating Association(s). It is agreed that, notwithstanding the submission of this Liquidation Plan for approval by the Receivership Court, the Parties may, subject to mutual agreement, amend this Liquidation Plan without further approval by the Receivership Court if such amendments do not result in a material change hereto.

15.5. Counterparts. This Liquidation Plan may be executed in separate counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

- 15.6. Exhibits. All exhibits are hereby incorporated by reference into this Liquidation Plan as if they were set forth at length in the text of this Liquidation Plan.
- 15.7. Recitals. The Recitals to this Liquidation Plan are hereby incorporated by reference into this Liquidation Plan as if they were set forth at length in the text of this Agreement.
- 15.8. Cooperation. The Parties agree that they will from time to time, upon the request of any other Party and without further consideration, execute, acknowledge, and deliver in proper form any further instruments and take such other action as another Party may reasonably require in order to carry out effectively the purposes of this Liquidation Plan.
- 15.9. Statutory Obligations. Except as expressly stated herein, nothing in this Liquidation Plan shall be deemed to limit, expand, enlarge, or otherwise modify any Participating Association's statutory obligations, or to expand or enlarge any person's interest in or to the assets of the Insolvent Insurers, or to waive any claims, rights or defenses which any Participating Association may now or in the future have. Nothing in this Liquidation Plan shall be deemed to limit, expand, enlarge or otherwise modify the SDR's statutory obligations pursuant to the Texas Insurance Code Annotated or to waive any claims, rights or defenses which the SDR may have now or in the future.
- 15.10. Severability. If any term or provision of this Liquidation Plan or the application thereof to any person or circumstance shall, to any extent, be declared invalid or unenforceable by the Receivership Court or other court of competent jurisdiction, the remainder of this Liquidation Plan or the application of such terms or provisions to persons or circumstances other than those as to which it is held invalid or unenforceable, shall remain in full force and effect to the extent that their continuance is practicable and consistent with the original intent of the Parties.
- 15.11. Express Terms. This Liquidation Plan shall be construed in accordance with its express and not its implied terms. Captions, paragraph and section headings appearing in this Liquidation Plan shall be used only for convenience in identifying the material terms and provisions of the Liquidation Plan and shall not be construed to express any other intent.
- 15.12. Assignment. No Party to this Liquidation Plan may assign, transfer, cede or convey in any manner any rights, duties, liabilities or obligations related to this Liquidation Plan without prior written approval of all other Parties to this Liquidation Plan.
- 15.13. No Construction Against Any Party. This Liquidation Plan has been structured, approved and jointly drafted by all of the Parties hereto and, for purposes of interpreting its terms, shall not be construed against any Party as the principal drafter hereof.

IN WITNESS WHEREOF, this Liquidation Plan has been executed and agreed to on the day and year subscribed.

LINCOLN MEMORIAL LIFE INSURANCE COMPANY, IN REHABILITATION

SPECIAL DEPUTY RECEIVER ("SDR")

By: *Donna J. Garrett*

Name: Donna J. Garrett

Title: Special Deputy Receiver

MEMORIAL SERVICE LIFE INSURANCE COMPANY, IN REHABILITATION

SPECIAL DEPUTY RECEIVER ("SDR")

By: *Donna J. Garrett*

Name: Donna J. Garrett

Title: Special Deputy Receiver

NATIONAL PREARRANGED SERVICES, INC., IN REHABILITATION

SPECIAL DEPUTY RECEIVER ("SDR")

By: *Donna J. Garrett*

Name: Donna J. Garrett

Title: Special Deputy Receiver

NATIONAL ORGANIZATION OF LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATIONS ("NOLHGA")

By: _____

Name: _____

Title: _____

IN WITNESS WHEREOF, this Liquidation Plan has been executed and agreed to on the day and year subscribed.

LINCOLN MEMORIAL LIFE INSURANCE COMPANY, IN REHABILITATION

SPECIAL DEPUTY RECEIVER ("SDR")

By: _____

Name: _____

Title: _____

MEMORIAL SERVICE LIFE INSURANCE COMPANY, IN REHABILITATION

SPECIAL DEPUTY RECEIVER ("SDR")

By: _____

Name: _____

Title: _____

NATIONAL PREARRANGED SERVICES, INC., IN REHABILITATION

SPECIAL DEPUTY RECEIVER ("SDR")

By: _____

Name: _____

Title: _____

NATIONAL ORGANIZATION OF LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATIONS ("NOLHGA")

By: 

Name: Peter G. Grallanis

Title: President

LIQUIDATION PLAN

EXHIBIT 3.2 – SERVICE AGREEMENT

*A copy of the Service Agreement, and its exhibits, is attached hereto.

LIQUIDATION PLAN

EXHIBIT 12.1 – PARTICIPATING ASSOCIATIONS

**NOLHGA CERTIFICATE OF PARTICIPATING ASSOCIATIONS
in the**

**LIQUIDATION PLAN
INCLUDING THE SERVICE AND EARLY ACCESS AGREEMENT**

**By and among
the Special Deputy Receiver of
Lincoln Memorial Life Insurance Company
Memorial Service Life Insurance Company
National Prearranged Services, Inc.**

**And
The National Organization of Life and Health Insurance Guaranty Associations
And Its Participating Member Life and Health Insurance Guaranty Associations**

**The National Organization of Life and Health Insurance Guaranty Associations
("NOLHGA") hereby certifies that, pursuant to NOLHGA's bylaws, MPC rules and procedures
and Members' Participation Council rules and procedures, the following state life and health
insurance guaranty associations have elected to become Participating Associations under the
above referenced Liquidation Plan, including the Service and Early Access Agreement. Each
Participating Association has executed a certificate with the following language, agreeing to be
bound by the terms and conditions of the Liquidation Plan, including the Service and Early
Access Agreement.**

**The undersigned life and health insurance guaranty association
("Association") affirms that it elects to participate as a
"Participating Association" in the Liquidation Plan, including the
Service and Early Access Agreement. The Association represents
that it is familiar with the terms and provisions of the Liquidation
Plan, including the Service and Early Access Agreement, and
elects to be bound as a Participating Association.**

In accordance with Article 14 of the Liquidation Plan, any notice required or permitted to be given under the Liquidation Plan, including the Service and Early Access Agreement, to the Participating Associations shall be deemed to be given if delivered by hand or if by mail by first class or certified mail, postage prepaid, or by postal or commercial express delivery service which issues individual delivery receipts, to such Participating Associations at the following addresses:

<Insert contact information for Participating Associations>

Date: _____

NATIONAL ORGANIZATION OF LIFE
AND HEALTH INSURANCE GUARANTY
ASSOCIATIONS

By: _____
Paul A. Peterson
Vice President, Accounting and Finance

SERVICE AND EARLY ACCESS AGREEMENT

By and among
the Special Deputy Receiver of
Lincoln Memorial Life Insurance Company
Memorial Service Life Insurance Company
National Prearranged Services, Inc.

And

The National Organization of Life and Health Insurance Guaranty Associations
And Its Participating Member Life and Health Insurance Guaranty Associations

Contents

RECITALS

AGREEMENTS

1. Definitions
2. Retention of SDR as Servicing Agent; Services Provided by the SDR
3. Third Party Contracts
4. Payment of Administrative Expenses – Early Access Payment
5. Payment of Covered Obligation Benefits – Early Access Payment
6. Deposits
7. Duties of NOLHGA and the Participating Associations
8. Records
9. Independent Contractor
10. Insurance
11. Term and Termination
12. Miscellaneous

EXHIBITS

- Exhibit 2.9 Claims Payment and Reporting Format
Exhibit 2.10 Claims Audit Procedures
Exhibit 2.12 Form of Assignment
Exhibit 4.2 Calculation and Payment of Administrative Expenses
Exhibit 10.1 SDR Insurance Coverage

SERVICE AND EARLY ACCESS AGREEMENT

THIS SERVICE AND EARLY ACCESS AGREEMENT (the "Service Agreement"), is entered into on the Contract Date and effective as of the Effective Date by and among the Special Deputy Receiver ("SDR") of Lincoln Memorial Life Insurance Company ("Lincoln Memorial"), of Memorial Service Life Insurance Company ("Memorial Service"), and of National Prearranged Services, Inc. ("NPS") (collectively the "Companies"), and the National Organization of Life and Health Insurance Guaranty Associations ("NOLHGA") and its Participating Member Life and Health Insurance Guaranty Associations ("Participating Associations").

RECITALS

A. The Companies.

(a) Lincoln Memorial¹ is a life insurance company which, as of the Rehabilitation Order Date, was licensed in all states except Florida, Massachusetts, Michigan, New Hampshire, New Jersey, New Mexico New York and Puerto Rico.

(b) Memorial Service is a stipulated premium life insurance company domiciled in Texas, licensed to transact business in Texas only and the parent of Lincoln Memorial.

(c) NPS is a Missouri based funeral services company and an affiliate of Lincoln Memorial and Memorial Service which acted as the general agent for both Insolvent Insurers.

B. Supervision, Rehabilitation and Liquidation.

(a) On October 24, 2007, Lincoln Memorial and Memorial Service were each placed under a Confidential Order Creating State of Supervision and Appointing Supervisor. On April 8, 2008, Lincoln Memorial, Memorial Service and NPS were placed under a 404 Order. On the Rehabilitation Order Date, Lincoln Memorial, Memorial Service and NPS were placed under the Rehabilitation Order. Lincoln Memorial, Memorial Service and NPS are insolvent and the SDR anticipates placing Lincoln Memorial, Memorial Service and NPS into liquidation in accordance with the Liquidation Plan.

C. NOLHGA, Participating Associations and the SDR – Liquidation Plan.

(a) NOLHGA is a voluntary association of members that include all of the state life and health insurance guaranty associations, some of which may now or hereafter have obligations, pursuant to the Liquidation Plan, their respective governing laws and subject to statutory conditions and limitations on coverage and applicability, to assure the payment of the contractual obligations of the Insolvent Insurers under certain policies or to provide benefits or coverage to certain of the policyholders, contract holders, certificate holders, insureds, or beneficiaries of the Insolvent Insurers under such policies, contracts and certificates of insurance, in-force as of the date of entry of the Liquidation Order. NOLHGA has as one of its major functions to make the unified administration of Covered Obligations available to its member

¹ Capitalized terms used in the Recitals and throughout the Agreement are defined in Section 2., Definitions, of the Liquidation Plan.

guaranty associations in a single transaction and is authorized, as specified in NOLHGA's bylaws, rules and procedures, to execute this Service Agreement on behalf of the Participating Associations.

(b) The Participating Associations and the policy, contract and certificate holders, Insureds, beneficiaries and payees of the Insolvent Insurers to whom such Participating Associations have or may have obligations will benefit by having the policies, contracts, certificates and related claims subject to this Service Agreement administered by a single administrator in a consistent and professional manner in accordance with the terms and provisions of the Liquidation Plan.

(c) The SDR represents that it has the professional expertise, experience, personnel and other resources necessary for the administration of insurance policies, contracts and certificates and related claims which are or may become Covered Obligations of the Participating Associations, and is willing and able to provide the Services specified in this Service Agreement, in accordance with the terms hereof.

(d) This Service Agreement is entered into in conjunction with the Liquidation Plan and is an exhibit thereto.

AGREEMENTS

NOW, THEREFORE, in consideration of the mutual covenants set forth in this Service Agreement, the Parties agree as follows:

1. Definitions. Capitalized terms when used in this Service Agreement shall have the same meanings provided for in the Liquidation Plan, which definitions are incorporated herein by reference. In addition, the following capitalized terms shall have the meanings provided for below.
 - 1.1. "Administrative Expenses" mean all of the reasonable, actual costs, fees and expenses incurred in the performance of the Services.
 - 1.2. "Early Access Payments" mean payments made by the SDR to, or for the benefit of, Participating Associations pursuant to the Liquidation Order, the Liquidation Plan and Tex. Ins. Code § 443.303. Early Access Payments include payments for Administrative Expenses and Covered Obligations.
 - 1.3. "Services" mean the Policy, claim and other services to be provided by the SDR, either directly or through agreements with third parties with respect to Covered Obligations under this Service Agreement. Services are detailed in Article 2 of this Service Agreement.
2. Retention of SDR as Servicing Agent; Services Provided by the SDR.
 - 2.1. Retention of SDR. NOLHGA retains the SDR as its servicing agent to provide Services to NOLHGA and the Participating Associations with respect to the Covered Obligations that a Participating Association has in connection with the

Policies. The SDR agrees to render the Services, on the terms herein set forth and in accordance with the Liquidation Plan, with respect to the Policies.

- 2.2. Administration. The SDR will administer all Policies and process all claims in accordance with this Service Agreement and the terms of the underlying Policies, subject to the Liquidation Plan and each Participating Association's Enabling Act and the provisions of the applicable state law, including applicable insurance receivership law, insurance guaranty association law and any other applicable law.
- 2.3. Identification of Policies. In cooperation with NOLHGA's consultants, the SDR will identify and list all Policies by state of residence of policyholder, contract holder and certificate holder, and Insured, as applicable pursuant to the Liquidation Plan. The records of each Policy shall be marked as whether such Policy is a Standard Policy or a Disputed Policy consistent with the initial designation made by NOLHGA on behalf of the Participating Associations. NOLHGA shall identify the applicable Participating Association based on information provided by NOLHGA or NOLHGA's designee and should also include issue date, premium status, original death benefit face amount, Policy loans, conversions, RPU amounts, and any other relevant Policy data. Any identification of a Policy as a Standard Policy or a Disputed Policy shall be made in accordance with the Liquidation Plan. Any determination of Covered Obligations remains within the sole discretion of each Participating Association subject to each Participating Association's Enabling Act and the Liquidation Plan.
- 2.4. Premiums. The SDR will bill, collect and account for premiums due on the Policies and other monies received with respect to Covered Obligations on behalf of each respective Participating Association in a manner satisfactory to such Participating Association. Premiums collected, electronically or otherwise, will be deposited into interest-bearing accounts designated by NOLHGA and/or the Participating Associations and held in trust by the SDR for such Participating Associations. All such premiums and related interest shall be the sole property of the Participating Associations and shall be credited to the account.
- 2.5. Premium Reports and Delivery. The SDR will provide monthly reports to NOLHGA's designee regarding those accounts along with Policy level detail supporting such premium deposits. Such accounting shall distinguish premium collections between Lincoln Memorial and Memorial Service Policies. The SDR will account for premiums to distinguish between premiums due for coverage before the Liquidation Order Date and premiums due for coverage after the Liquidation Order Date. Premiums shall be remitted to NOLHGA quarterly. No payment will be made or withheld from collected premiums to NPS, Trustees, agents, brokers or producers for any commissions or fees in connection with the premiums.
- 2.6. Termination of Standard Policies for Non-Payment of Premiums. Termination of Standard Policies for non-payment of premiums shall be effected in a timely manner, and in accordance with the terms of the Policies and applicable laws.

The SDR shall provide policy or certificate holders with all notices required by law or under the terms of the Policies, including notice of lapse and right to reinstatement. The SDR shall maintain current in-force contract lists and shall promptly update its systems and records to reflect all terminations and cancellations on Standard Policies. The SDR shall not send premium notices to Policy holders or otherwise collect premiums for any periods after termination or cancellation of a Policy unless the Policy has been reinstated.

- 2.7. Individual Request. The SDR will comply with the requests of each Participating Association relative to the reporting and safekeeping of all monies received for or from such Participating Association, holding any funds received for and from each Participating Association in trust, which funds shall not be considered part of the general assets of the Companies or any third party administrator, and establishing and maintaining segregated accounting of such funds of and for the benefit of such Participating Association.
- 2.8. Notices. The SDR will provide notices to policyholders, contract holders, certificate holders, Insureds, beneficiaries, assignees, payees and other claimants, as appropriate and directed by a Participating Association, concerning such Participating Association's coverage and applicable limitations, as more particularly provided in this Service Agreement.
- 2.9. Claims Payment and Reporting. The SDR will review, evaluate, investigate, and process for payment, for further negotiation, or for denial, claims submitted under the Policies with respect to the Covered Obligations of each Participating Association consistent with the approach set forth in Exhibit 2.9. As part of this process, SDR shall, twice monthly or upon request, deliver to NOLHGA's designee the statements of the processed claims, including the identification of amounts due for benefits. The reporting shall be substantially similar to the format provided in Exhibit 2.9.
- 2.10. Claims Audit. The SDR will establish and follow Policy claim audit, oversight and reporting procedures reasonably requested by NOLHGA or any Participating Association from time to time. The initial procedures for the claims audit and oversight are set forth in Exhibit 2.10. In addition, the SDR will assist and cooperate with NOLHGA and its designated consultants in audits and reviews of various information related to the Covered Obligations, including but not limited to the reviews contemplated in the Liquidation Plan.
- 2.11. Completed Forms. Before payment of claims, the SDR will obtain completed forms, assignments, death certificates, claimants' statements, and the like.
- 2.12. Assignments. Before making any payments to beneficiaries or payees, the SDR shall secure a fully executed original assignment substantially in the form of Exhibit 2.12 (or in a substantially similar form provided by any Participating Association to the SDR) from the payee, policy or contract owner, beneficiary, and/or Insured in accordance with the Liquidation Plan. The receipt of fully executed assignments (in addition to the statutory assignment and subrogation that

occurs and becomes effective upon Liquidation Court approval of the Liquidation Plan) is a condition for a beneficiary or payee to receive benefits.

- 2.13. W-9. Before making any payments to beneficiaries or payees, the SDR shall secure a completed IRS form W-9 "Request for Taxpayer Identification Number and Certification." A completed W-9 is a condition for a beneficiary or payee to receive benefits.
- 2.14. Payments in Excess of \$50,000/\$80,000. To assure that no benefits are paid in excess of the maximum amount available under the limits established by the respective Participating Association Enabling Act, the SDR shall advise NOLHGA's designee at the same time claims are forwarded to the designee of any Insureds whose total claims for payments equal or exceed fifty thousand dollars (\$50,000) calculated from the Liquidation Order Date to the time fifty thousand dollars (\$50,000) is reached. Likewise, the SDR shall advise NOLHGA's designee of any Annuity with a value greater than \$80,000.
- 2.15. IRS Form 1099. The SDR will calculate, prepare, and mail Internal Revenue Service form 1099s to all appropriate claimants and to the Internal Revenue Service on or before the last day of January of the calendar year following the year in which benefits under this Agreement are paid, using the SDR's tax payer identification number where the SDR issues the payments directly. Any fees and penalties levied by the IRS for incorrect 1099 reporting will be the responsibility of the SDR.
- 2.16. Complaint Log. The SDR will maintain an electronic complaint log that includes insurance policy number, Preneed Funeral Contract number, name of claimant, name of Insured, date and nature of complaint, action taken, and date of resolution. A copy of the log shall be maintained electronically and access shall be granted to NOLHGA's designee. It is currently contemplated that the complaint log would be one master log of all complaints applicable to all Participating Associations.
- 2.17. Files. For claims and/or inquiries, the SDR will review Policy and claim files for adequacy and completeness and, where necessary, obtain additional information, maintain Policy files, claims information, and any other information obtained, assembled, produced or maintained pursuant to the provisions of this Agreement in a reasonable manner and form.
- 2.18. Policy Information. The SDR will make available to NOLHGA and the Participating Associations all information in the SDR's possession related in any way to Policies giving rise to Covered Obligations. Such information includes but is not limited to Policies, Policy files, and any other information related to the consideration and provision of benefits under Policies giving rise to Covered Obligations.
- 2.19. Reinsurance. The SDR will prepare appropriate reinsurance reports in connection with the Standard Policies and Disputed Policies (including reporting of ceded

reinsurance) on a similar basis as was prepared prior to the Liquidation Order Date.

- 2.20. Returned Funds. The SDR will establish procedures to assure that returned funds (for example undeliverable or uncashed checks) received by the SDR are properly credited and returned to the appropriate Participating Association as directed by NOLHGA or NOLHGA's designee.
- 2.21. Staff and Resources. The SDR will provide sufficient staff, systems and resources to provide the administrative, accounting, bookkeeping, data processing and clerical services necessary to fulfill the terms of this Service Agreement.
- 2.22. Reports. The SDR will (i) provide to NOLHGA and the Participating Associations written reports for claims not yet paid (claims backlog) and (ii) provide to NOLHGA and the Participating Associations such other reports as may reasonably be requested by NOLHGA or a Participating Association.
- 2.23. SAS 70 Audit. The SDR will arrange for an internal control review by an outside auditor that complies with Statement of Auditing Standards ("SAS") 70 and will make that review or other relevant information available to NOLHGA or the Participating Associations upon request.
- 2.24. Customer Service. The SDR will respond to consumer inquiries and provide customer service in a reasonably appropriate manner under the circumstances and, in so doing, will coordinate with NOLHGA and/or the applicable Participating Association as appropriate.

3. Third Party Contracts.

- 3.1. Copies of Contracts. The SDR will provide to NOLHGA, upon request, copies of all contracts in the possession or control of the SDR (or written description if such contracts are not in writing) that one or more of the Companies had in force as of the Liquidation Order Date that involve third parties providing administration services for Policies under which the Participating Associations have Covered Obligations, and information specifying the costs incurred by the SDR thereunder.
- 3.2. Enforcement of Third Party Contracts. The SDR hereby authorizes, to the fullest extent of her authority, the Participating Associations to enforce the Company's rights under agreements with all third parties providing administration services for Policies under which the Participating Associations have Covered Obligations, and agrees to use commercially reasonable efforts to cause any such third parties to compile a complete accounting, by Policy and/or certificate, of all relevant Policy information including but not limited to Policy number, Insured name and address, owner name and address, type of Policy, face amounts, cash values, modal premiums, claim amounts being paid on behalf of the Participating Associations for their Covered Obligations and the premiums being received under such Policies for periods after the Effective Date applicable to each Participating Association. The SDR will assist NOLHGA and the Participating Associations in obtaining necessary services from all third party administrators

which have agreements with the Companies for the Participating Associations to ensure that their Covered Obligations are being satisfied without being exceeded or waived.

4. Payment of Administrative Expenses – Early Access Payment.

- 4.1. The Administrative Expenses attributable to each Participating Association hereunder shall be treated as a claim by that Participating Association against the Insolvent Insurers' estate entitled to priority under Tex. Ins. Code. § 443.301(a)(2).
- 4.2. The Administrative Expenses will be paid on a current basis using assets of the Insolvent Insurers as Early Access Payments in accordance with Tex. Ins. Code § 443.303 and the orders of the Receivership Court as long as there are sufficient assets to make such payments. Subject to the provision for Early Access Payments, each Participating Association shall remain responsible severally for all invoices for costs and expenses payable by such Participating Association hereunder and all Covered Obligations paid in accordance with this Service Agreement on behalf of such Participating Association. Calculation, billing and payment of Administrative Expenses shall be done in accordance with Exhibit 4.2.
- 4.3. The SDR shall promptly provide to NOLHGA copies of the Companies' financial statements filed with the Liquidation Court on a quarterly basis.

5. Payment of Covered Obligation Benefits – Early Access Payments.

- 5.1. All payments for benefits and claims for Covered Obligations shall be treated as a claim against the appropriate Insolvent Insurer estate entitled to priority under Tex. Ins. Code. § 443.301(b). Benefit payments will be paid pursuant to the Liquidation Plan and as set forth herein.
- 5.2. On a twice monthly basis (the 1st and 15th of each month or the first business day thereafter), the SDR will send to NOLHGA's designee the total amount of death benefits due under the Policies by state, reported separately by Standard Policies and Disputed Policies and determined in accordance with the Liquidation Plan. The format of such reporting will be determined by NOLHGA and the Participating Associations.
- 5.3. Within ten (10) days of receipt, NOLHGA's designee shall forward the funding schedule to each applicable Participating Association along with applicable payment instructions as established by NOLHGA.
- 5.4. Within seven (7) days, each Participating Association will make its share of payments to be used to pay the identified claims. The SDR will deposit such funds in a separate bank account designated to be used solely for paying approved claims related to the Covered Obligations. The account is not an asset of the Companies and funds in the account will be maintained for the benefit of the Participating Associations. The SDR will make payments from the claims paying

account solely for purposes of paying approved claims related to the Covered Obligations. NOLHGA's designee shall have complete access to the claims paying file. The SDR is not obligated to pay any claim until it has received the necessary funding from the applicable Participating Association. The payment obligations of each Participating Association are several, not joint.

- 5.5. On a quarterly basis, the SDR will evaluate and report to the Participating Associations whether and to what extent assets of the Insolvent Insurers may be made available to the Participating Associations for payment of Covered Obligations in the form of Early Access Payments. To the extent assets are available, the SDR will make Early Access Payments to Participating Associations associated with claims for benefits under Policies for which the Participating Associations have Covered Obligations in accordance with Tex. Ins. Code § 443.303 and the orders of the Receivership Court.

6. Deposits.

- 6.1. Based on the current records of the Companies, it appears that deposits in the name of an Insolvent Insurer are maintained as follows: Alabama (\$733,530); Arizona (\$109,506); Arkansas (\$104,321); Georgia (\$34,766); Missouri (\$226,208); North Carolina (\$589,085); Oklahoma (\$299,790); South Carolina (\$201,582); and Virginia (\$209,855).

- 6.2. Each Affected Association in a state with such a deposit may participate in the Liquidation Plan, including the Service Agreement, after electing one of the following two mutually exclusive options with such election to be made at the same time it elects to participate.

(a) Option One – The Participating Association may elect to assign all right, title and interest in the deposit to the SDR. After such assignment, the Participating Association may share in Early Access Payments the same as any other Participating Association. To the extent a Participating Association elects this option and subsequently receives any money or other value from the deposit, such money or other value shall immediately be paid to the SDR.

(b) Option Two – The Participating Association may elect to retain all right, title and interest to the deposit. In such case, the Participating Association may not participate in Early Access Payments until all other Participating Associations have received a pro rata recovery of Early Access Payments equal to the recovery realized by such Participating Association from the deposit. For initial calculation purposes, the Participating Associations under this Option Two shall be treated as having received the full amount of the deposit. That initial calculation shall be modified upon a reasonable showing by the Participating Association of the total and final amount of funds actually received from the applicable deposit. Any excess in the deposit actually received by the Participating Association will be paid to the SDR as soon as reasonably practicable. Except for such excess, to the extent the SDR subsequently receives any money or other value from a deposit, with respect to which a Participating Association has retained all right, title and interest, such money or other value shall immediately be paid to the applicable Participating Association.

- 6.3. Regardless whether Option One or Option Two is selected, the SDR and the respective Participating Association agree to cooperate in good faith in efforts to recover and collect the deposit.
7. Duties of NOLHGA and the Participating Associations.
- 7.1. Identification of Participating Associations. Pursuant to the Liquidation Plan, NOLHGA will identify the Participating Associations in the Service Agreement and the Liquidation Plan to the SDR.
- 7.2. Guaranty Laws. NOLHGA and the Participating Associations shall provide to the SDR such information as may be necessary for the SDR to comply with the requirements of the laws governing the Participating Associations, including, without limitation, the conditions and limits on coverage, which may be revised from time to time by NOLHGA or by the Participating Associations, and any requirements of notice to policy, contract or certificate holders or Insureds. The SDR shall make available the information provided by NOLHGA or any Participating Association to all persons who need such information to provide the Services contemplated by this Service Agreement, including specifically any third party providing administrative services hereunder, and shall assist NOLHGA and the Participating Associations in ensuring that all such persons comply with those requirements. Neither the SDR nor any third party providing services hereunder shall have any authority to interpret the laws governing the Participating Associations.
- 7.3. Repayment of Early Access Payments. In accordance with Tex. Ins. Code § 443.303(g), each Participating Association that receives Early Access Payments agrees to return to the SDR any amount of these Early Access Payments that may be required to pay claims of secured creditors and claims falling within the priority classes established in Section 443.301(a) or (b).
8. Records.
- 8.1. Maintenance of Records. The SDR shall maintain records of its activities sufficient to inform NOLHGA or the Participating Associations of the Services performed by the SDR under this Service Agreement, as well as any costs, fees or expenses incurred in accordance with the terms of this Service Agreement, including but not limited to any out-of-pocket expenses that may be authorized pursuant to this Service Agreement.
- 8.2. Disposition of Records. All records and information concerning the Covered Obligations, obtained, assembled and maintained by the SDR under this Service Agreement shall be fully accessible by NOLHGA, the SDR and the applicable Participating Association at all times, subject to reasonable advance notice to requests and shall be kept current by the SDR. The SDR shall maintain all such records and information in accordance with the document retention procedures mutually agreed upon by the parties and in accordance with applicable state or federal laws. The SDR, NOLHGA and the applicable Participating Association shall each be entitled to possess and access such records or copies thereof. Upon

notice of termination of this Service Agreement, all such records and information shall be made available to the Participating Associations consistent with instructions to be provided by NOLHGA or the Participating Associations.

- 8.3. Disaster Recovery Plans. The SDR shall prepare and maintain throughout the term of this Service Agreement disaster recovery, business resumption, and contingency plans appropriate for the nature and scope of the Services provided hereunder and sufficient to back up and recovery any necessary data, files, and records, and to enable the SDR to resume promptly the provision of Services for the benefit of the Participating Associations upon the occurrence of any event which may materially delay or prevent the rendering of Services, such as a natural disaster, act of God, labor dispute, utility or telecommunications failures, or similar event. The SDR shall provide NOLHGA and Participating Associations with copies of any such disaster recovery, business resumption, and contingency plans upon request. The SDR agrees to periodically test such disaster recovery, business resumption, and contingency plans upon request by NOLHGA or a Participating Association, and shall provide promptly copies of the results of any such tests to NOLHGA and the Participating Associations.
- 8.4. Inspection and Audit. NOLHGA and the Participating Associations or the designated agents of any of them may inspect, copy and audit all records and any other information obtained, assembled, maintained or produced by or for the SDR, pertaining to the performance of any of the Services under this Agreement (including any claims or financial audits or reviews) and the expenses incurred in the performance of the Services, at the locations of such records during normal business hours and upon reasonable notice.

9. Independent Contractor.

- 9.1. The parties hereto agree that, in performing Services hereunder, the SDR shall be an independent contractor and not an employee of NOLHGA or the Participating Associations. This Service Agreement shall not be construed as creating a partnership or joint venture, and no party hereto shall be liable for any obligations incurred by any other party except as expressly provided herein.
- 9.2. The SDR agrees to make any payments or withholding required for federal income tax, social security, federal and state self-employment taxes, state unemployment tax and any related statutes or regulations with respect to the Services performed pursuant to this Service Agreement.
- 9.3. The SDR is not authorized to accept and shall not accept service of process on behalf of or for NOLHGA or any Participating Association.
- 9.4. By entering into the Service Agreement, the SDR does not waive the provisions of TEX. INS. CODE sections 443.005, 443.008 and 443.014 and this Service Agreement shall in no way impair, modify or change those provisions as they relate to the SDR. The SDR does not consent to the jurisdiction in any state other than Texas and does not waive mandatory venue of Travis County, Texas, for any action against the SDR arising from the Service Agreement. The SDR intends to

and shall perform the Services described in this Service Agreement in Travis County, Texas. Neither NOLHGA, nor any Participating Association is authorized to accept service of process for the SDR.

10. Insurance.

10.1. The SDR has obtained and shall maintain insurance coverage as set forth in the insurance declaration page attached hereto as Exhibit 10.1. If there is an event or claim that may be covered under that insurance, the SDR agrees to resort to that insurance before seeking any payment from NOLHGA and/or any Participating Association.

11. Term and Termination.

11.1. The term of this Service Agreement shall commence with respect to each Participating Association on the Effective Date and shall terminate on the earlier of the following dates:

11.1.1 After written notice given in accordance with this Service Agreement either by NOLHGA or any Participating Association with respect to such Participating Association, declaring that this Service Agreement is to be terminated (in its entirety or with respect to a particular Participating Association) subject to the following time deadlines: (i) for the first year after the Effective Date, the advance written notice period for termination shall be one hundred eighty (180) days; (ii) for the second year after the Effective Date, the advance written notice period for termination shall be ninety (90) days; (iii) for the third year after the Effective Date and for all time periods thereafter, the advance written notice period for termination shall be forty-five (45) days.

11.1.2 Upon satisfactory completion, as determined by NOLHGA or by any Participating Association with respect to such Participating Association, of the Services provided under the terms of this Service Agreement.

11.1.3 Thirty (30) days after written notice given in accordance with this Service Agreement either by the SDR, NOLHGA or any Participating Association with respect to such Participating Association, declaring that this Agreement is to be terminated (in its entirety or with respect to a particular Participating Association) for failure of another party to comply with the terms of this Service Agreement, and the other party having failed to cure the failure within that 30-day period.

11.2. Upon termination of this Service Agreement, the SDR shall:

11.2.1 Make available all records and information related to the Covered Obligations in the SDR's custody or control.

- 11.2.2 Cooperate with NOLHGA, the Participating Associations and any successor administrator in the orderly transition of the administrative functions and Policy and claim records (including computer files).
 - 11.3. Upon termination of this Service Agreement, NOLHGA and the Participating Associations shall cooperate with the SDR and make available records (or copies thereof) in their custody and control related to the Policies.
 - 11.4. Certain provisions of this Service Agreement are not subject to termination, including obligations related to Early Access Payments and protecting the privacy of certain information. Such provisions continue and remain in full force and effect notwithstanding termination.
12. Miscellaneous – General Provisions.
- 12.1. The provisions of Article 13, 14 and 15 from the Liquidation Plan, of which the Service Agreement is a part, are incorporated herein by reference.
 - 12.2. The SDR, NOLHGA and the Participating Associations agree that this Service Agreement complies with the requirements of Tex. Ins. Code § 443.303(b), (g) and (i).

[The remainder of this page intentionally left blank]

IN WITNESS WHEREOF, this Service Agreement has been executed and agreed to on the day and year subscribed.

LINCOLN MEMORIAL LIFE INSURANCE COMPANY, IN REHABILITATION

SPECIAL DEPUTY RECEIVER ("SDR")

By: *Donna J. Garrett*

Name: *Donna J. Garrett*

Title: *Special Deputy Receiver*

MEMORIAL SERVICE LIFE INSURANCE COMPANY, IN REHABILITATION

SPECIAL DEPUTY RECEIVER ("SDR")

By: *Donna J. Garrett*

Name: *Donna J. Garrett*

Title: *Special Deputy Receiver*

NATIONAL PREARRANGED SERVICES, INC., IN REHABILITATION

SPECIAL DEPUTY RECEIVER ("SDR")

By: *Donna J. Garrett*

Name: *Donna J. Garrett*

Title: *Special Deputy Receiver*

NATIONAL ORGANIZATION OF LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATIONS ("NOLHGA")

By: _____

Name: _____

Title: _____

IN WITNESS WHEREOF, this Service Agreement has been executed and agreed to on the day and year subscribed.

LINCOLN MEMORIAL LIFE INSURANCE COMPANY, IN REHABILITATION

SPECIAL DEPUTY RECEIVER ("SDR")

By: _____

Name: _____

Title: _____

MEMORIAL SERVICE LIFE INSURANCE COMPANY, IN REHABILITATION

SPECIAL DEPUTY RECEIVER ("SDR")

By: _____

Name: _____

Title: _____

NATIONAL PREARRANGED SERVICES, INC., IN REHABILITATION

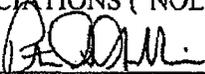
SPECIAL DEPUTY RECEIVER ("SDR")

By: _____

Name: _____

Title: _____

NATIONAL ORGANIZATION OF LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATIONS ("NOLHGA")

By: 

Name: Peter G. Gallanis

Title: President

EXHIBIT 2.9 CLAIMS PAYMENT AND REPORTING FORMAT

The SDR's statement of processed claims, including the identification of amounts due for benefits, shall be reported electronically and shall include the following categories:

Company (LMLIC, MSLIC)

GA State

Policy#

Policy type (SPWL, WL, RPU, Annuity, Term)

Standard or Disputed Policy

Insured Information

Name

Street Address

City, State Zip

Owner (as identified by the Company) Information

Name

Street Address

City, State Zip

Funeral Home Information

Name

Street Address

City, State Zip

Issue Date

Paid to Date (for Standard Policies)

Date of Death (all Policies)

Face Amount – Graded/Increasing Benefit Adjustment

Less Policy Loans (for Standard Policies Only)

Less Premium Due & Unpaid

Net Amount Due

EXHIBIT 2.10 INITIAL PROCEDURES FOR CLAIMS AUDIT

The initial procedures for the Claims Audit contemplated in Section 2.9 of this Service Agreement are as follows.

Initial Approach for Claim Payment Process

For Standard Policies:

1. Verify Insured and Owner Address
2. Verify Funeral Home Address
3. Verify Policy Face Amount and compare to Pre Need Contract Value (without inflation)
4. If Premium Paying Policy – verify if any unpaid premium exists and calculate death claim accordingly
5. If Graded Benefit – calculate death claim accordingly
6. Verify receipt of death certificate and certification from the funeral home that services and merchandise have been provided
7. Approval of Claim Payment by the SDR
8. Send and have funeral home and insured complete assignment form
9. Check to be issued to the Funeral Home
10. In many instances the only variance from a Standard Policy and a Disputed Policy is the beneficiary designation. In these instances calculate benefit in the Standard Policy method.

For Disputed Policies:

1. Verify Insured Address
2. Verify Owner and Address as reflected on the Company's books for informational purposes only as of the issue date and the claims date
3. Verify Funeral Home Address
4. If it is a non-premium paying Policy, verify that the appropriate consideration was paid.
5. Verify Policy Face Amount and compare to Pre Need Contract Value (without inflation) [the verification of the Pre Need Contract Value does not suggest that such amount is covered by a Participating Association]
6. If Premium Paying Policy (and premium is due from the insured) – verify if any unpaid premium exists and confirm that past due premiums were brought current before Liquidation Order Date or amount of deficiency
7. If Premium Paying Policy (and premium is due from NPS) – Ignore premium arrears so long as appropriate consideration has been paid (continues to be paid) by someone other than NPS
8. If Policy Loan Exists (and loan was taken by the insured) – calculate death claim net of the policy loan
9. If Policy Loan Exists (and loan was taken by NPS or a Trustee) – Ignore the policy loan
10. If RPU policy exists (and RPU was requested by the insured or the insured stopped paying premium) – calculate the death claim at the face value of the RPU.
11. If RPU policy exists (and the RPU was done by NPS or not as a result of actions of the insured) – calculate the death benefit at the "appropriate" face value of the policies in force, which may

include a related term policy. If only an RPU policy exists research the original face value of the policy(ies) prior to conversion to the RPU.

12. If Graded Benefit – calculate death claim accordingly.
13. Verify receipt of death certificate and certification from the funeral home that services and merchandise have been provided
14. Approval of Claim Payment by the SDR
15. Send and have funeral home and insured complete assignment form
16. Coordinate with NOLHGA's designee for Approval of Claim Payment
17. Check to be issued to the Funeral Home

EXHIBIT 2.12 FORM OF ASSIGNMENT LANGUAGE

RELEASE, SUBROGATION AND ASSIGNMENT FORM FOR LIFE POLICIES (a similar form will be used for Annuities)

Name: **<to be inserted by SDR>**
(referred to as "Releasor" in this Release, Subrogation and Assignment)

Address: **<to be inserted by SDR>**

Phone: **<to be inserted by SDR>**

Email: **<to be inserted by SDR>**

Policy Information:

Insurer: **<SDR to designate name of Insolvent Insurer that issued the Policy>**

Insured: **<to be inserted by SDR>**

Policy Number: **<to be inserted by SDR>**

Date of Policy Issue: **<to be inserted by SDR>**

Death Benefit Amount: **<to be inserted by SDR>**

Signatory Role: **<to be inserted by SDR – beneficiary, payee, Policy owner, insured>**

Release.

In consideration of the provision of coverage by the **<SDR to insert correct Association name>** (the "Association") with respect to the above referenced Policy and other good and valuable consideration, Releasor and Releasor's heirs (if any), personal representatives, guardians, assigns, successors, agents, and all other persons claiming by or through Releasor do hereby release and discharge the Association, its members, affiliates, agents, attorneys, and employees (collectively the "Association and Related Parties") of and from any and all actions, causes of action, claims, demands, costs, expenses, compensation and any and all consequential or special damage or other damage, past, present or future, whether known or unknown, on account of or in any way arising out of the above referenced Policy. This release is not intended in any way to release or discharge any person or entity other than the Association and Related Parties as set forth herein.

Subrogation, Transfer and Assignment.

In further consideration of the provision of coverage set forth herein, up to the Death Benefit Amount, Releasor hereby sells, transfers and assigns any and all of Releasor's past, present and future claims, rights, demands, actions and causes of action against the Insurer to the Association (and its successors and assigns) which shall be subrogated to all of Releasor's rights under the

Policy and which may bring any action or suit for the recovery of any damages or losses sustained by Releasor as deemed best or appropriate by the Association in its sole and absolute discretion.

Further, up to the Death Benefit Amount, Releasor hereby sells, transfers and assigns to the Association, its successors and assigns, any and all past, present and future claims, demands, actions, rights and/or causes of action Releasor may have against the Insurer and any other persons or entities related in any way to the Policy and/or any losses arising under, resulting from, or otherwise relating to the Policy and the Association (and its successors and Assigns) shall have full power and authority for its own use and benefit, at no cost to Releasor, to ask, demand, collect, prosecute, dismiss or settle any suit or proceedings at law or in equity against the Insurer or any other persons or entities in Releasor's name. Releasor further agrees to cooperate with the Association (and its successors and Assigns) in its prosecution of any suits or proceedings against the Insurer and all other persons or entities, and will voluntarily testify on behalf of the Association (and its successors and Assigns), if asked.

Releasor understands that the Association may legally require Releasor to sign this Release, Subrogation and Assignment as a condition to receiving the Death Benefit Amount.

Releasor has carefully read the foregoing Release, Subrogation and Assignment and knows the contents hereof and has signed this Release, Subrogation and Assignment voluntarily and with full knowledge of its contents.

The undersigned is legally authorized to sign this Release, Subrogation and Assignment and bind Releasor. To the best of Releasor's knowledge, Releasor represents and warrants that all prerequisites to the payment of death benefits including but not limited to the payment of all premiums to the Insurer have been satisfied.

Date: _____

Name: _____

Title, if any: _____

Signature: _____

EXHIBIT 4.2

CALCULATION AND PAYMENT OF ADMINISTRATIVE EXPENSES

Payment of Administrative Expenses

As set forth in Section 4.2 of the Service Agreement, the Administrative Expenses shall be paid as Early Access Payments in accordance with Tex. Ins. Code § 443.303 for claims entitled to priority under Tex. Ins. Code § 443.301(a)(2) on a current (i.e. monthly) basis so long as there are sufficient estate assets to make such Early Access Payments.

Claims Processing, Administrative and Maintenance:

The Administrative Expenses for all Services set forth in this Service Agreement shall be calculated as follows, with such calculation allocated as between Memorial Service and Lincoln Memorial:

* \$1.75 per in-force Policy per month calculated as of the immediately preceding end of month figures.

* For the first month, the above fee shall be prorated based on the number of days in the month during which the Liquidation Plan is effective.

Upon receipt of an invoice, this invoiced fee shall be allocated by NOLHGA among the Participating Associations and the SDR will be notified of the allocation.

Upon request by either Party, the fee schedule referenced above may be adjusted six (6) months after the Effective Date, so long as any such adjustment is in writing and signed by NOLHGA and the SDR.

Advance and Credit Back

On the Effective Date, NOLHGA (on behalf of the Participating Associations) shall pay the SDR an advance payment of \$200,000. The full amount of that advance payment will be credited back to NOLHGA (on behalf of the Participating Associations) by reducing the first month's bill by \$100,000 and the second month's bill by \$100,000.

Notices and Mailings Requested by Participating Associations:

Costs and expenses incurred by the SDR related to notices and mailings requested by NOLHGA and/or the Participating Associations shall be paid by the appropriate Participating Associations at the actual out of pocket printing, mailing and postage costs incurred by the SDR.

This cost shall be allocated by NOLHGA among the Participating Associations and the SDR will be notified of the final allocation.

SAS 70 Audit:

Costs and expenses incurred by the SDR related to the SAS 70 Services referenced in Section 2.23 shall be paid by the Participating Associations at the actual out of pocket costs incurred by the SDR. This cost shall be allocated by NOLHGA among the Participating Associations and the SDR will be notified of the final allocation.

Accounting and Billing:

The Parties anticipate that all Administrative Expenses will be paid as Early Access Payments so long as there are sufficient Assets to do so.

While the Administrative Expenses are being paid as Early Access Payments, the SDR shall calculate and account for such payments in accordance with this Exhibit 4.2. The SDR shall send NOLHGA a monthly statement for NOLHGA's records.

To the extent that the Assets are insufficient to make Early Access Payments, the SDR shall provide NOLHGA with sixty (60) days advance written notice of such anticipated shortfall. After the sixty (60) day period and for so long as the shortfall in Assets exists, the SDR shall bill for the Administrative Expenses by sending NOLHGA a monthly invoice which NOLHGA shall pay within thirty (30) days. The Participating Associations shall pay NOLHGA directly for their share of the Administrative Expenses.

EXHIBIT 10.1 SDR INSURANCE COVERAGE

Attached is the insurance declaration page setting forth the SDR's insurance coverage.

EXHIBIT 10.1 SDR INSURANCE COVERAGE



Wrap+SM
Miscellaneous Professional Liability

DECLARATIONS

POLICY NO. 105125937

Travelers Casualty and Surety Company of America
Hartford, CT 06183
(A Stock Insurance Company, herein called the Company)

THE LIABILITY COVERAGES ARE WRITTEN ON A CLAIMS-MADE BASIS. THE LIABILITY COVERAGES COVER ONLY CLAIMS FIRST MADE AGAINST INSUREDS DURING THE POLICY PERIOD. THE LIMIT OF LIABILITY AVAILABLE TO PAY SETTLEMENTS OR JUDGMENTS WILL BE REDUCED BY DEFENSE EXPENSES, AND DEFENSE EXPENSES WILL BE APPLIED AGAINST THE RETENTION. THE COMPANY HAS NO DUTY TO DEFEND ANY CLAIM UNLESS DUTY-TO-DEFEND COVERAGE HAS BEEN SPECIFICALLY PROVIDED HEREIN.

ITEM 1	NAMED INSURED: Donna J Garrett D/B/A: Principal Address 
ITEM 2	POLICY PERIOD: Inception Date: May 23, 2008 Expiration Date: May 23, 2009 12:01 A.M. standard time both dates at the Principal Address stated in ITEM 1.
ITEM 3	ALL NOTICES OF CLAIMS OR LOSS TO THE COMPANY MUST BE ADDRESSED TO: Travelers Bond Vice President of Claims One Tower Square, 4PB Hartford, CT 06183-9062
ITEM 4	COVERAGE INCLUDED AS OF THE INCEPTION DATE IN ITEM 2: <input checked="" type="checkbox"/> MPL

ITEM 5	<p>Only those coverage features marked "<input checked="" type="checkbox"/> Applicable" are included in this policy.</p> <div style="border: 1px solid black; padding: 10px;"> <p style="text-align: center;">Miscellaneous Professional Liability</p> <p>Limits of Liability: \$1,000,000.00 for each Claim; not to exceed \$1,000,000.00 for all Claims</p> <p>Additional Defense Coverage: <input checked="" type="checkbox"/> Applicable <input type="checkbox"/> Not Applicable</p> <p>Additional Defense Limit of Liability: \$1,000,000.00 for all Claims</p> <p>Retention: \$10,000.00 for each Claim</p> <p>Prior and Pending Proceeding Date: 05/23/2008</p> <p>Continuity Date: 05/23/2008</p> <p>Professional Services: Special Deputy Receiver for Memorial Service Life Insurance Company, Lincoln Insurance Company and National Prearranged Services Inc.</p> </div>
ITEM 6	<p>PREMIUM FOR THE POLICY PERIOD:</p> <p>_____ \$7,513.00 Policy Premium</p> <p>_____ Annual Installment Premium</p>
ITEM 7	<p>TYPE OF LIABILITY COVERAGE:</p> <p><input type="checkbox"/> Reimbursement</p> <p><input checked="" type="checkbox"/> Duty-to-Defend</p> <p>Only the type of liability coverage marked "<input checked="" type="checkbox"/>" is included in this policy.</p>
ITEM 8	<p>LIABILITY COVERAGE EXTENDED REPORTING PERIOD:</p> <p>Additional Premium Percentage: 75.00 %</p> <p>Additional Months: 12</p> <p>(If exercised in accordance with Section III. CONDITIONS O. EXTENDED REPORTING PERIOD of the Liability Coverage Terms and Conditions)</p>