UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): June 10, 2016

BIOSCRIP, INC.
(Exact name of Registrant as specified in its charter)

Delaware	000-28740	05-0489664
(State of Incorporation)	(Commission File Number)	(I.R.S. Employer Identification No.)

1600 Broadway, Suite 950, Denver, Colorado	80202
(Address of principal executive offices)	(Zip Code)

Registrant's telephone number, including area code: (720) 697-5200

N/A
(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

☒ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01. Entry into a Material Definitive Agreement.

Asset Purchase Agreement

On June 11, 2016, BioScrip, Inc. (the "Company") entered into an Asset Purchase Agreement (the "Asset Purchase Agreement") by and among the Company, HomeChoice Partners, Inc., a Delaware corporation and a wholly owned subsidiary of the Company (the "Buyer"), HS Infusion Holdings, Inc., a Delaware corporation ("Home Solutions") and each of the subsidiaries of Home Solutions set forth on the signature pages to the Asset Purchase Agreement (collectively, the "Home Solutions Subsidiaries" and together with Home Solutions, the "Sellers"). Pursuant to the Asset Purchase Agreement, the Company has agreed to acquire substantially all of the assets and assume certain liabilities of the Sellers (the "Transaction") for the Transaction Consideration (as defined below).

Subject to certain net working capital adjustments, the consideration for the Transaction (the "Transaction Consideration") consists of: (i) $80.0 million in cash (the "Cash Consideration"), less the amount of any accounts receivable associated with governmental payors (the "Government Receivables"); (ii) $5.0 million in shares of the Company's common stock ("Common Stock"), at a price per share identical to the price per share of the Company's equity offering commenced on June 13, 2016 (the "Equity Offering," as further described in Item 8.01 below) (the "Closing Equity Consideration"); and (iii) $24.75 million in contingent equity securities of the Company, in the form of restricted shares of Common Stock ("RSUs"), issued in Tranche A and Tranche B with different vesting conditions as described below (collectively, the "Contingent Shares"). The aggregate number of RSUs in Tranche A will be equal to the quotient of $12.375 million, divided by $4.00, or 3,093,750 RSUs. The aggregate number of RSUs in Tranche B will be equal to the quotient of $12.375 million, divided by $5.00, or 2,475,000 RSUs.

The Cash Consideration and the Closing Equity Consideration will be paid at closing, subject to customary closing adjustments. In addition, the Cash Consideration at closing will be reduced by the projected value of the Government Receivables which Home Solutions will be responsible for collecting, which the Company currently estimates to be approximately $3 million. If within one year from the closing date of the Transaction, Home Solutions is not able to collect the full amount of the Government Receivables, the Company will pay Home Solutions the difference between the amount deducted at closing and the amount actually collected by Home Solutions.

The Company will issue the shares of Common Stock issuable to Home Solutions pursuant to the RSUs in Tranche A promptly, and in any event within five business days, following the earlier of (a) the closing price of the Common Stock, as reported by NASDAQ, averaging $4.00 per share or above over 20 consecutive trading days during the period beginning on the closing date of the Transaction and ending December 31, 2019 or (b) a change of control that occurs on or prior to December 31, 2017 or a change of control thereafter but on or prior to December 31, 2019 pursuant to which the consideration payable per share equals or exceeds $4.00 per share. The Company will issue the shares of Common Stock issuable to Home Solutions pursuant to the RSUs in Tranche B promptly, and in any event within five business days, following the earlier of (a) the closing price of the Common Stock, as reported by NASDAQ, averaging $5.00 per share or above over 20 consecutive trading days during the period beginning on the closing date of the Transaction and ending December 31, 2019 or (b) a change of control that occurs on or prior to December 31, 2017 or a change of control thereafter but on or prior to December 31, 2019 pursuant to which the consideration payable per share equals or exceeds $5.00 per share.

The Asset Purchase Agreement contains representations, warranties and covenants customary for a transaction of this nature. Subject to certain limitations, the Sellers, on the one hand, and the Company and Buyer, on the other hand, have agreed to indemnify each other for breaches of representations, warranties and covenants and other specified matters, and the Sellers' indemnification obligations are secured, in part, by an escrow of a portion of the Transaction Consideration.

The consummation of the Transaction is subject to customary closing conditions, including, but not limited to, the Company's closing of the Equity Offering with gross proceeds of at least $100.0 million, the Company obtaining stockholder approval to increase the number of shares of Common Stock that the Company is authorized to issue pursuant to its certificate of incorporation, the absence of legal orders prohibiting the consummation of the Transaction, the absence of conditions or circumstances constituting a business material adverse effect with respect to Home Solutions, receipt of approval, or termination of the waiting period, under the Hart-Scott Rodino Antitrust Improvements Act of 1976, as amended, the accuracy of the representations and warranties of the parties, the parties' performance and compliance in all material respects with the agreements and covenants contained in the Asset Purchase Agreement and the parties' attainment of certain third-party consents under material agreements.

The Asset Purchase Agreement may be terminated by the Company or Home Solutions under certain circumstances specified therein (including the right of the Company or Home Solutions, as the case may be, to terminate the Asset Purchase Agreement if the transactions contemplated therein have not been consummated prior to September 9, 2016) for reasons other than the breach of the Asset Purchase Agreement by the party seeking to terminate. In addition, under the terms of the Asset Purchase Agreement, Home Solutions has the right to terminate the Asset Purchase Agreement if the Equity Offering is not completed with gross proceeds of at least $100 million with the 17 days following the date of the Asset Purchase Agreement. The Company intends to fund the Cash Consideration and pay fees and expenses in connection with the Transaction with a portion of the net proceeds from the Equity Offering.

Pursuant to the Asset Purchase Agreement, upon consummation of the Transaction, the Company has agreed that (1) for so long as Daniel Greenleaf remains the Chief Executive Officer of the Company, Mr. Greenleaf will be a member of the Company's board of directors (the "Board") and (2) Home Solutions will be entitled to designate one member to the Board for a period of three years; provided that this designation right will terminate if Home Solutions owns less than 50% of the equity interests of the Company (including the Contingent Shares) issued to Home Solutions pursuant to the Asset Purchase Agreement. The Asset Purchase Agreement also provides Home Solutions with certain customary registration rights that require the Company to register the resale of the Closing Equity Consideration and the Contingent Shares pursuant to the Securities Act of 1933, as amended.

The Asset Purchase Agreement has been included to provide our stockholders with information regarding its terms. It is not intended to provide any other factual information about the Sellers, Home Solutions, the business being acquired, or the Company. The representations, warranties and covenants contained in the Asset Purchase Agreement (1) are made only for the purposes of the Asset Purchase Agreement and are made as of specific dates and are solely for the benefit of the parties to the Asset Purchase Agreement, (2) may be subject to limitations agreed upon by the contracting parties, including being qualified by confidential disclosures exchanged between the parties in connection with the execution of the Asset Purchase Agreement (such disclosures include information that has been included in public disclosures, as well as additional non-public information) and (3) may have been made for the purposes of allocating contractual risk between the parties to the Asset Purchase Agreement instead of establishing these matters as facts. Moreover, information concerning the subject matter of such representations and warranties may change after the date of the Asset Purchase Agreement, which subsequent information may or may not be reflected in the Company's public disclosures.

A copy of the Asset Purchase Agreement is filed as Exhibit 2.1 to this Current Report on Form 8-K and is incorporated herein by reference. We encourage you to read the Asset Purchase Agreement for a more complete understanding of the Transaction. The foregoing description of the Asset Purchase Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the Asset Purchase Agreement. A copy of the press release announcing the Transaction is furnished as Exhibit 99.1 to this report.

Exchange Agreement

The Company has announced the proposed Equity Offering. A significant number of shares of the Company's common stock were reserved for issuance to certain holders (the "PIPE Investors") of the Company's Series A Convertible Preferred Stock, par value $0.0001 per share (the "Series A Preferred Stock") and Class A and Class B warrants (the "Warrants"), upon conversion of the Series A Preferred Stock and exercise of the Warrants. The Company determined that if such shares of common stock would be available for issuance, the Company would have the flexibility to consider increasing the size of the Equity Offering. Based on the instructions of the Board, the Company contacted the PIPE Investors to determine upon what terms the PIPE Investors would be willing to enter into a series of transactions to allow the Company to utilize the common stock reserved for issuance upon conversion of the Series A Preferred Stock and the exercise of the Warrants in the Equity Offering and the PIPE Investors agreed to enter into the Exchange Agreement in order to facilitate such transactions.

On June 10, 2016, the Company entered into an Exchange Agreement (the "Exchange Agreement") with the PIPE Investors, whereby the Company exchanged its Series A Preferred Stock for a new series of convertible preferred stock of the Company, designated "Series B Convertible Preferred Stock," having the terms set forth in the form of Certificate of Designations of Series B Convertible Preferred Stock, par value $0.0001 per share, which is attached to this Report as Exhibit 3.1. Pursuant to the Exchange Agreement, the PIPE Investors agreed:

(i) to exchange 614,177 shares of the existing Series A Preferred Stock for an identical number of shares of Series B Convertible Preferred Stock (the "Series B Preferred Stock," and together with the Series A Preferred Stock, the "Preferred Stock"), which have the same terms as the Series A Preferred Stock, except that the terms of the Series B Preferred Stock include the authority of the holders of the Series B Preferred Stock to waive the requirement that the Company reserve a sufficient number of shares of common stock to allow for the conversion of the Series B Preferred Stock; and

(ii) to waive the requirement under the Warrant Agreement governing the Warrants to reserve 3,600,000 shares of our common stock for the exercise of the Warrants.

In the Exchange Agreement, we agreed that within four months of the date of the Exchange Agreement, we will call a special meeting of our stockholders to seek approval to an amendment of our Certificate of Incorporation to increase the number of authorized shares of common stock so as to allow us to reserve sufficient shares for, among other things, the conversion of the Series B Preferred Stock and the exercise of the Warrants (the "Authorization Proposal"). If approval of the Authorization Proposal is not obtained at such meeting, we agreed to resubmit the Authorization Proposal at the annual or a special meeting of our stockholders on an annual basis beginning in 2017 until stockholder approval is obtained. Until stockholder approval is obtained, we agreed that we will not issue any additional shares of common stock or equity awards to employees without the consent of the investors holding a majority of the voting power of the Series B Preferred Stock, provided that we may grant awards with respect to the 1.93 million shares of common stock currently authorized for issuance under our 2008 Equity Incentive Plan. If stockholder approval of the Authorization Proposal is not obtained prior to the earlier of May 17, 2021 and the date all of the Company's obligations under indenture governing the Company's 8.875% Senior Notes due 2021 have been satisfied, then each holder of the Series B Preferred Stock may elect to require the Company to redeem for cash all shares of Series B Preferred Stock held by such holder for which there are not sufficient authorized shares of common stock reserved to allow conversion of such shares of Series B Preferred Stock. The redemption price would be calculated as the greater of the liquidation preference of each redeemed share of Series B Preferred Stock and the product of the volume-weighted average share price of our common stock on the NASDAQ for a ten trading day period ending two trading days prior to the date that the Company receives the redemption notice and the number of shares of common stock into which each share of Series B Preferred Stock is convertible.

The foregoing description of the Exchange Agreement does not purport to be complete and is subject to, and qualified in its entirety by reference to, the full text of the Exchange Agreement, a copy of which is filed herewith as Exhibits 10.1 and is incorporated by reference herein.

In addition, the Company and the PIPE Investors intend to enter into a new exchange agreement, subject to any required regulatory or stockholder approvals, to promptly effect a second exchange involving an issuance of a new series of Preferred Stock in return for the shares of Series B Preferred Stock. The new series of Preferred Stock will be identical to the Series B Preferred Stock except that it will provide that the 11.5% per annum rate of non-cash dividends payable on the shares of the new Series of Preferred Stock will be reduced based on the achievement by the Company of specified earnings before interest, taxes, depreciation and amortization (referred to as "Consolidated EBITDA" in the Company's Credit Agreement, dated as of July 31, 2013, as such Credit Agreement has been amended through the date of the Exchange Agreement). Specifically, if the Company achieves on a trailing twelve month basis at the end of any fiscal quarter, (1) at least $75 million in Consolidated EBITDA, but less than $85 million in Consolidated EBITDA, the non-cash dividend rate for the quarter following such 12 month period will be 10.5% per annum; (2) at least $85 million in Consolidated EBITDA, but less than $95 million in Consolidated EBITDA, the non-cash dividend rate for the quarter following such 12 month period will be 9.5% per annum; and (3) at least $95 million in Consolidated EBITDA, the non-cash dividend rate for the quarter following such 12 month period will be8.5% per annum. While the Company believes it will be able to complete the exchange of the Series B Preferred Stock for the new series of Preferred Stock with the foregoing modifications to the non-cash dividend rate, within the next several weeks, it can make no assurances regarding the receipt of any applicable regulatory or stockholder approvals, if determined to be necessary.

Rights and Preferences of the Series B Preferred Stock

The description below provides a summary of certain material terms of the Series B Preferred Stock issued pursuant to the Exchange Agreement.

- *Dividends*. Dividends of the Series B Preferred Stock are noncumulative and accrue from the date of original issuance at a rate of 8.5% per annum on the liquidation preference (defined below) then in effect (a "Cash Dividend"). If the Company does not declare and pay a Cash Dividend, the liquidation preference on the Series B Preferred Stock will be increased to an amount equal to the liquidation preference in effect at the start of the applicable dividend period, plus an amount equal to such then applicable liquidation preference multiplied by 11.5% per annum (an "Accrued Dividend"). Cash Dividends, if declared, are payable quarterly in arrears on January 1, April 1, July 1 and October 1 of each year, and, if declared, will begin to accrue on the first day of the applicable dividend period. If applicable, the Accrued Dividend will begin to accrue and be cumulative on the same schedule as set forth above for Cash Dividends and will also be compounded on each applicable subsequent dividend date.

- *Liquidation Preference*. Upon any voluntary or involuntary liquidation, dissolution or winding up of the Company (each, a "Liquidation Event"), after satisfaction of all liabilities and obligations to creditors of the Company and distribution of any assets of the Company to the holders of any stock or debt that is senior to the Series B Preferred Stock, and before any distribution or payment is made to holders of any junior stock, each holder of Series B Preferred Stock will be entitled to either convert the Series B Preferred Stock into common stock and share in any distribution made to the holders of common stock or receive, out of the assets of the Company or proceeds thereof (whether capital or surplus) legally available therefor, an amount per share of Series B Preferred Stock equal to the liquidation preference. The initial liquidation preference is equal to $115.34 per share, which may be adjusted from time to time in the amount of any Accrued Dividends. The holders of the Series B Preferred Stock are also entitled, at their election, to either convert their shares of Series B Preferred Stock into common stock and on a pro rata basis share in any distribution made to the common stock holders or be paid the liquidation preference upon the occurrence of events that are "Deemed Liquidation Events", such as certain merger transactions where the Company is not the survivor or a sale of all or substantially all of the Company's assets.

- *Rank*. The Series B Preferred Stock will, with respect to dividend rights and rights upon liquidation, winding up or dissolution, rank senior to the Company's common stock and each other class or series of shares that the Company may issue in the future that do not expressly provide that such class or series ranks equally with, or senior to, the Series B Preferred Stock, with respect to dividend rights and/or rights upon liquidation, winding up or dissolution. The Series B Preferred Stock will also rank junior to the Company's existing and future indebtedness.

- *Conversion Rate and Conversion Price*. The conversion rate in effect at any applicable time for conversion of each share of Series B Preferred Stock into common stock will be the quotient obtained by dividing the liquidation preference then in effect (which will include any cash dividends that the Company has notified holders that it intends to pay but has not yet declared and any cash dividends that have been declared but remain unpaid, calculated at the Accrued Dividend rate) by the conversion price then in effect, plus cash in lieu of fractional shares. The conversion price for the Series B Preferred Stock will initially be $5.17 and is subject to adjustment from time to time upon the occurrence of certain events, including a stock split, a reverse stock split, or a dividend of common stock to the Company's common stockholders.

- *Optional Conversion*. The Series B Preferred Stock may, at the option of the holder, be converted into Company common stock. The holders of the Series B Preferred Stock have agreed in the Exchange Agreement that the Company need not keep reserved for issuance shares of common stock in amounts sufficient to allow such conversion until the Authorization Proposal is obtained.

- *Mandatory Conversion*. If, at any time following the third anniversary date of the issuance of the Series B Preferred Stock, the volume weighted average price of the Company's common stock equals or exceeds three (3) times the conversion price of the Series B Preferred Stock for a period of 30 consecutive trading days, the Company may, at its option, require that any or all of the then outstanding shares of Series B Preferred Stock be automatically converted into Company common stock at the conversion rate. The Company may not elect to exercise the foregoing option if at any time during the period commencing on the date that the Company has made a public announcement that it has entered into a definitive agreement with respect to a transaction constituting a "Deemed Liquidation Event" (as defined in the Certificate of Designations) and ending on the date that is the first to occur of (i) the consummation of the transaction and (ii) the date that the Company has made a public announcement that any such definitive agreement has been terminated.

- *Optional Special Dividend and Conversion on Certain Change of Control*. Upon the occurrence of a change of control effected by a third party tender offer and that results in any person (other than the holders of Series B Preferred Stock or any of their respective affiliates, acting either individually or through a group) beneficially owning, directly or indirectly shares of the Company's capital stock entitling such person to exercise 50% or more of the total voting power of all classes of voting stock of the Company, at the written request of a majority of the voting power of the outstanding shares of Series B Preferred Stock: (i) the Board will, subject to applicable law, declare and the Company will pay a special cash dividend on each share of Series B Preferred Stock, out of any legally available funds in the amount of the liquidation preference per share then in effect with respect to the Series B Preferred Stock to the extent the legally available funds are sufficient to pay the special dividend in full; and (ii) as of the payment date of the special dividend, all outstanding shares of Series B Preferred Stock automatically will be converted (without further action) into a number of shares of common stock at the conversion rate then in effect.

- *Voting*. Holders of shares of Series B Preferred Stock will be entitled to vote with the holders of shares of common stock (and any other class or series similarly entitled to vote with the holders of common stock) and not as a separate class, at any annual or special meeting of stockholders of the Company, and may act by written consent in the same manner as the holders of common stock, on an as-converted basis. In addition, a majority of the voting power of the Series B Preferred Stock must approve certain actions that adversely affect their rights, such as the creation or issuance of a series of stock with equal or greater rights than the Series B Preferred Stock and issuance of equity securities, or securities convertible into equity, at a price that is 25% below fair market value at the time of issuance, voluntary liquidation, dissolution or winding-up of the Company if the Series B Preferred Stock would not have the option to receive the then liquidation preference on the liquidation, dissolution, or winding-up of the Company, or subject to certain exceptions, a merger transaction that will effectively represent the sale of the Company to a successor, a sale of substantially all Company assets, and any recapitalization transaction, but only if the results of any such transaction is that holders of the Series B Preferred Stock would not have the option to receive the full liquidation preference as a result of that transaction.

- *Redemption at the Option of the Holder.* From and after the tenth anniversary of the original issuance of the Series B Preferred Stock, each holder of shares of Series B Preferred Stock will have the right to request that the Company redeem, in full, out of funds legally available, by irrevocable written notice to the Company, all of such holder's shares of Series B Preferred Stock at a redemption price per share equal to the liquidation preference then in effect per share of Series B Preferred Stock. If the Company elects not to redeem a holder's shares of Series B Preferred Stock pursuant to such notice, the conversion price then in effect with respect to the shares of Series B Preferred Stock will be decreased to the lesser of (A) the conversion price then in effect and (B) 80% of the volume weighted average price of the Company's common stock for the 10 consecutive trading days prior to the date of the redemption request. In addition, upon a change of control event that is neither a liquidation event nor the result of a person (other than the holders of Series B Preferred Stock and their affiliates) acquiring 50% or more of the total voting power of all classes of voting stock of the Company as a result of a tender offer, subject to the Company's prior satisfaction of certain debt obligations, each holder of Preferred Stock that remains outstanding may require the Company to redeem shares of Series B Preferred Stock at a price equal to the liquidation preference then in effect.

- *Redemption at the Option of the Company*. From and after the tenth anniversary of the original issuance of the Series B Preferred Stock, the Company may redeem the outstanding Series B Preferred Stock, in whole or in part, at a price per share equal to the liquidation preference then in effect per share of Series B Preferred Stock.

- *Board Representation*. So long as shares of the Series B Preferred Stock represent at least five percent (5%) of the outstanding voting stock of the Company, a majority of the voting power of the Series B Preferred Stock shall have the right to designate one (1) member to the Company's board of directors who shall be appointed to a minimum of two (2) committees of the board.

- *Anti-dilution*. The conversion price of the Series B Preferred Stock is subject to anti-dilution protections if the Company effects a stock split, stock dividend, subdivision, reclassification or combination of its common stock.

- *Maturity Date*. The Series B Preferred Stock is perpetual, and therefore does not have a maturity date.

Registration Rights Agreement

The Company entered into an amendment dated June 10, 2016, to the Registration Rights Agreement, dated March 9, 2015, by and among the Company and the PIPE Investors (the "Amendment to the Registration Rights Agreement") that, among other things, and subject to certain exceptions, requires the Company, upon the request of the holders of the Series B Preferred Stock to register the shares of common stock of the Company issuable upon conversion of the Series B Preferred Stock. Pursuant to the terms of the Amendment to the Registration Rights Agreement, the costs incurred in connection with such registrations will be borne by the Company. If the parties enter into a new exchange agreement as described above under Item 1.01, the parties intend to further amend the Registration Rights Agreement to provide the shares of common stock underlying the new series of Preferred Stock with the same registration rights as the holders of Series B Preferred Stock have currently.

This summary of the Amendment to the Registration Rights Agreement is qualified in its entirety by reference to the Amendment to the Registration Rights Agreement, which is attached hereto as Exhibit 4.1 and is incorporated herein by reference.

Item 5.02. Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

Upon consummation of the Transaction, the Company intends to retain the current chief executive officer of Home Solutions, Dan Greenleaf, as its new chief executive officer. In addition, we have agreed that Mr. Greenleaf will serve on our board of directors during such time as he remains chief executive officer. Mr. Greenleaf, age 50, has over two decades of relevant experience in senior leadership positions in the healthcare industry. The Asset Purchase Agreement does not require the Company to select Mr. Greenleaf as its president and chief executive offer, and there are no arrangements or understandings between Mr. Greenleaf and any other persons pursuant to which he would be selected as president and chief executive officer if the Transaction is consummated.

The Company and our current president and chief executive officer, Richard M. Smith, have an understanding that Mr. Smith will step down from the position of president and chief executive officer of the Company effective upon consummation of the Transaction. We intend to promote Mr. Smith to Vice Chairman of our Board of Directors, in which capacity he will assist in an orderly transition process.

Item 5.03. Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

In connection with the Exchange Agreement, the Company filed with the Secretary of State of the State of Delaware the Certificate of Designations for the Series B Convertible Preferred Stock (the "Certificate of Designations") as an amendment to its Certificate of Incorporation. The Certificate of Designations sets forth the rights and preferences of the Series B Preferred Stock, certain material terms of which are discussed in Item 1.01 above (which Item 1.01 is incorporated into this Item 5.03 by reference). Pursuant to the Certificate of Designations, the Company is authorized to issue an aggregate of 825,000 shares of Series B Preferred Stock. The Certificate of Designations became effective on June 10, 2016.

This summary of the Certificate of Designations and the summary of the terms of the Series B Preferred Stock in Item 1.01 are qualified in their entirety by reference to the Certificate of Designations, which is attached hereto as Exhibit 3.1 and is incorporated herein by reference.

Item 8.01. Other Events.

On June 13, 2016, we issued a press release announcing a proposed underwritten public offering of our common stock (the "Equity Offering"). We intend to use the net proceeds from the Equity Offering (i) to fund the cash portion of the Transaction Consideration and pay fees and expenses in connection with the Transaction, (ii) to repay a portion of our outstanding borrowings under our revolving credit facility and (iii) for general corporate purposes. The Equity Offering is not conditioned on the closing of the Transaction, and we cannot assure you that the Transaction will be completed on the terms described herein or at all. If the Transaction is not completed, we intend to use any net proceeds from the Equity Offering (i) to repay a portion of our outstanding borrowings under our revolving credit facility and (ii) for general corporate purposes.

A copy of the press release announcing the Equity Offering is furnished as Exhibit 99.2 to this report.

Additional Information and Where to Find It

In connection with the proposed Transaction, the Company will prepare a proxy statement to be filed with the Securities and Exchange Commission ("SEC"). When completed, a definitive proxy statement and a form of proxy will be mailed to the stockholders of the Company. **The Company's security holders are urged to read the proxy statement carefully when it becomes available, as well as any other relevant documents filed by the Company with SEC, because they will contain important information.** The Company's stockholders will be able to obtain, without charge, a copy of the proxy statement (when available) and other relevant documents filed with the SEC from the SEC's website at http://www.sec.gov. The Company's stockholders will also be able to obtain, without charge, a copy of the proxy statement and other relevant documents (when available) by directing a request by mail or telephone to BioScrip, Inc., Attn: Chief Financial Officer, 1600 Broadway, Suite 950, Denver, CO 80202, telephone: (720) 697-5200, or from the investor relations page on the Company's website at http://bioscrip.com/overview.

The Company and its directors and officers may be deemed to be participants in the solicitation of proxies from the Company's stockholders in connection with the proposed Transaction. Information about the Company's directors and executive officers and their ownership of the Company's equity interests is set forth in the proxy statement for the Company's 2016 Annual Meeting of Stockholders, which was filed with the SEC on April 27, 2016. Stockholders may obtain additional information regarding the interests of the Company and its directors and executive officers in the proposed Transaction, which may be different than those of the Company's stockholders generally, by reading the proxy statement and other relevant documents regarding the proposed Transaction when filed with the SEC.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits. See the Exhibit Index which is hereby incorporated by reference.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

BIOSCRIP, INC.

Date: June 13, 2016

/s/ Kathryn M. Stalmack

By: Kathryn M. Stalmack
Senior Vice President, General Counsel and Secretary

Index to Exhibits

Exhibit Number	Description
2.1	Asset Purchase Agreement, dated June 11, 2016, by and among HS Infusion Holdings, Inc., the direct and indirect subsidiaries of HS Infusion Holdings, Inc. set forth on the signature pages, the Company and HomeChoice Partners, Inc.*
3.1	Certificate of Designations for Series B Convertible Preferred Stock.
4.1	Amendment to the Registration Rights Agreements dated June 10, 2016, by and among Bioscrip, Inc., Coliseum Capital Partners, L.P., Coliseum Capital Partners II, L.P and Blackwell Partners, LLC Series A.
10.1	Exchange Agreement, dated as of June 10, 2016, entered into by and among BioScrip, Inc., and each of the Stockholders signatory thereto.
99.1	Press Release dated June 13, 2016.
99.2	Press Release dated June 13, 2016.

* Certain schedules attached to the Asset Purchase Agreement have been omitted pursuant to Item 601(b)(2) of Regulation S-K. BioScrip will furnish the omitted schedules to the Securities and Exchange Commission upon request by the Commission.

Exhibit 2.1

ASSET PURCHASE AGREEMENT

BY AND AMONG

HS Infusion Holdings, Inc.
a Delaware corporation,

the direct and indirect Subsidiaries of the Company,

BioScrip, Inc.,
a Delaware corporation, and

HomeChoice Partners, Inc.
a Delaware corporation

June 11, 2016

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Exhibit 1.3	Form of Non-Solicitation Agreement
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ASSET PURCHASE AGREEMENT

This **ASSET PURCHASE AGREEMENT** (this "**Agreement**") is entered into as of June 11, 2016, by and among HS Infusion Holdings, Inc., a Delaware corporation (the "**Company**"), the direct and indirect Subsidiaries of the Company set forth on signature pages hereto under the heading "Company Subsidiaries", BioScrip, Inc., a Delaware corporation ("**Parent**"), and HomeChoice Partners, Inc., a Delaware corporation ("**Buyer**").

RECITALS

WHEREAS, the Company and its Subsidiaries are engaged in the Business (as defined below);

WHEREAS, the Company desires to sell the Business to Buyer, and Buyer desires to purchase the Business from the Company; and

WHEREAS, in connection with the sale of the Business, the Company desires to sell and assign, and to cause its Subsidiaries to sell and assign, to Buyer, and Buyer desires to purchase from the Company and its Subsidiaries, all of the Acquired Assets (as defined below) in consideration of the payment by Buyer of the Purchase Price and the assumption by Buyer of the Assumed Liabilities (as defined below), all on the terms and subject to the conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the above and the mutual representations, warranties, covenants and agreements set forth herein, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

ARTICLE 1

DEFINITIONS

1.1 Certain Definitions. In this Agreement, the following terms have the meanings specified or referred to in this Section 1.1, which shall be equally applicable to both the singular and plural forms.

"**Accounting Principles**" means GAAP applied consistently with the Company's past practices, including past practices with respect to the determination of reserves; provided, that in the event any of the Company's past practices is not consistent with GAAP, GAAP shall prevail as to such practice.

"**Action**" means any audit, examination, claim, action, suit, arbitration, formal inquiry or proceeding by or before any mediator, arbitrator or Governmental Entity.

"**Affiliate**" means a Person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, a specified Person. For purposes of this definition, "**control**" means the possession, directly or indirectly, of the power to elect at least 50% of the governing board of such Person or to direct or cause the direction of the management and policies of the Person, whether through ownership of voting securities, partnership or limited liability interests, nonprofit membership, contract or otherwise.

"**Assets**" means the assets and properties of the Business of every kind, character and description, whether tangible, intangible, real, personal or mixed, and wherever located.

"**Bill of Sale, Assignment and Assumption Agreement**" means, subject to Section 4.7, the Bill of Sale, Assignment and Assumption Agreement to be entered into in substantially the form attached hereto as Exhibit 1.1.

"**Business**" means the Company's and the Company's Subsidiaries' operation of an alternate-site infusion and related therapies business and all other business operations of the Company or its Subsidiaries as conducted on the date hereof.

"**Business Day**" shall mean any day, excluding Saturday, Sunday and any other day on which commercial banks in New York, New York are authorized or required by law to close.

"**Buyer Indemnified Parties**" means each of the Buyer Parties and its officers, directors, employees, Affiliates, agents, representatives, successors, and assigns.

"**Buyer Parties**" means Parent and Buyer.

"**Change of Control**" means (a) any transaction or series of related transactions in which any Person or group of Persons excluding an Affiliate of Parent (it being agreed for purposes of this definition that in no case shall any Person and its Affiliates collectively owning less than ten percent (10%) of the voting power at elections for the Parent Board or any successor entity be deemed an Affiliate of Parent, but that any Person and its Affiliates collectively owning ten percent (10%) or more of the voting power at elections for the Parent Board or any successor entity shall be deemed an Affiliate of Parent) shall (i) directly or indirectly, acquire, whether by purchase, exchange, tender offer, merger, consolidation, recapitalization or otherwise, or (ii) otherwise be the owner of, shares of Parent's capital stock, such that following such transaction or transactions, such Person or group and their respective Affiliates beneficially own more than fifty percent (50%) of the voting power at elections for the Parent Board or any successor entity, (b) the sale, transfer or other disposition of all or substantially all of the consolidated assets of Parent and its Subsidiaries (based on the net book value of the consolidated assets of Parent and its Subsidiaries in its most recent audited financial statements) in one or a series of related transactions, or (c) any transaction or series of related transactions with any Person in respect of Parent's equity interests and/or assets resulting in the Parent Common Stock no longer being publicly traded on NASDAQ or another securities exchange or over the counter.

"**Closing Date Net Working Capital**" means the actual Net Working Capital of the Company and the Company Subsidiaries as of 12:01 a.m. Eastern Time on the Closing Date.

"**Closing Payoff Debt**" means the amounts due under the Credit Facility (inclusive of any associated banking fees) as of the Closing Date, as described in the Payoff Letter.

"**COBRA**" means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended from time to time.

"**Code**" means the Internal Revenue Code of 1986, as amended.

"**Company Common Stock**" means the outstanding common stock of the Company.

"**Company Intellectual Property**" means Intellectual Property owned, used or held for use by the Company and the Company Subsidiaries in the operation of the Business.

"**Company Material Adverse Effect**" means any event, circumstance, change or effect that, individually or in the aggregate with all other events, circumstances, changes or effects, is reasonably expected to be materially adverse to the financial condition of the Business or to the properties, assets, liabilities, operations or results of operations of the Company and the Company Subsidiaries, taken as a whole, but shall exclude any event, circumstance, change or effect resulting or arising from: (a) any change or prospective change in any laws or GAAP or interpretation or enforcement thereof; (b) any change that is generally applicable to the industries or markets in which the Business operates; (c) the entry into or announcement of this Agreement or the consummation of the transactions contemplated hereby; (d) any action taken by (or at the request of) a Buyer Party or any of its Affiliates; (e) any omission to act or action taken by the Company or any Company Subsidiary with the consent of a Buyer Party or which is permitted by this Agreement; (f) acts of war (whether or not declared), armed hostilities or terrorism; (g) any acts of God, including any earthquakes, hurricanes, tornados, floods, tsunamis or other natural disasters; (h) any failure, in and of itself, by the Company or any Company Subsidiary to meet any internal or published projections, forecasts or revenue or earnings predictions for any period (it being understood that the facts or occurrences giving rise to such failure may be deemed to constitute, or be taken into account in determining whether there has been or will be, a Company Material Adverse Effect); or (i) conditions in the securities markets, capital markets, credit markets, currency markets or other financial markets in the U.S. or any other country.

"**Company Payment Programs**" means all Payment Programs in which the Company or any Company Subsidiary has participated in the last three (3) years.

"**Company's knowledge**," "**knowledge of Company**" and like phrases mean the actual knowledge (i.e., the conscious awareness of facts or other information) of any of Dan Greenleaf, Alex Schott, Michael Jennings, Greg Meadows, Mark Reynolds, Steve Parsons, Melanie Sponholz and Bettyanne Rosa and any knowledge that would have been acquired by any of them upon reasonable inquiry of those individuals who report directly to such persons to the extent of the actual knowledge of any such reporting individuals.

"**Confidentiality Agreements**" means, collectively, the confidentiality agreement by and between Buyer and the Company, dated as of April 19, 2016, the confidentiality agreement by and between Buyer and the Company, dated as of March 3, 2016, and the confidentiality agreement by and between Buyer and the Company, dated as of November 14, 2015.

"**Contracts**" means all written arrangements to which the Company or any Company Subsidiary is a party.

"**Credit Facility**" means that certain Credit Agreement, dated as of November 9, 2012 (as amended, restated, supplemented or otherwise modified from time to time) by and among Home Infusion Solutions, LLC, a Delaware limited liability company, Home Solutions Holdings, LLC, a Delaware limited liability company, the other Company Subsidiaries party thereto, the lenders party thereto and Madison Capital Funding LLC, as agent.

"**Designated Confidentiality Agreements**" means, collectively, the confidentiality agreement by and between Buyer and the Company, dated as of April 19, 2016 and the confidentiality agreement by and between Buyer and the Company, dated as of March 3, 2016.

"**Disclosure Schedules**" means the Disclosure Schedule and the Disclosure Schedule (Parent) attached hereto.

"**Dispute**" means any dispute or controversy arising between or among any parties out of or relating to or with respect to any of the provisions contained in this Agreement.

"**Employees**" means all of the employees of the Company and the Company Subsidiaries.

"**Environmental Requirements**" means all laws, orders, permits, agreements and other restrictions and requirements of any Governmental Entity, relating to the regulation of, imposing standards of conduct or liability regarding, or protection of, human health and safety (including, without limitation, employee health and safety and consumer health and safety (including but not limited to regulations and other requirements of the U.S. Food and Drug Administration)), the environment, or the storage, treatment, disposal, transportation, handling, or other management of Materials of Environmental Concern.

"**Equipment**" means all of the tangible personal property used or held for use in the conduct of the Business, including medical equipment (including infusion pumps and IV hoods), motor vehicles, furniture, furnishings, machinery, computers and equipment, wherever located (including at the Leased Real Property or at patients' homes).

"**Equity Offering**" means the equity offering to be consummated in connection with the transactions contemplated hereby, which shall be an equity offering of at least One Hundred Million Dollars ($100,000,000.00) by Parent, and which may take the form of a rights offering, a private placement, a public offering or any other form of equity placement or any combination of the foregoing.

"**ERISA**" means the Employee Retirement Income Security Act of 1974, as amended.

"**Escrow Account**" shall have the meaning set forth in the Escrow Agreement.

"**Escrow Agent**" means JPMorgan Chase Bank, N.A.

"**Escrow Agreement**" means the escrow agreement to be entered into in substantially the form set forth on Exhibit 1.2 hereto.

"**Escrow Amount**" means an amount equal to Ten Million Dollars ($10,000,000.00).

"**Escrow Fund**" shall have the meaning set forth in the Escrow Agreement.

"**Exchange Act**" means the Securities Exchange Act of 1934, as amended.

"**Fair Market Value**" means, with respect to any Parent Common Stock, the average of the daily averages of the high and low sales prices of Parent Common Stock for the ten (10) stock trading days preceding, unless otherwise specified, the date any applicable payment is due.

"**GAAP**" means generally accepted accounting principles as consistently applied.

"**General Representations**" means the representations and warranties set forth in this Agreement other than the Specified Representations and the Health Care Representations.

"**Government Program**" means Medicare, Medicaid, CHAMPUS, TRICARE and VA programs and such other similar federal, state or local reimbursement or governmental programs for which Company or any Company Subsidiary is eligible and in which Company or any Company Subsidiary participates.

"**Governmental Entity**" means any government or any agency, bureau, board, commission, court, department, official, political subdivision, tribunal or other instrumentality of any government, whether federal, state or local, domestic or foreign.

"**HSR Act**" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

"**Independent Auditor**" means an independent national or regional accounting firm which is mutually acceptable to the parties hereto in good faith.

"**Intellectual Property**" means all (a) patents, patent applications, patent disclosures and inventions, (b) trademarks, service marks, trade dress, trade names, logos and corporate names (in each case, whether registered or unregistered) and registrations and applications for registration thereof together, to the extent applicable, with all of the goodwill associated therewith, (c) copyrights (registered or unregistered) and registrations and applications for registration thereof, (d) computer software, computer programs and related data bases and documentation thereof, (e) trade secrets, proprietary research and development, proprietary inventions, proprietary formulas and proprietary technical data, whether or not patentable in each case, (f) World Wide Web addresses and domain name registrations and (g) works of authorship, including computer programs, source code and executable code, whether embodied in software, firmware or otherwise.

"**Inventory**" means all good, merchantable, and saleable inventory and materials used in the operation of the Business.

"**IRS**" means the United States Internal Revenue Service.

"**KRG**" means KRG Capital Partners.

"**KRG Management Agreement**" means the Management Agreement, dated as of September 24, 2012, by and among the Company, KRG Capital Management, L.P. and the other entities party thereto.

"**Leased Equipment**" means all Equipment held under the Leases.

"**Leased Real Property**" means the premises leased by the Company and the Company Subsidiaries, as set forth on Schedule 1.1.

"**Leases**" means all leases, subleases or other agreements under which the Company or any Company Subsidiary is lessee or sublessor of any real or personal property or has any interest in real property, including any lease deposits or pre-paid rent paid in connection with such leases.

"**Liabilities**" means any liability, debt, guarantee, claim, demand, expense, commitment or obligation (whether known or unknown, direct or indirect, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, or due or to become due or otherwise) of every kind and description, including all costs and expenses related thereto.

"**Licenses and Permits**" means all material certificates, certificates of need, certificates of exemption, consents, accreditations, governmental approvals, licenses, permits, franchises, authorizations and approvals by any Governmental Entity necessary for the operation of the Business.

"**Liens**" means any mortgages, pledges, charges, hypothecations, liens, security interests, encumbrances or restrictions on transfer.

"**Losses**" means, with respect to any Person, all losses, out-of-pocket expenses (including attorneys' fees), satisfaction of third party claims, damages, fines, penalties, compliance costs and investigation and remediation costs, including any of the above incurred in enforcing a right to indemnification hereunder. Notwithstanding the foregoing, in no event shall any Indemnified Party be entitled to recover or make a claim for any amounts in respect of, and in no event shall "Losses" be deemed to include any punitive, special or exemplary losses (other than those paid or payable to third parties), or, in the case of a Buyer Indemnified Party, any loss, liability, damage or expense to the extent such item was included in the calculation of the Cash Consideration or any component thereof.

"**Managed Medicaid**" means a health benefit program for the delivery of Medicaid health benefits and additional services through contracted arrangements between state Medicaid agencies and managed care organizations.

"**Material Contract**" means any Contract which (a)(i) has expected annual payments or receipts of more than Two Hundred Fifty Thousand Dollars ($250,000.00) and (ii) is not terminable on thirty one (31) days' notice or less, or (b) involves direct or indirect payments to or from physicians or other potential sources of referrals (or Persons owned or controlled, in whole or in part, by physicians or potential sources of referrals, including those in a position to influence referrals).

"**Materials of Environmental Concern**" means (a) any "hazardous substance" as defined in § 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended from time to time (42 U.S.C. §§ 9601 et seq.) or any regulations promulgated thereunder, (b) asbestos or asbestos-containing material, (c) any chemical, material or substance defined as, or included in the definition of, "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous waste" or "toxic substances" or words of similar import under any applicable federal, state or local law or under the regulations adopted or publications promulgated pursuant thereto, including under any Environmental Requirements, or (d) any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any Governmental Entity.

"**Medicare Advantage**" means the health benefit program offered by the federal government and established under Part C of Title XVIII of the Social Security Act that provides health care benefit options to Medicare beneficiaries through private organizations that have been approved by, and have entered into an agreement with, the Centers for Medicare and Medicaid Services ("**CMS**"), including Special Needs Plans.

"**Medicare Prescription Drug Plan (Part D)**" means a Medicare prescription drug coverage benefit plan established under Part D of Title XVII of the Social Security Act that is offered under a policy, contract or plan with a private organization that has been approved by CMS.

"**NASDAQ**" means the NASDAQ Stock Market or any successor thereto.

"**Net Working Capital**" means (a) the current assets of the Company and the Company Subsidiaries (consisting solely of those asset account line items specified on Schedule 1.2, subject to any footnotes thereto), excluding all Tax assets and the other Excluded Assets, minus (b) the current liabilities of the Company and the Company Subsidiaries (consisting solely of those liability account line items specified on Schedule 1.2, subject to any footnotes thereto), excluding any Tax liabilities, any amounts payable in respect of Transaction-Related Costs, the Closing Payoff Debt and the other Excluded Liabilities, in each case, determined in accordance with the Accounting Principles and on a consolidated basis. The parties hereto acknowledge and agree that the purpose of preparing and calculating Net Working Capital hereunder is to measure changes in Net Working Capital without the introduction of new or different accounting methods, policies, practices, procedures, classifications, judgments or estimation methodologies from the Accounting Principles.

"**Net Working Capital Adjustment Amount**" means the amount (if any), which may be positive or negative, equal to (a) the Closing Date Net Working Capital, less (b) the Net Working Capital Target; provided, that the Net Working Capital Adjustment Amount shall be zero if the absolute value of the result of such calculation is less than Two Million Dollars ($2,000,000.00), and if the absolute value of the result of such calculation is greater than Two Million Dollars ($2,000,000.00), the Net Working Capital Adjustment Amount shall be equal to the absolute value of the result of such calculation, less Two Million Dollars ($2,000,000.00), reflected as a positive number if the difference between the Closing Date Net Working Capital, less the Net Working Capital Target is positive and as a negative number if the difference between the Closing Date Net Working Capital, less the Net Working Capital Target is negative.

"**Net Working Capital Target**" means Eight Million Thirty Five Thousand Dollars ($8,035,000).

"**Non-Solicitation Agreement**" means the non-solicitation agreement to be entered into in substantially the form set forth on Exhibit 1.3 hereto.

"**Objections Statement**" means a statement setting forth any objections to the Closing Statement.

"**Parent Common Stock**" means the common stock of Parent, par value $0.0001 per share.

"**Parent Material Adverse Effect**" means any event, circumstance, change or effect that, individually or in the aggregate with all other events, circumstances, changes or effects, is reasonably expected to be materially adverse to the financial condition of the business of Parent and its Subsidiaries, taken as a whole, or to the properties, assets, liabilities, operations or results of operations of Parent and its Subsidiaries, taken as a whole, but shall exclude any event, circumstance, change or effect resulting or arising from: (a) any change or prospective change in any laws or GAAP or interpretation or enforcement thereof; (b) any change that is generally applicable to the industries or markets in which the business of Parent and its Subsidiaries operates; (c) the entry into or announcement of this Agreement or the consummation of the transactions contemplated hereby; (d) any action taken by (or at the request of) the Company or any of its Affiliates; (e) any omission to act or action taken by Parent or any of its Subsidiaries with the consent of the Company or which is permitted by this Agreement; (f) acts of war (whether or not declared), armed hostilities or terrorism; (g) any acts of God, including any earthquakes, hurricanes, tornados, floods, tsunamis or other natural disasters; (h) any failure, in and of itself, by Parent or any of its Subsidiaries to meet any internal or published projections, forecasts or revenue or earnings predictions for any period (it being understood that the facts or occurrences giving rise to such failure may be deemed to constitute, or be taken into account in determining whether there has been or will be, a Parent Material Adverse Effect); or (i) conditions in the securities markets, capital markets, credit markets, currency markets or other financial markets in the U.S. or any other country.

"**Patient Records**" shall mean all electronic or hard copy files, charts, lists, medical history and other similar data maintained by the Company and its Subsidiaries and pertaining to any person treated by the Company and its Subsidiaries for alternate-site infusion or related therapies.

"**Payment Programs**" means Medicare, TRICARE, Medicaid, Worker's Compensation, Blue Cross/Blue Shield programs, and all other governmental or commercial managed care plans, health maintenance organizations, preferred provider organizations, health benefit plans (insured and self-insured), commercial payors and other third party reimbursement and payment programs, including without limitation Company Payment Programs.

"**Permitted Lien**" means (a) statutory Liens for current Taxes or other governmental charges that are not yet due and payable, (b) mechanics', carriers', workers', repairers' and similar statutory Liens arising or incurred in the ordinary course of business and relating to amounts that are not yet due and payable, (c) zoning, entitlement, building and other land use regulations imposed by any Governmental Entity having jurisdiction over Leased Real Property which are not violated by the current use and operation of the Leased Real Property and which do not, individually or in the aggregate, interfere in any material respect with the occupancy or use of the Leased Real Property for the purposes for which it is currently used or proposed to be used in connection with the Business, (d) covenants, conditions, restrictions, easements and other similar matters of record affecting title to the Leased Real Property which do not, individually or in the aggregate, materially impair the occupancy or use of the Leased Real Property for the purposes for which it is currently used or proposed to be used in connection with the Business, (e) Liens on goods in transit incurred pursuant to documentary letters of credit, (f) purchase money Liens on fixed assets so long as (i) the Lien granted is limited to the specific assets acquired and the proceeds thereof and (ii) the aggregate principal amount of the debt secured by the Lien is not more than the acquisition cost of the specific fixed assets on which the Lien is granted, as reduced by payments of principal thereof, (g) other Liens which do not materially impair the use or value of the underlying asset, (h) Liens on Excluded Assets, and (i) Liens in favor of any Governmental Entity to secure obligations under Government Program requirements.

"**Person**" means an association, a corporation, an individual, a partnership, a limited liability company, a trust or any other entity or organization, including a Governmental Entity.

"**Pro Rata Share**" means, with respect to each Shareholder, such Shareholder's percentage of any dividends made by the Company as determined in accordance with the certificate of incorporation of the Company.

"**Referral Sources**" means any and all Persons (including physicians, discharge planners, case managers and managed care entities) who or which, at any time during the duration of the covenants set forth in Section 10.1 or the six (6) month period preceding the Closing Date, referred, directed, encouraged or arranged for any patient to receive goods or services from or through Company or any Company Subsidiary.

"**Restricted Area**" means the United States.

"**Securities Act**" means the Securities Act of 1933, as amended.

"**Seller Indemnified Parties**" means the Company, the Company Subsidiaries, the Shareholders and their respective officers, directors, employees, Affiliates, agents, representatives, successors, and assigns.

"**Seller Names and Seller Marks**" means the names and marks of the Company and its Subsidiaries.

"**Shareholders**" means the holders of Company Common Stock.

"**Special Needs Plans ("SNPs")**" means all plans that cover Medicare, Medicaid or dual-eligible beneficiaries with specific diseases or characteristics and tailor their benefits, provider choices and drug formularies to best meet the specific needs of the groups they serve, including D-SNPS, I-SNPs or C-SNPs.

"**Subsidiary**" means, of a specified Person, any corporation, partnership, limited liability company, limited liability partnership, joint venture, or other legal entity of which the specified Person (either alone or through or together with any other Subsidiary): (a) owns, directly or indirectly, more than fifty percent (50%) of the voting stock or other equity or partnership interests the holders of which are generally entitled to vote for the election of the board of directors or other governing body, of such legal entity or (b) controls the management.

"**Tax Returns**" means any return, report, statement, information return or other document (including any related or supporting information) filed or required to be filed with any Governmental Entity in connection with the determination, assessment, collection or administration of any Taxes or the administration of any laws, regulations, or administrative requirements relating to any Taxes, including any schedule or attachment thereto, and including any amendment thereof.

"**Taxes**" means any federal, state, local or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental (including taxes under Code § 59A), customs duties, capital stock, franchise, profits, withholding, social security (or similar), unemployment, disability, real property, personal property, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated, or other taxes or similar charges in the nature of a tax, including any interest, penalty, or addition thereto, whether disputed or not.

"**Transaction-Related Costs**" means all of the fees, costs and out-of-pocket expenses (including any fees and expenses of legal counsel, investment bankers, brokers or other representatives and consultants and all transaction bonuses accrued or payable to any employee, consultant or agent of Company or any Company Subsidiary as a result of the transactions contemplated by this Agreement) incurred on or before the Closing Date by any and all of the Company, any Company Subsidiary or the Shareholders (on behalf of the Company or any Company Subsidiary) in connection with or related to the transactions contemplated hereby, in each case, to the extent not paid at or prior to the Closing by the Company, the Company Subsidiaries or the Shareholders, as applicable.

"**Transfer Taxes**" means any sales, use, stock transfer, value added, real property transfer, transfer, stamp, registration, documentary, recording or similar duties or taxes together with any interest thereon, penalties, fines, costs, fees, additions to tax or additional amounts with respect thereto incurred in connection with the transactions contemplated in this Agreement, but does not include any income Taxes.

"**TRICARE**" means the health care insurance system for U.S. military service members and their dependents that covers care not available through the usual U.S. military medical service or public health service facilities, formerly known as CHAMPUS, as set forth in 10 U.S.C. Section 1071 *et seq*.

"**U.S. Family Health Plan ("USFHP")**" means a plan provider selected by the U.S. Department of Defense to be a provider of TRICARE Prime, a managed care plan option available to TRICARE beneficiaries.

"**VA**" means the U.S. Department of Veterans Affairs.

1.2 Other Defined Terms. The following terms have the meanings defined for such terms in the locations set forth below:

Term	Location
Acquired Policies	Section 9.8.1
Affiliated Person	Section 13.17
Agreement	Introductory Paragraph
Antitrust Laws	Section 9.17
Apportioned Obligations	Section 9.9.2
Basket	Section 11.3.3(i)
Buyer	Introductory Paragraph
Buyer Parties	Introductory Paragraph
Cash Consideration	Section 4.1.1
Class A Common Stock	Section 5.3
Class L Common Stock	Section 5.3
Closing	Article 3
Closing Certificate	Section 4.2
Closing Date	Article 3
Closing Equity Consideration	Section 4.1.2
Closing Statement	Section 4.3
CMS	Definition of “Medicare Advantage”
Company	Introductory Paragraph
Company Subsidiary	Section 5.5
Eligible Subsidiary	Section 6.12
Equity Consideration	Section 4.1.2
Financial Statements	Section 5.6.1
Government Receivables	Section 2.1.3(i)
Government Receivables Statement	Section 9.19.3
Health Care Representations	Section 11.3.1(iii)
HIPAA	Section 5.25
HITECH	Section 5.25
HS Directors	Section 9.23.1(i)
Indemnification Shares	Section 11.3.4(ii)
Indemnified Party	Section 11.4.1
Indemnifying Party	Section 11.4.1
Intermediate Subsidiary	Section 6.12
Mid-Year Interim Financial Statements	Section 5.6.1
Mini-Basket	Section 11.3.3(i)
Non-Parties	Section 13.17
Offering Documents	Section 9.6.2
Outside Closing Date	Section 12.1.2
Parent Board	Section 9.23.1(i)
Payoff Letter	Section 4.2
Pension Plan	Section 5.17.6
Plan	Section 5.17.1
Pre-Closing Period	Section 9.1

Term	Location
Purchase Price	Section 4.1
Receivables Collector	Section 9.19.2
Recourse Theory	Section 13.17
Registrable Securities	Section 9.22
Related Persons	Section 5.29
Retained Policies	Section 9.8.1
RSUs	Section 4.1.2
Seller Group	Section 13.15
Specified Representations	Section 11.3.1(ii)
Third Party Claim	Section 11.4.1
Ultimate Cap	Section 11.3.3(iii)
Waiving Parties	Section 13.16

ARTICLE 2
PURCHASE AND SALE

2.1 Purchase and Sale of the Acquired Assets.

2.1.1 Acquired Assets. On the terms and subject to the conditions set forth in this Agreement, and subject to Section 2.1.2, at the Closing, the Company shall sell, convey, assign, transfer and deliver to Buyer, and shall cause each of its Subsidiaries to sell, convey, assign, transfer and deliver to Buyer, and Buyer shall purchase, acquire and accept from each such Person, free and clear of any Liens other than Permitted Liens, all of such Person's right, title and interest in and to the Assets at the Closing (collectively, but specifically excluding any Excluded Assets (as defined below), the "Acquired Assets"), including the following:

(i) all tangible and intangible property related to the Business, including equipment, client lists, patient lists, referral lists, records, goodwill and other intangible assets;

(ii) all non-governmental or quasi-governmental payor Contracts and provider agreements (including, Medicare Advantage Contracts, U.S. Family Health Plan ("USFHP") Contracts, Medicare Prescription Drug Plan (Part D) Contracts, Special Needs Plans Contracts, Managed Medicaid Contracts and any Contracts with Accountable Care Organizations);

(iii) all purchasing Contracts from suppliers or other vendors;

(iv) subject to Section 9.16, the Company Intellectual Property;

(v) all accounts receivable associated with non-governmental or quasi-governmental payor Contracts and provider agreements (including, Medicare Advantage Contracts, U.S. Family Health Plan ("USFHP") Contracts, Medicare Prescription Drug Plan (Part D) Contracts, Special Needs Plans Contracts, Managed Medicaid Contracts and any Contracts with Accountable Care Organizations);

(vi) all Inventory;

(vii) subject to Section 2.1.2(viii), all books and records related to the Acquired Assets, including any books of account, ledgers and general financial and accounting records, client lists, price lists, vendor lists, client and inquiry files, research and development files, records, data and correspondences (including all correspondence with any Governmental Entity);

(viii) any asset related to any employee benefit plan, program or arrangement that is an Assumed Liability, to the extent permitted by applicable law;

(ix) the Acquired Policies and all rights of any nature with respect thereto; and

(x) any other assets of any nature whatsoever that are related to or used in connection with the Business, and the goodwill associated therewith.

2.1.2 Excluded Assets. Notwithstanding anything to the contrary herein, the following assets of the Company and its Subsidiaries shall be retained by the Company and its Subsidiaries, and shall be excluded from the Acquired Assets (collectively, the "Excluded Assets"):

(i) any accounts receivable (and related rights) associated with governmental payors, including Government Programs (the "**Government Receivables**");

(ii) all rights and interests in and to each Subsidiary's bank and deposit accounts, including lock boxes, to which the Company's and its Subsidiaries' account debtors remit payment in respect of Governmental Receivables, and all rights to receive funds swept there from all governmental payor Contracts;

(iii) all Government Program provider numbers issued to the Company and its Subsidiaries;

(iv) all enrollment and participation agreements with Government Programs;

(v) all cash and cash equivalents, whether on hand or held by any bank or other third party, and any bank accounts;

(vi) any shares of, or other equity interests in, the Company or any of its Subsidiaries;

(vii) any causes of actions related to any of the Excluded Assets or the Excluded Liabilities;

(viii) all corporate minute books (and other similar corporate records) and stock records and any books and records related solely to the Excluded Assets or the Excluded Liabilities;

(ix) any privileged materials, documents or records of the Company or any of its Subsidiaries solely to the extent related to the Excluded Assets or the Excluded Liabilities;

(x) (A) the Retained Policies and all rights of any nature with respect thereto and (B) refunded premiums, if any, arising from Buyer's election to terminate any Acquired Policies;

(xi) all confidentiality agreements with prospective purchasers of the Business or any portion thereof and all bids and expressions of interests received from third parties with respect to the Business;

(xii) all Tax losses and credits, Tax loss and credit carry forwards and other Tax attributes, all deposits or advance payments with respect to Taxes, and any claims, rights and interests in and to any refund, credit or reduction of Taxes of any of the Company or its Subsidiaries;

(xiii) any personnel and employment records, to the extent the transfer thereof is precluded by applicable law; and

(xiv) any intercompany receivables.

2.2 Assumed and Excluded Liabilities.

2.2.1 Assumed Liabilities. On the terms and subject to the conditions set forth in this Agreement, and subject to Section 2.2.2, Buyer shall, at the Closing, assume and thereafter timely pay, discharge and perform, in accordance with their respective terms, all Liabilities of the Company and its Subsidiaries, except the Excluded Liabilities, as the same shall exist through the Closing and irrespective of whether the same shall arise prior to, on or following the Closing Date (collectively, the "Assumed Liabilities").

2.2.2 Excluded Liabilities. Notwithstanding Section 2.2.1, Buyer shall not assume, pay or discharge any of the following Liabilities of the Company or its Subsidiaries (collectively, the "Excluded Liabilities"):

(i) Liabilities for amounts due or that may become due to Medicare, Medicaid or any other government health care reimbursement or Government Program contractor or other Governmental Entity with authority to enforce laws and regulations applicable to Government Programs, e.g., the U.S. Department of Justice, on account of overpayments or payment adjustments, or any other form of Medicare or other government health care reimbursement recapture, adjustment or investigation whatsoever, including fines, penalties and Losses, exclusively in respect of services performed and products sold by the Company and its Subsidiaries and any legal predecessor thereto before the Closing and billed to a Government Program; provided, that, for the avoidance of doubt, Liabilities associated with Medicare Advantage, Managed Medicaid and Medicare Part D shall be treated as Assumed Liabilities and not as Excluded Liabilities;

(ii) Transaction-Related Costs;

(iii) any Liabilities related to option or other share-based compensation vesting;

(iv) any fees payable under the KRG Management Agreement and any obligations under notes payable owed by the Company or any of its Subsidiaries to KRG or any of its Affiliates;

(v) accounts payable that have been outstanding for ninety (90) days or more (other than accounts payable reflected in the calculation of Net Working Capital);

(vi) the Closing Payoff Debt;

(vii) any intercompany payables; and

(viii) any liability or obligation of the Company or any of its Subsidiaries, or any member of any consolidated, affiliated, combined or unitary group of which the Company or any of its Subsidiaries is or has been a member, for Taxes; provided, that Transfer Taxes incurred in connection with the transactions contemplated hereby and Apportioned Obligations shall be paid in the manner set forth in Sections 9.9.1 and 9.9.2 hereof.

ARTICLE 3
CLOSING

Unless the parties hereto otherwise agree in writing, the actions contemplated to consummate the transactions under this Agreement (the "**Closing**") shall take place on the third (3rd) Business Day following the day on which all of the conditions to closing set forth in Article 7 and Article 8 are met or waived (the "**Closing Date**"). On such Closing Date, the Closing shall occur at a time and place mutually determined by the parties; provided, that the Closing shall be deemed to be effective as of 12:01 a.m. Eastern Time on the Closing Date.

ARTICLE 4
PURCHASE PRICE

4.1 Purchase Price. The aggregate consideration to be paid by Buyer to the designee(s) of the Company for the sale of the Acquired Assets shall be equal to the Cash Consideration (as defined below), plus the Equity Consideration (as defined below) (such aggregate consideration, together with the assumption of the Assumed Liabilities, the "**Purchase Price**").

4.1.1 Cash Consideration. The cash portion of the Purchase Price (the "**Cash Consideration**") shall be an amount equal to Eighty Million Dollars ($80,000,000.00), less the amount of the Government Receivables, plus the Net Working Capital Adjustment Amount.

4.1.2 Equity Consideration. The equity portion of the Purchase Price shall consist of (a) the number of shares of Parent Common Stock equal to the quotient of Five Million Dollars ($5,000,000.00), divided by the price per share of Parent Common Stock issued pursuant to the Equity Offering (the "**Closing Equity Consideration**") and (b) the right to receive restricted Parent Common Stock contributed from Parent to Buyer and paid over by Buyer to the Company or the appropriate Company Subsidiary or Company Subsidiaries as set forth on Schedule 4.7 in two tranches (Tranche A and Tranche B) (the "**RSUs**" and, together with the Closing Equity Consideration, the "**Equity Consideration**"). The aggregate number of RSUs in each tranche shall be as follows:

(i) The number of shares of Parent Common Stock in Tranche A will be equal to the quotient of Twelve Million Three Hundred Seventy Five Thousand Dollars ($12,375,000.00), divided by Four Dollars ($4.00).

(ii) The number of shares of Parent Common Stock in Tranche B will be equal to the quotient of Twelve Million Three Hundred Seventy Five Thousand Dollars ($12,375,000.00), divided by Five Dollars ($5.00).

The shares of Parent Common Stock subject to RSUs shall be subject to the payment conditions described in Sections 4.4 and 4.5 below.

4.2 Closing Transactions. At least three (3) Business Days prior to the Closing Date, the Company shall deliver to Buyer a certificate (the "**Closing Certificate**") signed by a duly authorized officer of the Company setting forth its estimate of (i) the amount of the Government Receivables (calculated as of 12:01 a.m. Eastern Time on the Closing Date in accordance with the Accounting Principles), (ii) the Net Working Capital Adjustment Amount and (iii) the amount of the Cash Consideration. Subject to the terms and conditions set forth in this Agreement, the parties shall consummate the following transactions on the Closing Date, which shall be deemed by the parties to have occurred simultaneously at the Closing:

4.2.1 Buyer shall pay, or cause to be paid, as directed by the Company, in accordance with the instructions set forth in the Payoff Letter, the amount necessary to discharge and fully repay the Closing Payoff Debt;

4.2.2 Buyer shall pay, or cause to be paid, on behalf of the Company, the Transaction-Related Costs that are due and payable at the Closing;

4.2.3 Buyer shall pay, or cause to be paid, on behalf of the Company, any outstanding Excluded Liabilities described in Section 2.2.2(v);

4.2.4 Buyer shall deposit, or cause to be deposited, into the Escrow Account, the Escrow Amount;

4.2.5 Buyer shall pay, or cause to be paid to the Company or the appropriate Company Subsidiary or Company Subsidiaries as set forth on Schedule 4.7, the remainder of the estimated Cash Consideration after giving effect to Sections 4.2.1 through 4.2.4;

4.2.6 Parent shall contribute to Buyer and Buyer shall pay over to the Company or the appropriate Company Subsidiary or Company Subsidiaries as set forth on Schedule 4.7, shares of Parent Common Stock representing the Closing Equity Consideration; and

4.2.7 Buyer and the Company shall make or cause to be made such other deliveries as are required by Article 7 and Article 8 hereof.

Payments in cash made or caused to be made by Buyer pursuant to this Section 4.2 shall be made by wire transfer of immediately available U.S. funds to such account(s), and pursuant to such wire instructions as are designated in writing by the Company at least three (3) Business Days prior to the Closing Date on behalf of the applicable payee(s). At least two (2) Business Days prior to the Closing Date, the Company shall deliver to Buyer a customary payoff letter (the "**Payoff Letter**"), in customary form and substance, from the lenders(s) under the Credit Facility specifying the amount necessary to discharge and fully repay the Closing Payoff Debt attributable to the Credit Facility and providing for release of all Liens under and securing the Credit Facility upon payment made in compliance therewith.

4.3 Net Working Capital. As promptly as possible, but in any event within sixty (60) days after the Closing Date, Buyer will deliver to the Company, with reasonable supporting detail, its calculation of the Net Working Capital Adjustment Amount (the "**Closing Statement**"), which shall be prepared in accordance with the Accounting Principles. After delivery of the Closing Statement, the Company and its representatives shall be permitted reasonable access to review any materials used by Buyer, its Affiliates or representatives in the preparation of the Closing Statement. Buyer shall, and shall cause its Affiliates and representatives to, use reasonable best efforts to cooperate with and respond to the Company's inquiries in connection with such review. If the Company has any objections to the Closing Statement, it shall deliver to Buyer an Objections Statement within thirty (30) days after its receipt of the Closing Statement. An Objections Statement shall set forth in reasonable detail the basis for the items being disputed in good faith. If an Objections Statement is not delivered to Buyer within thirty (30) days after receipt of the Closing Statement, the Closing Statement shall be final, binding and non-appealable by the parties hereto. The Company hereby waives the right to assert any objection, other than allegations of fraud, with respect to the Closing Statement that is not asserted in an Objections Statement delivered to Buyer within thirty (30) days after its receipt of the Closing Statement. If the Company timely delivers an Objection Statement, the Company and Buyer shall negotiate in good faith to resolve any identified objections. If they do not reach a final resolution within fifteen (15) days after the delivery of the Objections Statement, the Company or Buyer may, with written notice to the other party, submit such Dispute to the Independent Auditor. The Company and Buyer shall use their commercially reasonable efforts to cause the Independent Auditor to resolve all disagreements as soon as practicable. The resolution of any Dispute by the Independent Auditor shall be final, binding and non-appealable on the parties hereto. The costs and expenses of the Independent Auditor shall be paid fifty percent (50%) by Buyer and fifty percent (50%) by the Company. If the amount of the Net Working Capital Adjustment Amount based on the final, binding and non-appealable determination of the Net Working Capital Adjustment Amount in accordance with this Section 4.3 is greater than the estimated Net Working Capital Adjustment Amount set forth in the Closing Certificate, Buyer shall promptly pay or cause to be paid to the Company or the appropriate Company Subsidiary as set forth on Schedule 4.7 the amount of such excess in cash. If the amount of the Net Working Capital Adjustment Amount based on the final, binding and non-appealable determination of the Net Working Capital Adjustment Amount in accordance with this Section 4.3 is less than the estimated Net Working Capital Adjustment Amount set forth in the Closing Certificate, Buyer and the Company shall deliver joint written instructions to the Escrow Agent instructing the Escrow Agent to deliver promptly to Buyer or its designee an amount equal to the amount of such shortfall in cash; provided, that in no circumstances shall Buyer be entitled to recover any amount in excess of the amount of the Escrow Fund.

4.4 Payment of Parent Common Stock subject to the Tranche A RSUs. Promptly, and in any event within five (5) Business Days, following the earlier of (a) the closing price of Parent Common Stock, as reported by NASDAQ, averaging Four Dollars ($4.00) per share or above over twenty (20) consecutive trading days during the period beginning on the Closing Date and ending December 31, 2019 or (b) a Change of Control that occurs on or prior to December 31, 2017 or a Change of Control thereafter but on or prior to December 31, 2019 pursuant to which the consideration payable per share equals or exceeds $4.00 per share, the shares of Parent Common Stock to be paid over pursuant to the RSUs in Tranche A will be contributed by Parent to Buyer, and Buyer shall pay over such shares to the Company or the appropriate Company Subsidiary or Company Subsidiaries as set forth on Schedule 4.7. Notwithstanding the foregoing delivery requirement, for the avoidance of doubt, in connection with any Change of Control of the type described in clause (b), the shares of Parent Common Stock to be paid over pursuant to the RSUs in Tranche A will participate in such Change of Control to the same extent as the other shares of Parent Common Stock issued and outstanding as of such time.

4.5 Payment of Parent Common Stock subject to the Tranche B RSUs. Promptly, and in any event within five (5) Business Days, following the earlier of (a) the closing price of Parent Common Stock, as reported by NASDAQ, averaging Five Dollars ($5.00) per share or above over twenty (20) consecutive trading days during the period beginning on the Closing Date and ending December 31, 2019 or (b) a Change of Control that occurs on or prior to December 31, 2017 or a Change of Control thereafter but on or prior to December 31, 2019 pursuant to which the consideration payable per share equals or exceeds $5.00 per share, the shares of Parent Common Stock to be paid over pursuant to the RSUs in Tranche B will be contributed by Parent to Buyer, and Buyer shall pay over such shares to the Company or the appropriate Company Subsidiary or Company Subsidiaries as set forth on Schedule 4.7. Notwithstanding the foregoing delivery requirement, for the avoidance of doubt, in connection with any Change of Control of the type described in clause (b), the shares of Parent Common Stock to be paid over pursuant to the RSUs in Tranche B will participate in such Change of Control to the same extent as the other shares of Parent Common Stock issued and outstanding as of such time.

4.6 Escrow. The Escrow Amount shall be held in the Escrow Account in accordance with the terms and conditions of the Escrow Agreement until such time as any amounts remaining in the Escrow Account shall be released to the Company or the appropriate Company Subsidiary or Company Subsidiaries as set forth on Schedule 4.7 in accordance with the terms and conditions of the Escrow Agreement.

4.7 Allocation of Purchase Price; Bill of Sale, Assignment and Assumption Agreement. The Company and Buyer shall cooperate in good faith to agree upon, promptly following the date hereof, an allocation of the purchase price (as determined for Tax purposes) as among the Acquired Assets and among the Company and its Subsidiaries in accordance with Section 1060 of the Code. If the Company and Buyer do not reach agreement within thirty (30) days, the dispute resolution provisions of Section 4.3 shall apply, *mutatis mutandis*; provided, that the Company and Buyer shall cause the Independent Auditor to make its determination (which shall be in accordance with Section 1060 of the Code) no later than five (5) Business Days prior to the Closing Date. The allocation determined pursuant to either of the previous two (2) sentences shall be final and binding, and shall be attached to this Agreement as Schedule 4.7. The parties shall not take any position for Tax purposes inconsistent with such allocation. Any subsequent adjustments to the purchase price shall be allocated in a manner consistent with such allocation, except otherwise required by applicable Law.

4.8 Bulk Sales Laws. The parties hereto shall use commercially reasonable efforts to comply with the provisions of any tax clearance procedures, bulk sales, bulk transfer or similar laws of any jurisdiction that may otherwise be applicable with respect to the sale of any or all of the Acquired Assets to Buyer pursuant to this Agreement, and acknowledge and agree that any Liabilities arising in connection with the foregoing shall be borne by the party charged with such Liability under applicable law.

4.9 No Withholding for Taxes. No Buyer Parties (or its Affiliates) shall be entitled to deduct and withhold any amount from the consideration otherwise payable pursuant to or contemplated by this Agreement, except such amounts as a Buyer Party (or any of its Affiliates) is required to deduct and withhold with respect to the making of such payment under the Code, or any provision of state, local or foreign Tax law. Any withheld amounts shall be paid over to the appropriate Taxing authority and treated for all purposes of this Agreement as having been paid to the Person in respect of which such deduction and withholding was made.

ARTICLE 5
REPRESENTATIONS AND WARRANTIES CONCERNING THE COMPANY AND COMPANY SUBSIDIARIES

Except as set forth in the Disclosure Schedule pursuant to Section 13.15, the Company hereby represents and warrants to the Buyer Parties that, as of the date hereof, or, if specified as of a particular date, as of such date:

5.1 Organization and Good Standing. The Company is a corporation and is duly organized, validly existing and in good standing under the laws of the State of Delaware. The Company has not had any other legal names or operated using any other name during the last five (5) years. The Company has the full corporate power and authority and all licenses, permits and authorizations necessary to carry on its business as now presently conducted and to own, lease and operate the properties and assets it now owns or leases, except where the failure to have such licenses, permits and authorizations, as applicable, has not had, and would not reasonably be expected to have, a Company Material Adverse Effect. Schedule 5.1 of the Disclosure Schedule lists all of the states in which the Company is qualified to do business. The Company is qualified to conduct business in all states where the nature of the business transacted or properties owned by it makes such qualification necessary, except where the failure to be so qualified has not had, and would not reasonably be expected to have, a Company Material Adverse Effect.

5.2 Authorization; No Breach; Obligations.

5.2.1 The Company has the full corporate power and authority necessary to execute and deliver this Agreement and the other documents and instruments required to be signed by the Company hereunder and to perform its obligations hereunder and thereunder, and the Company has duly authorized, executed and delivered this Agreement. All corporate actions and other authorizations prerequisite to the Company's execution of this Agreement and the consummation of the transactions contemplated by this Agreement have been taken or obtained by the Company. Assuming due authorization, execution and delivery by the other parties hereto and thereto, this Agreement and all other documents and instruments required to be signed by the Company hereunder constitute or, when signed by the Company, will constitute, the legal, valid and binding obligations of the Company, enforceable against it in accordance with their respective terms, except insofar as enforcement hereof may be limited by bankruptcy, insolvency or other similar laws. Except as set forth on Schedule 5.2.1 of the Disclosure Schedule, the execution, delivery and consummation of this Agreement and the transactions contemplated herein will not violate or give any third party the right to modify, suspend, terminate, or accelerate any obligation under any Material Contract, and will not create any Lien upon the capital stock or assets of the Company or any Company Subsidiary.

5.2.2 The Company's execution and delivery of this Agreement and the consummation of the transactions contemplated hereby will not result in (a) any material conflict, breach or violation of or default under (i) its articles of incorporation or bylaws, or (ii) any statute, judgment, order, decree, license, law or regulation; or (b) any material conflict, breach or violation of or default under any judgment, order, decree, license, law or regulation applicable to the Company or any Company Subsidiary.

5.3 Capitalization. There are Eleven Million (11,000,000) shares of capital stock of the Company authorized for issuance, consisting of One Million (1,000,000) shares of Class L Common Stock, par value $0.001 per share (the "**Class L Common Stock**") and Ten Million (10,000,000) shares of Class A Common Stock, par value $0.001 per share (the "**Class A Common Stock**"). As of the date hereof, there are 10,789.103 shares of Class L Common Stock issued and outstanding and 100,673.261 shares of Class A Common Stock issued and outstanding. All of the outstanding shares of the Company's capital stock are duly authorized, validly issued, fully paid and nonassessable. None of the outstanding equity securities or other securities of the Company was issued in violation of the Securities Act or any other legal requirement concerning the issuance of securities. The Company is not subject to any obligation (contingent or otherwise) to repurchase or otherwise acquire or retire any of its capital stock. Except as set forth on Schedule 5.3 of the Disclosure Schedule, there are no (i) options, warrants, preemptive or other similar rights outstanding to purchase any equity security of the Company, or (ii) contracts for the purchase and sale of any outstanding shares of capital stock or any outstanding rights relating to the issuance, sale, or transfer of any equity securities or other securities of the Company. The Company does not have outstanding any bonds, debentures, notes or other obligations, the holders of which have the right to vote with the Shareholders on any matter.

5.4 Governing Documents. True and correct copies of the certificate of incorporation (or equivalent) and all amendments thereto and bylaws (or equivalent) and all amendments thereto, in each case, in effect as of the date hereof, of the Company and each Company Subsidiary have been provided to the Buyer Parties. The books and records of the Company and each Company Subsidiary have been made available to the Buyer Parties.

5.5 Subsidiaries. Schedule 5.5 of the Disclosure Schedule sets forth a complete and accurate list of the name and jurisdiction of organization of each Subsidiary of the Company (each a "**Company Subsidiary**" and collectively, the "**Company Subsidiaries**"), the authorized, issued and outstanding capital stock of each Company Subsidiary, the states in which each Company Subsidiary is qualified to do business and any names under which each Company Subsidiary engages in business. Each of the outstanding shares of the capital stock of the Company Subsidiaries is duly authorized, validly issued, fully paid and non-assessable and is directly owned of record as set forth on Schedule 5.5 of the Disclosure Schedule, free and clear of any Liens other than Permitted Liens. Except as set forth on Schedule 5.5 of the Disclosure Schedule, neither the Company nor any Company Subsidiary owns, directly or indirectly, any capital stock of, or equity ownership or voting interest in, any Person. Each Company Subsidiary (a) is a corporation or other legal entity duly organized, validly existing and in good standing under the laws of its jurisdiction of organization, (b) has all requisite power to own and operate its properties and to carry on its businesses as now conducted, and (c) is, where applicable, duly qualified to do business and is, where applicable, in good standing in every jurisdiction in which its ownership of property of the conduct of its business as now conducted requires it to qualify, except in the case of the preceding clauses (b) and (c) where the failure to have such power or to be so qualified, as applicable, has not had, and would not reasonably be expected to have, a Company Material Adverse Effect. Except as set forth on Schedule 5.5 of the Disclosure Schedule, no Company Subsidiary has had any other legal names or operated using any other name during the last five (5) years.

5.6 Financial Statements.

5.6.1 Attached hereto as Schedule 5.6.1 of the Disclosure Schedule are the audited consolidated financial statements of the Company for the fiscal years ended 2014 and 2015, and the unaudited consolidated financial statements of the Company for the interim period ended March 31, 2016 ("**Mid-Year Interim Financial Statements**"). All of the foregoing financial statements are herein called the "**Financial Statements**". The Financial Statements have been prepared in accordance with GAAP, except as noted therein (subject, in the case of the Mid-Year Interim Financial Statements, to the absence of footnotes and to normal year-end adjustments) and, to the Company's knowledge, present fairly, in all material respects, the financial position of the Company and the Company Subsidiaries, and present fairly, in all material respects, the results of the operations and cash flows of the Company and the Company Subsidiaries for their respective periods and on their respective dates, as applicable.

5.6.2 Except as set forth in the Financial Statements or as disclosed in this Agreement (including the Disclosure Schedule), the Company and the Company Subsidiaries have no liabilities or obligations that are required by GAAP to be reflected on a balance sheet or in the notes thereto, except for liabilities incurred since the date of the Mid-Year Interim Financial Statements in the ordinary course of business which would not reasonably be expected to have a Company Material Adverse Effect or in connection with the transactions contemplated hereby.

5.6.3 Since the date of the Mid-Year Interim Financial Statements, there has not been any change or effect that constitutes a Company Material Adverse Effect.

5.7 Assets and Property.

5.7.1 Except as set forth on Schedule 5.7 of the Disclosure Schedule, the Company and the Company Subsidiaries have, and will convey and assign to Buyer or its applicable Subsidiary as of the Closing, good and marketable title to, or a valid leasehold interest in, all of the Acquired Assets, free and clear of all Liens other than Permitted Liens and Liens securing the Credit Facility. The Acquired Assets constitute all of the assets, properties, rights and interests, other than the Excluded Assets, used to conduct the Business.

5.7.2 Except for pumps located at patient homes and except as set forth on Schedule 5.7 of the Disclosure Schedule, none of the Assets is in the possession of unaffiliated third parties and the Company does not hold any material quantity of the Assets on consignment. None of the Acquired Assets includes any outstanding capital stock of, or other equity interest in, any Person or any right to acquire, directly or indirectly, any such outstanding capital or equity interest.

5.7.3 All of the Leases relating to material Leased Equipment are in full force and effect and constitute legal, valid and binding obligations of the Company or a Company Subsidiary, subject to applicable limitations under bankruptcy, insolvency or other similar laws, and with no existing or claimed default or event of default, or event which with notice or lapse of time or both would constitute a default or event of default, by the Company or a Company Subsidiary, or, to the Company's knowledge, by any other party thereto. Except as set forth on Schedule 5.7, of the Disclosure Schedule, none of the Equipment is leased pursuant to a capital lease.

5.8 Bank Accounts; Letters of Credit.

5.8.1 Schedule 5.8.1 of the Disclosure Schedule lists all deposit accounts, lockbox accounts, securities accounts and commodity accounts maintained by the Company and any Company Subsidiary, including the name of each institution where each such account is held, the name of each such account, the owners of each such account, the account number for each such account and indication of the type of account.

5.8.2 Schedule 5.8.2 of the Disclosure Schedule sets forth all letters of credit issued in favor of the Company or any Company Subsidiary, as beneficiary thereunder, including the amount of each letter of credit.

5.9 Leased Real Property. The Leased Real Property constitutes all of the real property leased by the Company. Schedule 5.9 of the Disclosure Schedule sets forth a list of all of the Leases for the Leased Real Property and such Leases have not been amended, modified, supplemented, extended, renewed or assigned except as set forth on Schedule 5.9 of the Disclosure Schedule. With respect to each Lease for the Leased Real Property, neither the Company nor any Company Subsidiary, or to the Company's knowledge, any of the other counterparties thereto is in material default under any such Lease. Each of the Company and the Company Subsidiaries, as applicable, has a valid leasehold interest in its Leased Real Property free and clear of any Liens other than Permitted Liens and Liens securing the Credit Facility. Each of the Leases for the Leased Real Property is in full force and effect, except insofar as the effectiveness of such Lease may be limited by bankruptcy, insolvency or similar laws. Neither the Company nor any Company Subsidiary has received any written notice within the past twenty-four (24) months of any pending or, to the Company's knowledge, threatened condemnations, planned public improvements, annexations or zoning, subdivision changes, or the bankruptcy or insolvency of any landlord under any Lease that would reasonably be expected to have a material and adverse effect on the Leased Real Property. All material licenses and permits required for the occupancy and operation on the Leased Real Property as presently being used have been obtained and are in full force and effect, and, in the last three (3) years, neither the Company nor any Company Subsidiary has received any written notice of violations in connection with the same. The present use of the Leased Real Property is in material compliance with all applicable zoning ordinances, occupancy codes, building codes, fire codes, and other local governmental regulations, and any applicable recorded covenants. Neither the Company nor any Company Subsidiary has subleased, licensed or otherwise granted anyone the right to use or occupy the Leased Real Property or any portion thereof. Neither the Company nor any Company Subsidiary has collaterally assigned or granted any other security interest in any Lease that will not be released at Closing. The Company or a Company Subsidiary is in full and complete possession of the Leased Real Property and has commenced full occupancy and use of the Leased Real Property. Except as set forth on Schedule 5.9 of the Disclosure Schedule, none of the Leases requires the consent of any third party prior to the consummation by the parties of the transactions contemplated by this Agreement.

5.10 Owned Real Property. The Company does not own any real property.

5.11 Environmental Laws and Regulations. (a) To the Company's knowledge, the Company and each Company Subsidiary is, and, during the last three (3) years, has been, in material compliance with all applicable Environmental Requirements relating to the Business and the Leased Real Property, and any other property in which the Company or any Company Subsidiary has had an ownership interest, including any Environmental Requirements relating to the use, storage, treatment, disposal or transportation of any Materials of Environmental Concern, (b) to the Company's knowledge, during the occupancy and operation of the Leased Real Property by the Company or any Company Subsidiary and any other property in which the Company or any Company Subsidiary has had an ownership interest, no release, leak, discharge, spill, disposal, or emission of any Materials of Environmental Concern has occurred in, on, or under the Leased Real Property in a quantity or manner that violates or may give rise to material liability under Environmental Requirements; (c) the Company and the Company Subsidiaries do not use, treat, store, dispose or transport any Materials of Environmental Concern in a quantity that could give rise to material liability under Environmental Requirements; (d) there is no pending or, to the knowledge of the Company, threatened litigation or administrative proceeding or investigation (whether civil, criminal or administrative) involving any Materials of Environmental Concern or Environmental Requirements concerning the Business or the Leased Real Property and (e) the Company has delivered to the Buyer Parties true and complete copies of any material reports or audits possessed or initiated by the Company or any Company Subsidiary pertaining to Materials of Environmental Concern or Environmental Requirements related to the Business, Leased Real Property, or any other property in which Company or any Company Subsidiary has had an ownership interest or at which Materials of Environmental Concern may have been generated, handled, treated, stored or disposed of by the Business.

5.12 Compliance with Law. The operations of the Company and each Company Subsidiary are, and during the last three (3) years have been, conducted in substantial and material compliance with all laws, regulations, orders and other applicable legal requirements of all courts and other Governmental Entities having jurisdiction over the Company, any Company Subsidiary or any of their employees, assets, properties and operations. No material violation or default of any law, regulation, order or other legal requirement exists and neither the Company nor any Company Subsidiary is in material default with respect to any order, writ, judgment, award, injunction or decree of any Governmental Entity or arbitrator, domestic or foreign, applicable to the Company, any Company Subsidiary or any of their assets, properties or operations with respect thereto. The Company has furnished to the Buyer Parties true and correct copies of all audit response letters pertaining to the Company or any Company Subsidiary received in the twenty-four (24) months preceding the date hereof from legal counsel devoting substantive attention to matters which may result in any material liability or obligation of the Company or any Company Subsidiary. This Section does not relate to healthcare matters, Tax or environmental matters.

5.13 Litigation or Claims. Except as disclosed on Schedule 5.13 of the Disclosure Schedule, there are no material claims, actions, suits, proceedings or investigations pending or, to the knowledge of Company, threatened before any Governmental Entity, or before any arbitrator or mediator of any nature, brought by or against the Company, any Company Subsidiary or any of their officers, directors, employees, or agents involving, affecting or relating to the business of the Company, any Company Subsidiary or their assets or the transactions contemplated by this Agreement. Neither the Company nor any Company Subsidiary is subject to any order, writ, judgment, award, injunction or decree of any Governmental Entity or arbitrator, domestic or foreign, that materially affects the business or assets of the Company or any Company Subsidiary, or that could reasonably be expected to materially interfere with the transactions contemplated by this Agreement.

5.14 Licenses and Permits. Schedule 5.14 of the Disclosure Schedule sets forth a true and complete list of all healthcare Licenses and Permits and all pending applications therefor. Each healthcare License and Permit has been duly obtained, is valid and in full force and effect, and is not subject to any pending or, to the Company's knowledge, threatened administrative or judicial proceeding to revoke, cancel, suspend or declare such License and Permit invalid in any respect. Except as provided in Schedule 5.14 of the Disclosure Schedule, and assuming compliance with the HSR Act, no material pre-Closing consent of any federal, state or local authority or accrediting body is required in connection with the execution, delivery and performance of this Agreement by the Company. The licenses and permits set forth on Schedule 5.14 of the Disclosure Schedule constitute all of the healthcare Licenses and Permits necessary for Company and the Company Subsidiaries to lawfully conduct and operate its business in the manner in which it is currently conducted and to operate its business and to permit the Company and the Company Subsidiaries to own and use their assets in the manner in which they currently own and use such assets. Except as set forth on Schedule 5.14 of the Disclosure Schedule, during the last three (3) years, the Company and Company Subsidiaries have held and maintained all material Licenses and Permits necessary to lawfully conduct and operate their business. Each employee has all Licenses and Permits necessary for his or her performance of duties for Company and all such Licenses and Permits are valid and in full force and effect.

5.15 Insurance.

5.15.1 Schedule 5.15.1 of the Disclosure Schedule lists all policies of insurance to which the Company or any Company Subsidiary is a party or under which the Company, any Company Subsidiary or any director of Company or any Company Subsidiary, is or has been covered at any time within the two (2) years preceding the date of this Agreement. The Company and the Company Subsidiaries have maintained, at all times during the last three (3) years, insurance coverage for professional liability, general liability and workers' compensation.

5.15.2 All policies of insurance coverage for professional liability, general liability and workers' compensation to which the Company or any Company Subsidiary is a party or that provide coverage to the Company, any Company Subsidiary or any director or officer of the Company or any Company Subsidiary:

(i) are valid, outstanding, and enforceable;

(ii) are issued by an insurer that is financially sound and reputable; and

(iii) are sufficient for compliance with all material legal requirements and Material Contracts to which the Company and each Company Subsidiary is a party or by which any of them are bound.

5.15.3 Other than in connection with insurance policy renewals in the ordinary course of business, during the last three (3) years, neither the Company nor any Company Subsidiary has received from any professional liability, general liability or workers' compensation insurer (A) any refusal of coverage, or (B) any notice of cancellation or any other indication that any insurance policy is no longer in full force or effect or will not be renewed or that the issuer of any such policy is not willing or able to perform its obligations thereunder.

5.15.4 The Company and the Company Subsidiaries have paid all premiums due, and have otherwise performed in all material respects all of their obligations, under each insurance policy to which the Company or any Company Subsidiary is a party.

5.16 Employment.

5.16.1 The Company and each Company Subsidiary is, and has been since December 31, 2013, in material compliance with all applicable laws relating to employment and employment practices, including payroll obligations, conditions of employment, employee and independent contractor classification, wages and hours, occupational safety and health, workers compensation, unemployment benefits, laws concerning leave requirements, laws prohibiting discrimination and retaliation and laws concerning unfair labor practices within the meaning of Section 8 of the National Labor Relations Act, as amended, and the employment of non-residents under the Immigration Reform and Control Act of 1986, as amended. To the Company's knowledge, no Employee of Company or any Company Subsidiary is in violation or breach of any non-compete, nondisclosure, confidentiality, employment, consulting or similar restrictive covenant agreement, or in conflict with the Company's or any Company Subsidiary's present business activities, and neither the Company nor any Company Subsidiary has received any notice alleging that any violation of any such restrictive covenants has occurred.

5.16.2 The Company has provided to the Buyer Parties a true and correct copy (as of the date provided) of a census containing the names, job titles or positions, annual or hourly rate of compensation (as applicable), annual bonus target, if any, and potential severance entitlements of all Employees of the Company and each Company Subsidiary. Except as indicated on Schedule 5.16.2 of the Disclosure Schedule, no Employee has a written employment agreement with the Company or any Company Subsidiary. Neither the Company nor any Company Subsidiary is a party to a collective bargaining agreement or similar agreement with any labor organization or employee association. Neither the Company nor any Company Subsidiary has received notice from the National Labor Relations Board that a petition for recognition for a collective bargaining unit has been filed by or on behalf of its Employees, nor, to the Company's knowledge, has there been any attempts by any union to obtain recognition as a bargaining agent in respect thereof.

5.16.3 To the Company's knowledge, there are no material charges, governmental audits, investigations, administrative proceedings or complaints concerning employment practices of Company or any Company Subsidiary pending or threatened before any federal, state or local agency or court, and, to the Company's knowledge, no basis for any such matter exists.

5.16.4 To the Company's knowledge, there are no material inquiries, investigations or monitoring of activities of any licensed, registered, or certified health care professional personnel employed by the Company or any Company Subsidiary pending or threatened by any state professional board or agency charged with regulating the professional activities of such health care practitioners.

5.16.5 Since December 31, 2013, neither the Company nor any Company Subsidiary has experienced any organized slowdown, work interruption, strike, or work stoppage by the employees.

5.16.6 Since December 31, 2013, neither the Company nor any Company Subsidiary has implemented any plant closings, layoffs, relocations or other employment losses sufficient to trigger obligations under the federal Worker Adjustment and Retraining Notification Act, or any other similar applicable state law.

5.16.7 Notwithstanding anything in this Agreement to the contrary, the representations and warranties made by the Company set forth in this Section 5.16 are the sole and exclusive representations and warranties made regarding employment and labor matters.

5.17 Employee Benefits Matters.

5.17.1 Plans. Except as set forth on Schedule 5.17.1 of the Disclosure Schedule, neither the Company nor any Company Subsidiary is a party to, and no Employee or former employee of the Company or any Company Subsidiary benefits by virtue of its employment or former employment with the Company or any Company Subsidiary under, any agreement, arrangement, plan, or policy, qualified or non-qualified, that involves any (a) pension, retirement, profit sharing, deferred compensation, bonus, stock option, stock purchase, phantom stock or incentive plan; (b) welfare or material "fringe" benefits, including, without limitation vacation, severance, disability, medical, hospitalization, dental, life and other insurance, tuition, company car, club dues, sick leave, maternity, paternity or family leave, health care reimbursement, dependent care assistance or cafeteria plan or other similar benefits; or (c) employment or consulting, retainer or golden parachute agreement or arrangement, including without limitation any "employee benefit plan" (as defined in ERISA Section 3(3)), (together "**Plans**" and each item thereunder a "**Plan**"). Neither the Company nor any Company Subsidiary has liability or obligation to provide life, medical or other welfare benefits to former or retired employees, other than under COBRA.

5.17.2 Disclosure. To the extent applicable with respect to each Plan, true, correct and complete copies of the following documents have been made available to the Buyer Parties: (i) IRS determination or opinion letter; (ii) the three (3) most recently filed Forms 5500, including without limitation all schedules thereto, all financial statements with attached opinions of independent accountants; (iii) all plan documents and amendments thereto and any written policies, forms and/or procedures used in the administration of such Plans; and (iv) summary plan descriptions and any summaries of material modifications.

5.17.3 Compliance with Applicable Law. Each Plan and related funding instrument complies with and has been administered, operated, and maintained in material compliance with its terms and applicable law, including, where applicable, Code Section 401(a). With respect to each Plan, neither the Company nor any Company Subsidiary has direct or indirect material liability under the requirements provided by any and all statutes, orders or governmental rules or regulations applicable to or governing each Plan. With respect to each Plan, no prohibited transaction (as defined in ERISA Section 406 or Code Section 4975) or violation of ERISA Section 407 for which an applicable statutory or administrative exemption does not exist has occurred that would reasonably be expected to result in material liability.

5.17.4 Claims/Liability. Except as listed on Schedule 5.17.4 of the Disclosure Schedule, and to the Company's knowledge, there is no pending or threatened legal action, proceeding or investigation, suit, grievance, arbitration or other manner of litigation, or claim against or involving any Plan and, to the Company's knowledge, no facts exist that would give rise to any legal action, proceeding or investigation, suit, grievance, arbitration or other manner of litigation, or claim, other than routine claim for benefits. Neither the Company nor any Company Subsidiary or of their directors, officers, employees or any plan fiduciary has any material liability for failure to comply with ERISA, HIPAA, COBRA or the Code for any action or failure to act in connection with the administration or investment of any Plan. Neither the Company nor any Company Subsidiary has liability by virtue of its being a member of a controlled group with a person who has liability under the Code or ERISA. In the past three (3) years, neither the Company nor any Company Subsidiary has made any voluntary correction program submission to either the Internal Revenue Service or the Department of Labor with respect to any compliance failure or operational failure as relates to any Plan and no such voluntary correction program submissions remain outstanding with the Internal Revenue Service or the Department of Labor which are related to any Plan.

5.17.5 Contributions/Premiums. All contributions that are required to be made with respect to the Plans for all periods ending prior to the Closing Date will be made prior to the Closing Date by the Company and all members of the controlled group in accordance with past practice. All contributions that were required to be made to the Plans have been made on a timely basis in accordance with ERISA and the Code. All insurance premiums that were required to be paid have been paid in full, subject only to normal retrospective adjustments in the ordinary course, with regard to the Plan for policy years or other applicable policy periods ending on or before the Closing Date.

5.17.6 Qualified Pension Plans. Except as set forth on Schedule 5.17.6 of the Disclosure Schedule, neither the Company nor any Company Subsidiary is a party to any plan described in Section 3(2) of ERISA ("**Pension Plan**") that is intended to qualify under Code Section 401(a) and Code Section 501(a) and each such Pension Plan and its related trust, if any, are qualified under Code Section 401(a) and Code Section 501(a) and have been determined by the IRS to qualify thereunder for all applicable requirements and, to the Company's knowledge, nothing has occurred to cause the loss of the Pension Plans' qualification.

5.17.7 Title IV Pension Plans, Multi-Employer Plans and Terminated Plans. Neither the Company nor any Company Subsidiary has ever made or been required to make any contributions to any Plan which is subject to the provisions of Title IV of ERISA or to any multi-employer plan (as defined in ERISA Section 3(37) of 4001(a)(3)), and neither the Company nor any Company Subsidiary has ever been a member of a controlled group which contributed to any such Plans. Neither the Company nor any Company Subsidiary has terminated or taken action within the last six (6) taxable years to terminate (in part or in whole) any employee pension benefit plan as defined in Section 3(2) of ERISA.

5.17.8 No Triggering of Obligations. Other than as set forth in Schedule 5.17.8 of the Disclosure Schedule, the consummation of the transaction contemplated by this Agreement, other than by reason of actions taken by a Buyer Party following the Closing, will not (i) entitle any current or former employee of Company or any Company Subsidiary to severance pay, unemployment compensation or any other payment, (ii) accelerate the time of payment or vesting, or increase the amount of any compensation due to any current or former employee of Company or any Company Subsidiary, or (iii) give rise to the payment of any amount that would not be deductible pursuant to Code Section 280G.

5.17.9 COBRA. To the extent applicable, the Company and each Company Subsidiary has complied with the provisions of ERISA Section 601 et seq. and Code Section 4980B. Further, the Company and Company Subsidiaries shall also remain responsible for and continue to provide any applicable health care continuation coverage under Code Section 4980B to employees or their dependents if the "qualifying event" (as defined in Code Section 4980B(f)(3)) occurred prior to Closing.

5.17.10 Health and Welfare Plans and VEBAs. Neither the Company nor any Company Subsidiary has established, maintained, or contributed to, or had any obligation to establish, maintain or contribute to:

(i) a multiple employer welfare arrangement within the meaning of ERISA Section 3(40)(A); or

(ii) a voluntary employees' beneficiary association under Code Section 501(c)(9).

5.17.11 Section 409A. Each of the Plans that is subject to Code Section 409A in whole or in part has been administered to comply in all material respects with the requirements of Code Section 409A.

5.17.12 Notwithstanding anything in this Agreement to the contrary, the representations and warranties made by the Company set forth in this Section 5.17 are the sole and exclusive representations and warranties made regarding the Plans and employee benefits matters.

5.18 Contracts. All Material Contracts in effect as of the date hereof are listed on Schedule 5.18 of the Disclosure Schedule. Except as disclosed on Schedule 5.18 of the Disclosure Schedule, none of the Material Contracts requires the consent of any third party prior to the consummation by the parties of the transactions contemplated by this Agreement. The Company has delivered to the Buyer Parties true and complete copies of all Material Contracts. None of the Material Contracts contains any covenant or commitment that in any material respect purports to restrict the business activity of the Company or any Company Subsidiary or limit the freedom of the Company or any Company Subsidiary to engage in any line of business or to compete with any person, other than as relates to ordinary course confidentiality obligations. The Material Contracts are valid and effective in accordance with their terms, except insofar as enforcement thereof may be limited by bankruptcy, insolvency or similar laws, and there is not under any Material Contract (i) any existing or claimed material default by the Company or any Company Subsidiary or event which, with notice or lapse of time or both, would constitute a material default by Company or any Company Subsidiary or (ii) to the Company's knowledge, any existing or claimed material default by any other party or event which, with notice or lapse of time or both, would constitute a material default by any such party. Except as set forth on Schedule 5.18 of the Disclosure Schedule, the continuation, validity and effectiveness of the Material Contracts will not be materially affected by the transactions contemplated hereunder, and such transactions will not result in a material breach of or default under any of such Material Contracts. There is no pending or, to the knowledge of Company, threatened termination or cancellation of any Material Contract. To the knowledge of Company, there is no pending or threatened bankruptcy, insolvency or similar proceeding with respect to any other party to any of the Material Contracts. Neither the Company nor any Company Subsidiary is a party to any interest rate, commodity or other similar swap, cap, collar, futures contract or other hedging arrangement.

5.19 Tax Matters.

5.19.1 The Company has filed or caused to be filed (on a timely basis) and subject to all permitted extensions, all income and other material Tax Returns relating to or required by law to be filed by the Company or any Company Subsidiary or with respect to Company or any Company Subsidiary, either separately or as a member of a group of corporations, in connection with any Taxes, with the appropriate Governmental Entities in all jurisdictions in which such Tax Returns are required to be filed, and all Tax Returns are true, correct and complete in all material respects insofar as they reflect the current liability for Taxes shown as due thereon. All Taxes that are shown as due on such Tax Returns have been timely paid, or delinquencies cured with payment of any applicable penalties and interest, as of the Closing Date. Neither the Company nor any Company Subsidiary has requested any extension of time within which to file any Tax Return (other than extensions entered into in the ordinary course of business in connection with the filing of Tax Returns), which Tax Return has not since been filed. There are no Liens for Taxes, other than Liens described in clause (a) of the definition of Permitted Liens. No adjustment or deficiency of any Tax or claim for additional Taxes has been proposed, asserted or assessed, or threatened against Company or any Company Subsidiary in writing. There are no audits or other examinations being conducted or threatened in writing, and there is no deficiency or refund litigation or controversy in progress or, threatened in writing with respect to any Taxes previously paid by Company or any Company Subsidiary or with respect to any Tax Returns previously filed by the Company or any Company Subsidiary or on behalf of Company or any Company Subsidiary. Neither the Company nor any Company Subsidiary has made any extension or waiver of any statute of limitations relating to the assessment or collection of Taxes (other than extensions entered into in the ordinary course of business in connection with the filing of Tax Returns).

Notwithstanding anything to the contrary in this Agreement, nothing in this Agreement (including this Section 5.19) shall be construed as providing a representation or warranty with respect to the existence, amount, expiration date or limitations on (or availability of) any Tax attribute of the Company or any Company Subsidiary (including methods of accounting of the Company or any Company Subsidiary).

5.20 Brokers and Investment Advisors. Except as set forth on Schedule 5.20 of the Disclosure Schedule, neither the Company nor any Company Subsidiary has employed, contracted for the services of or authorized any broker, finder or investment advisor with respect to the negotiations leading up to the execution of this Agreement or the consummation of the transactions contemplated hereby.

5.21 Payment Programs. All Company Payment Programs, including provider numbers, are listed on Schedule 5.21 of the Disclosure Schedule. Company or a Company Subsidiary, as applicable, is a participating provider, in good standing, in each Company Payment Program. There is no pending, concluded or, to the knowledge of Company, threatened investigation, or civil, administrative or criminal proceeding relating to participation by Company or any Company Subsidiary in any Payment Program, except as disclosed on Schedule 5.21 of the Disclosure Schedule. Except as set forth on Schedule 5.21 of the Disclosure Schedule, neither Company nor any Company Subsidiary is subject to, nor have any of them been subjected to, any pre-payment utilization review or other utilization review by any Payment Program. No Payment Program has requested or threatened in writing any recoupment or set-off from Company or any Company Subsidiary. Company or a Company Subsidiary has paid or repaid all known and undisputed refunds, overpayments, discounts or adjustments. Except as set forth on Schedule 5.21 of the Disclosure Schedule, there are no pending appeals, audits, litigation or notices from any Payment Program of intent to audit with respect to any prior reports or billings. Except as disclosed on Schedule 5.21 of the Disclosure Schedule, since December 31, 2013, neither Company nor any Company Subsidiary has been audited by any Payment Program. Since December 31, 2013, no Payment Program has imposed a fine, penalty or other sanction on Company or any Company Subsidiary. None of Company, any Company Subsidiary, shareholder, employee or independent contractor has been excluded from participation in any Payment Program. Since December 31, 2013, all billing practices of the Company or any of the Company's Subsidiaries have been conducted in compliance in all material respects with all applicable laws and the billing guidelines of the Payment Programs. All Medicare, Medicaid and third party reports and claims filed or required to be filed by or on behalf of Company or any Company Subsidiary have been timely filed and are complete and accurate in all material respects.

Neither Company nor, to the knowledge of the Company, any of Company's Affiliates, directors, officers, employees or agents has, directly or indirectly, (i) offered to pay to or solicited any remuneration from, in cash, property or in kind, or made any financial arrangements with, any past or present patient or customer, or physician, other health care provider, supplier, contractor, third party, or Payment Program in order to induce or directly or indirectly obtain business or payments from such person, including without limitation any item or service for which payment may be made in whole or in part under any federal, state or private health care program, or for purchasing, leasing, ordering or arranging for or recommending, purchasing leasing, or ordering any good, facility, service or item for which payment may be made in whole or in part under any federal, state or private health care program, in violation of any applicable laws or regulations; or (ii) made or agreed to make any agreement to make, any contribution, payment or gift of funds or property to, or for the private use of, any governmental official, employee or agent where either the contribution, payment or gift or the purpose of such contribution, payment or gift is or was illegal under the laws of the United States or under the laws of any state thereof or any other jurisdiction in which such payment, contribution or gift was made. Neither Company nor any Company Subsidiary has billed for or received any payment or reimbursement in excess of amounts permitted by law or the rules and regulations of Payment Programs or contracts therewith.

5.22 Inventory. The amount and quality of the Inventory is consistent with normal operating levels maintained by the Company and the Company Subsidiaries in keeping with past practice. The Inventory conforms in all material respects to generally acceptable quality standards in the Company's industry. None of the Inventory is beyond its outdate.

5.23 Transactions With Affiliates. Except as set forth on Schedule 5.23 of the Disclosure Schedule, and other than for compensation received by officers and employees in the ordinary course of business, no shareholder, director, officer or employee of the Company or any Company Subsidiary or, to the Company's knowledge, any member of the immediate family of any such person, or any corporation, partnership, trust or other entity in which any such person, or, to the Company's knowledge, any member of the immediate family of any such person, has a substantial interest in, or is an officer, director, trustee or partner of, any Person that is a party to any material transaction with the Company or any Company Subsidiary, including any contract, agreement or other arrangement providing for the furnishing of goods or services by, rental of real or personal property from or to, or otherwise requiring payments or involving other obligations to any such Person.

5.24 Absence of Certain Events. Since January 1, 2016, the Company and the Company Subsidiaries have conducted their business in all material respects in the ordinary course (aside from steps taken in contemplation of the transactions contemplated hereby). As amplification and not in limitation of the foregoing, since January 1, 2016, except as disclosed on Schedule 5.24 of the Disclosure Schedule, there has not been:

5.24.1 Any change in the authorized or issued capital stock of the Company or any Company Subsidiary; grant of any stock option or right to purchase shares of capital stock of the Company or any Company Subsidiary or any securities or obligations convertible into or exchangeable therefor; issuance of any security convertible into such capital stock; grant of any registration rights; purchase, redemption, retirement, or other acquisition by the Company or any Company Subsidiary of any shares of any of its authorized or issued capital stock; or declaration, setting aside or payment of any dividend or other distribution or payment in respect of the equity interests of the Company or any Company Subsidiary;

5.24.2 Any amendment to the organizational documents of the Company or any Company Subsidiary;

5.24.3 Any material decrease in the net book value of the assets of Company or any Company Subsidiary other than ordinary depreciation consistent with past practice;

5.24.4 Any voluntary or involuntary sale, assignment, license or other disposition, of any material business or assets by the Company or any Company Subsidiary, except (i) as contemplated by this Agreement, (ii) pursuant to existing Contracts or commitments and (iii) for the utilization of supplies, inventories and drugs in the ordinary course of business;

5.24.5 Any Lien imposed or created on the assets of the Company or any Company Subsidiary, except for Permitted Liens and Liens securing the Credit Facility;

5.24.6 Any extraordinary compensation, bonuses or distribution to any Shareholder or any employee of the Company or any Company Subsidiary;

5.24.7 Any termination, modification or amendment of any Material Contract, except for terminations, modifications and amendments of Material Contracts made in the ordinary course of business;

5.24.8 Any increase by the Company or any Company Subsidiary, except in the ordinary course of business or as required by applicable law or Contract, of any bonuses, salaries, severance or benefits or other compensation to any director, officer, or Employee or entry into any employment, severance, or similar contract, or any loans to, any director, officer, or Employee;

5.24.9 Any material change in any of the financial accounting principles adopted by the Company or any Company Subsidiary, or any material change in the policies, procedures, or methods of the Company or any Company Subsidiary with respect to applying such principles;

5.24.10 Any new borrowing or guarantee of the indebtedness or liabilities of another Person by the Company or any Company Subsidiary of more than Two Hundred Thousand Dollars ($200,000.00);

5.24.11 Any other distribution other than in the ordinary course of business of the Company or any Company Subsidiary (whether in cash or property or any combination thereof and whether in redemption or liquidation of an interest or otherwise) to any person;

5.24.12 Except in the ordinary course of business or in accordance with the Company's capital expenditure budget delivered previously to the Buyer Parties, any new investment of a capital nature, whether by purchase of stock or securities, contributions to capital, property transfers or otherwise, in any partnership, limited liability company, corporation or other entity, or purchase of any property or assets;

5.24.13 Any cancellation, waiver or compromise, in whole or in part, of any material debt or claim of the Company or any Company Subsidiary other than in the ordinary course of business;

5.24.14 Any waiver or release of any material rights by the Company or any Company Subsidiary, including without limitation, any material intangible rights, other than in the ordinary course of business;

5.24.15 Any loss or damage (whether or not such loss or damage shall have been covered by insurance) which materially affected the ability of Company or any Company Subsidiary to conduct its business;

5.24.16 Any written notice or communication from any third party payor which represents annual revenue of Two Hundred Fifty Thousand Dollars ($250,000.00) or more for the Company and the Company Subsidiaries in any of the past three (3) fiscal years of intent to discontinue or materially reduce prior levels of business;

5.24.17 Any payment of any fee under the KRG Management Agreement; or

5.24.18 Any agreement by the Company or any Company Subsidiary to do any of the foregoing.

5.25 HIPAA. The Company and each Company Subsidiary (i) is in material compliance with the requirements for health information privacy and security established by the Health Insurance Portability and Accountability Act of 1996 ("**HIPAA**") and the Health Information Technology for Economic and Clinical Health Act ("**HITECH**") provisions of the American Reinvestment and Recovery Act of 2009, including the HIPAA and HITECH privacy and security regulations, and (ii) has developed and implemented appropriate policies and procedures and training programs for compliance with the HIPAA and HITECH privacy and security laws, regulations, and guidance promulgated by the U.S. Department of Health and Human Services.

5.26 Compliance. The Company and Company Subsidiaries have established and implemented a corporate compliance program, including compliance standards and procedures, to promote compliance and detect non-compliance with respect to the operations of the Company and the Company Subsidiaries and their employees in accordance with all applicable laws, regulations, orders and other applicable legal requirements.

5.27 Intellectual Property.

5.27.1 Schedule 5.27 of the Disclosure Schedule contains a complete and accurate list of all Company Intellectual Property included in clauses (a), (b) and (f) of the definition of Intellectual Property, all material Company Intellectual Property included in clauses (c) and (g) of the definition of Intellectual Property, and all proprietary Company Intellectual Property included in clause (d) of the definition of Intellectual Property. Schedule 5.27 of the Disclosure Schedule contains a complete and accurate list of all licenses and other rights granted by the Company or any Company Subsidiary to any Person with respect to any Company Intellectual Property and all licenses and other rights granted by any Person to the Company or any Company Subsidiary with respect to any Company Intellectual Property (excluding "off-the-shelf" programs or products or other "shrink wrap" software licensed in the ordinary course of business) identifying the subject Company Intellectual Property. Neither the Company nor any Company Subsidiary has assigned to any Person the exclusive use of any material Company Intellectual Property.

5.27.2 To the knowledge of the Company, the Company or a Company Subsidiary owns or possesses sufficient legal rights to all material Company Intellectual Property without any infringement of the rights of others. To the knowledge of the Company, neither the Company nor any Company Subsidiary is infringing upon any Intellectual Property of any other Person, and the Company has no knowledge of any material violation by any Person of any Company Intellectual Property. Neither the Company nor any Company Subsidiary has received any written notice from any Person claiming infringement of a Person's Intellectual Property rights. Except as set forth herein, to the knowledge of the Company, no other Person owns any interest in any of the Company Intellectual Property. Company or a Company Subsidiary owns all right, title and interest in all material work product commissioned from third parties by Company or a Company Subsidiary.

5.27.3 Each item of Company Intellectual Property owned by the Company or a Company Subsidiary is, to the knowledge of the Company, valid and subsisting. To the extent any Company Intellectual Property is registered or subject to a pending application with any relevant authority in the United States or any foreign jurisdiction, all necessary application, registration, maintenance and/or renewal fees for such Company Intellectual Property have been timely paid.

5.27.4 To the knowledge of the Company, no trade secret that is material to the Business as presently conducted has been actually disclosed by Company or any Company Subsidiary to any Person other than pursuant to a non-disclosure agreement restricting the disclosure and use of such trade secret.

5.28 Confidentiality Agreements. The Company is, and at all times has been, in compliance with the terms and conditions of the Confidentiality Agreements.

5.29 No Other Representations or Warranties. Except for the representations and warranties of the Company contained in this Article 5, neither the Company nor any other Person makes or has made any other representation or warranty, expressed or implied, at law or in equity, with respect to the Company or the Company Subsidiaries, or any of the Company's or the Company Subsidiaries' respective businesses, assets, liabilities, operations, prospects, or condition (financial or otherwise), and the Company disclaims any other representations or warranties, whether made by the Company or any of its or the Company Subsidiaries' Affiliates, shareholders, officers, directors, employees, agents or representatives (collectively, "**Related Persons**"), and no Related Person has any authority, express or implied, to make any representations, warranties or agreements not specifically set forth in this Agreement and subject to the limited remedies herein provided. Except for the representations and warranties of the Company contained in this Article 5, neither the Company nor any Related Person has made or makes any representation or warranty to any Buyer Party or its Affiliates regarding: (a) merchantability or fitness of any assets for any particular purpose, (b) the nature or extent of any liabilities, (c) the prospects of the business of the Company and the Company Subsidiaries or (d) the probable success or profitability of the Company or the Company Subsidiaries or (e) the accuracy or completeness of any documents, projections, material, statement, data or other information (financial or otherwise) provided to any Buyer Party, its Affiliates or its or their representatives.

ARTICLE 6
REPRESENTATIONS AND WARRANTIES OF THE BUYER PARTIES

Except (a) as set forth in the Disclosure Schedule (Parent) pursuant to Schedule 13.15 and (b) as disclosed or reflected prior to the date hereof in the reports filed with or furnished to the Securities and Exchange Commission by Parent (but excluding any risk factor disclosures contained under the heading "Risk Factors," any disclosure of risks included in any "forward-looking statements" disclaimer or any other statements that are similarly predictive or forward-looking in nature, in each case, other than any specific factual information contained therein), the Buyer Parties hereby jointly and severally represent and warrant to the Company that, as of the date hereof, or, if specified as of a particular date, as of such date:

6.1 Organization and Good Standing.

Each of the Buyer Parties is a Delaware business corporation and is duly organized, validly existing and in good standing under the laws of the State of Delaware. Each of the Buyer Parties has the full corporate power and authority to carry on its business as presently conducted and to own and lease the properties and assets that it now owns and leases. Each of the Buyer Parties is qualified to conduct business and is in good standing in all states or other jurisdictions where the nature of the business transacted or properties owned by it makes such qualification necessary and as necessary for its full performance of its obligations under this Agreement.

6.2 Authority and No Breach.

6.2.1 Each of the Buyer Parties has the full corporate power and authority to execute, deliver and, subject to the approval set forth in Section 7.6, perform its obligations under the terms of this Agreement and all documents and agreements reasonably necessary to give effect to the provisions of this Agreement. Each of the Buyer Parties has duly authorized, executed and delivered this Agreement. Assuming due authorization, execution and delivery by the other parties hereto and thereto, this Agreement and all other documents and instruments required to be signed by each of the Buyer Parties hereunder constitute or, when signed by such Person, will constitute, the legal, valid and binding obligations of such Person, enforceable against it in accordance with their respective terms, except insofar as enforcement hereof may be limited by bankruptcy, insolvency or other similar laws. No approval by the shareholders of any Buyer Party is required under applicable law or exchange requirements to authorize the execution of this Agreement.

6.2.2 Subject to the approval set forth in Section 7.6, the transactions contemplated hereby will not result in (a) any material conflict, breach or violation of or default under (i) any Buyer Party's articles of incorporation or bylaws, or (ii) any statute, judgment, order, decree, license, law or regulation; nor will the execution, delivery and consummation of this Agreement and the transactions contemplated hereby result in any material breach or default under any mortgage, agreement, deed of trust, indenture or other instrument to which a Buyer Party is a party or by which it is bound. Subject to the approval set forth in Section 7.6, all corporate action and other authorizations prerequisite to the execution of this Agreement and the consummation of the transactions contemplated by this Agreement have been taken or obtained by the Buyer Parties. Neither the execution of this Agreement nor the consummation of any transactions contemplated herein, violates any material contract, agreement, or other document to which a Buyer Party is a party or to which a Buyer Party is otherwise subject.

6.3 Capitalization of Parent. Schedule 6.3 of the Disclosure Schedule (Parent) sets forth a complete and accurate list of the number and type of authorized, issued and outstanding shares of capital stock of Parent as of the date hereof. There are no other shares of capital stock or other equity securities of Parent authorized, issued, reserved for issuance or outstanding and except as set forth on Schedule 6.3 of the Disclosure Schedule (Parent), there are no outstanding or authorized options, warrants, convertible or exchangeable securities, subscriptions, rights (including preemptive rights), calls or commitments of any character whatsoever, relating to the capital stock of, or other equity or voting interest in, Parent, to which Parent is a party or is bound requiring the issuance, delivery or sale of shares of capital stock of Parent. Except as set forth on Schedule 6.3 of the Disclosure Schedule (Parent), there are no outstanding or authorized stock appreciation, phantom stock, profit participation or similar rights with respect to the capital stock of, or other equity or voting interest in, Parent to which Parent is a party or is bound. Except as set forth on Schedule 6.3 of the Disclosure Schedule (Parent), Parent has no authorized or outstanding bonds, debentures, notes or other indebtedness the holders of which have the right to vote (or convertible into, exchangeable for, or evidencing the right to subscribe for or acquire securities having the right to vote). Except as set forth on Schedule 6.3 of the Disclosure Schedule (Parent), there are no contracts to which Parent is a party or by which it is bound to (i) repurchase, redeem or otherwise acquire any shares of capital stock of, or other equity or voting interest in, Parent or (ii) vote or dispose of any shares of capital stock of, or other equity or voting interest in, Parent. Except as set forth on Schedule 6.3 of the Disclosure Schedule (Parent), there are no registration rights, irrevocable proxies or voting agreements with respect to any shares of capital stock of, or other equity or voting interest in, Parent.

6.4 Brokers and Investment Advisors. Except as set forth on Schedule 6.4 of the Disclosure Schedule (Parent), none of the Buyer Parties or any of its Affiliates has employed, contracted for the services of or authorized any broker, finder or investment advisor with respect to the negotiations leading up to the execution of this Agreement or the consummation of the transactions contemplated hereby.

6.5 Common Stock of Parent. All of the issued and outstanding shares of Parent's common stock are, and all of such shares, when issued in accordance with the terms of this Agreement are or will be, duly and validly authorized and issued and outstanding, fully paid and nonassessable, free of preemptive rights and in proper certificated form. None of the common stock of Parent was issued in violation of the Securities Act or any other legal requirement and all rules and regulations of the Securities and Exchange Commission.

6.6 [Intentionally Omitted]

6.7 Financing. Upon closing of the Equity Offering, the Buyer Parties will have immediately available funds sufficient to consummate the transactions contemplated by this Agreement, including the payment of all fees and expenses payable by the Buyer Parties in connection with the transactions contemplated hereby.

6.8 Solvency. No transfer of property is being made and no obligation is being incurred in connection with the transactions contemplated by this Agreement with the intent to hinder, delay or defraud either present or future creditors of the Company or the Company Subsidiaries.

6.9 Compliance with Law. The operations of Parent and each Subsidiary of Parent are, and during the last three (3) years have been, conducted in substantial and material compliance with all laws, regulations, orders and other applicable legal requirements of all courts and other Governmental Entities having jurisdiction over Parent, any Subsidiary of Parent or any of their employees, assets, properties and operations, except as would not be required to be disclosed in any periodic report filed by Parent under the Exchange Act. No material violation or default of any law, regulation, order or other legal requirement exists, and neither Parent nor any Subsidiary of Parent is in material default with respect to any, order, writ, judgment, award, injunction or decree of any Governmental Entity or arbitrator, domestic or foreign, applicable to Parent, any Subsidiary of Parent or any of their assets, properties or operations with respect thereto, except as would not be required to be disclosed in any periodic report filed by Parent under the Exchange Act. Parent has furnished to the Company true and correct copies of all audit response letters pertaining to Parent or any Subsidiary of Parent received in the twenty-four (24) months preceding the date hereof from legal counsel devoting substantive attention to matters which may result in any material liability or obligation of Parent or any Subsidiary of Parent.

6.10 Litigation or Claims. Except as disclosed on Schedule 6.10 of the Disclosure Schedule (Parent), there are no material claims, actions, suits, proceedings, labor disputes or investigations pending or threatened in writing before any Governmental Entity, or before any arbitrator or mediator of any nature, brought by or against Parent, any Subsidiary of Parent or any of their officers, directors, employees, or agents involving, affecting or relating to the business of Parent, any Subsidiary of Parent or their assets or the transactions contemplated by this Agreement that would be required to be disclosed in any periodic report filed by Parent under the Exchange Act. Neither Parent nor any Subsidiary of Parent is subject to any order, writ, judgment, award, injunction or decree of any Governmental Entity or arbitrator, domestic or foreign, that materially affects the business or assets of Parent or any Subsidiary of Parent, or that could reasonably be expected to materially interfere with the transactions contemplated by this Agreement.

6.11 No Parent Material Adverse Effect. Since March 31, 2016, there has not been any change or effect that constitutes a Parent Material Adverse Effect.

6.12 Organizational Structure. Any Subsidiary of Parent to which Buyer assigns any of its rights or obligations under this Agreement will be (a) treated as a corporation for income Tax purposes or (b) owned, directly or indirectly, by a Subsidiary of Parent (each, an "**Intermediate Subsidiary**") that is treated as a corporation for income Tax purposes (a Subsidiary satisfying either of the preceding clauses (a) or (b), an "**Eligible Subsidiary**"). Neither Parent nor its Affiliates has any plan or intention to (following the Closing) merge, eliminate, liquidate, transfer the stock of, or convert from corporate form, any Intermediate Subsidiary or any Eligible Subsidiary.

6.13 Confidentiality Agreements. Parent is, and at all times has been, in compliance with the terms and conditions of the Confidentiality Agreements, and shall, by the Closing, have complied with the return or destruction request distributed by the Company on June 8, 2016.

6.14 Condition of the Business. Notwithstanding anything contained in this Agreement to the contrary, each of the Buyer Parties agrees that neither the Company nor any other Person is making any representations or warranties whatsoever, express or implied, at law or in equity, with respect to the Company or the Company Subsidiaries, beyond those expressly given by the Company in Article 5. Each of the Buyer Parties acknowledges and agrees that, except for the representations and warranties contained in Article 5, the Acquired Assets and the Business are being transferred on an "as is, where is" basis. Each of the Buyer Parties further acknowledges that none of the Company or any of its Affiliates (including the Company Subsidiaries) nor any other Person has made or is making any representation or warranty, express or implied, as to the accuracy or completeness of any information, data, or statement regarding the Company or any of the Company Subsidiaries not expressly set forth in Article 5. Each of the Buyer Parties acknowledges and agrees that in making its determination to proceed with the transactions contemplated hereby, it has relied solely on its own independent investigation and the representations and warranties contained in Article 5.

ARTICLE 7
BUYER PARTIES' CONDITIONS PRECEDENT TO CLOSING

The obligations of the Buyer Parties to consummate the transactions described in this Agreement are subject to the satisfaction of the following conditions precedent, any of which may be waived in writing by the Buyer Parties.

7.1 Representations and Warranties to be True and Correct. The representations and warranties of the Company set forth in this Agreement, other than the Company's Specified Representations and the representations and warranties set forth in Section 5.6.3, shall be true and correct as of the Closing (except for those representations and warranties which address matters only as of a particular date, which shall remain true and correct as of such date) without giving effect to any "Company Material Adverse Effect" or materiality qualifications therein, except where the failure of such representations and warranties to be true and correct has not had, and would not reasonably be expected to have, a Company Material Adverse Effect. The Company's Specified Representations shall be true and correct as of the Closing (except for those representations and warranties which address matters only as of a particular date, which shall remain true and correct as of such date) in all material respects without giving effect to any "Company Material Adverse Effect" or materiality qualifications therein. The representations and warranties set forth in Section 5.6.3 shall be true and correct as of the Closing in all respects. The pre-Closing agreements, covenants and conditions required by this Agreement to be performed and complied with by the Company shall have been performed and complied with in all material respects.

7.2 No Company Material Adverse Effect. There shall have been no changes that have had or are reasonably likely to have a Company Material Adverse Effect since the date of this Agreement.

7.3 Supporting Documents. Buyer shall have received the documents set forth below:

7.3.1 A certificate signed by an authorized officer of Company dated the Closing Date and stating that the conditions set forth in Section 7.1 have been satisfied;

7.3.2 A certificate of good standing for the Company and each Company Subsidiary from applicable Secretary of State dated not more than ten (10) days prior to the Closing Date;

7.3.3 A certificate of the Secretary or an Assistant Secretary of the Company dated the Closing Date and certifying: (1) that attached thereto is a true and complete copy of the Articles of Incorporation and Bylaws of the Company as in effect on the date of such certification; (2) that attached thereto is a true and complete copy of all resolutions adopted by the Board of Directors of the Company (or an executive committee thereof) authorizing the execution, delivery and performance of this Agreement and the ancillary agreements and all transactions contemplated by this Agreement and that all such resolutions are in full force and effect as of the Closing Date; and (3) that the Articles of Incorporation and Bylaws of the Company have not been amended since the date of the last amendment referred to in the Articles of Incorporation and Bylaws attached pursuant to subsection (1) of this Section 7.3.2;

7.3.4 Releases or similar documentation in customary form and substance in relation to all Liens on the assets of the Company and each Company Subsidiary relating to the Closing Payoff Debt;

7.3.5 [Intentionally Omitted]

7.3.6 The Escrow Agreement, executed by the Company;

7.3.7 A power of attorney, substantially in the form of Exhibit 7.3.7 hereto (the "**Power of Attorney**"), necessary to permit the operation of the Business after the Closing Date;

7.3.8 Subject to Section 4.7, the Bill of Sale, Assignment and Assumption Agreement, executed by the parties thereto; and

7.3.9 The Non-Solicitation Agreement, executed by KRG.

7.4 Third Party Consents. Copies of the third party consents to the consummation of the transactions contemplated hereby set forth on Schedule 7.4 shall have been received.

7.5 Equity Offering. Parent shall have closed on the Equity Offering with proceeds of not less than One Hundred Million Dollars ($100,000,000.00) raised.

7.6 Shareholder Approval. Parent shall have received the approval of its shareholders for any modification of its certificate of incorporation and/or designation necessary to increase the authorized capital in connection with the transactions contemplated by this Agreement and to pay the Equity Consideration.

7.7 No Pending Actions or Proceedings. Except for any action or proceeding directly or indirectly instigated by a Buyer Party, no action or proceeding before any Governmental Entity shall be pending wherein an unfavorable judgment, decree or order would prevent the performance of this Agreement or the consummation of any of the transactions contemplated hereby, declare unlawful the transactions contemplated by this Agreement or cause such transactions to be rescinded.

7.8 HSR. All required approvals of any Governmental Entity with respect to any applicable Antitrust Laws shall have been obtained and all notice periods under the Antitrust Laws shall have expired or been terminated.

ARTICLE 8
THE COMPANY'S CONDITIONS PRECEDENT TO CLOSING

The obligation of the Company to consummate the transactions described in this Agreement is subject to the satisfaction of the following conditions precedent, any of which may be waived in writing by the Company:

8.1 Representations and Warranties to be True and Correct. The representations and warranties of the Buyer Parties set forth in this Agreement shall be true and correct in all material respects as of the Closing (except for those representations and warranties which address matters only as of a particular date, which shall remain true and correct as of such date) without giving effect to any materiality qualifications therein. The representations and warranties set forth in Section 6.11 shall be true and correct as of the Closing in all respects. The pre-Closing agreements, covenants and conditions required by this Agreement to be performed and complied with by the Buyer Parties shall have been performed and complied with in all material respects.

8.2 Supporting Documents. The Company shall have received the documents set forth below:

8.2.1 A certificate of good standing for each of the Buyer Parties from the Secretary of State of the State of Delaware dated not more than ten (10) days prior to the Closing Date;

8.2.2 A certificate signed by an authorized officer of Parent dated the Closing Date and stating that the conditions set forth in Section 8.1 have been satisfied;

8.2.3 A certificate of the Secretary or an Assistant Secretary of each of the Buyer Parties dated the Closing Date and certifying: (1) that attached thereto is a true and complete copy of the Articles of Incorporation and Bylaws of such Person as in effect on the date of such certification; (2) that attached thereto is a true and complete copy of all resolutions adopted by the Board of Directors of such Person (or an executive committee thereof) authorizing the execution, delivery and performance of this Agreement and the ancillary agreements and all transactions contemplated by this Agreement and that all such resolutions are in full force and effect as of the Closing Date; and (3) that the Articles of Incorporation of such Person have not been amended since the date of the last amendment referred to in the Articles of Incorporation attached pursuant to subsection (1) of this Section 8.2.3;

8.2.4 [Intentionally Omitted]

8.2.5 The Escrow Agreement, executed by Buyer; and

8.2.6 Subject to Section 4.7, the Bill of Sale, Assignment and Assumption Agreement, executed by the parties thereto.

8.3 Closing Deliverables. Buyer shall make the closing deliverables contemplated by Buyer pursuant to Section 4.2.

8.4 No Pending Actions or Proceedings. Except for any action or proceeding directly or indirectly instigated by the Company, no action or proceeding before any Governmental Entity shall be pending wherein an unfavorable judgment, decree or order would prevent the performance of this Agreement or the consummation of any of the transactions contemplated hereby, declare unlawful the transactions contemplated by this Agreement or cause such transactions to be rescinded.

8.5 HSR. All required approvals of any Governmental Entity with respect to any applicable Antitrust Laws shall have been obtained and all notice periods under the Antitrust Laws shall have expired or been terminated.

ARTICLE 9
ADDITIONAL COVENANTS AND AGREEMENTS

9.1 Preservation of the Businesss; Certain Tax and Post-Closing Organizational Matters. During the period beginning on the date hereof and ending on the earlier of (a) the Closing Date and (b) the termination of this Agreement pursuant to Article 12 (the "**Pre-Closing Period**"), except as otherwise contemplated by this Agreement, as set forth on Schedule 9.1, or agreed to in writing by a Buyer Party, the Company shall, and shall cause each Company Subsidiary to continue to manage and operate its business in the ordinary course, not to enter into any new Material Contract, and to use commercially reasonable efforts to take those steps it has taken in the past to preserve the business of the Company and each Company Subsidiary, keep available the services of the key employees and preserve the current relationships of the Company and each Company Subsidiary with the material customers, payors and suppliers of, and other Persons which have significant business relationships with, the Company and any Company Subsidiary. Neither Parent nor any of its Affiliates will, during the thirteen (13)-month period following the Closing Date, merge, eliminate, liquidate, transfer the stock of, or convert from corporate form, any Intermediate Subsidiary or any Eligible Subsidiary. The parties agree that the transactions contemplated hereunder shall be treated for all Tax reporting purposes as a taxable sale of assets to Buyer or to an Eligible Subsidiary, as applicable, and not a reorganization within the meaning of Section 368 of the Code or a transaction governed by Section 351 of the Code.

9.2 Notification of Certain Matters. During the Pre-Closing Period, the Company shall give prompt notice to Buyer and Buyer shall give prompt notice to the Company of (a) the occurrence, or failure to occur, during the Pre-Closing Period of any event which occurrence or failure would be likely to cause any of its representations or warranties contained in this Agreement to be untrue or inaccurate in any material respect and (b) any failure of it to comply with or satisfy any of its covenants, conditions or agreements to be complied with or satisfied by it prior to the Closing under this Agreement; provided, however, that such disclosure shall not be deemed to cure any breach of a representation, warranty, covenant or agreement, or to satisfy any condition. The party receiving such notification shall not be barred from seeking indemnity with respect to the subject matter of such notification pursuant to Article 11, subject to the terms and conditions thereof.

9.3 Regulatory and Other Authorizations, Consents. Each party hereto shall, subject to Section 9.17, use its commercially reasonable efforts to obtain all authorizations, consents, orders and approvals of, and to give all notices to and make all filings with, all Governmental Entities and other third parties that are required pursuant to obligations imposed on such party pursuant to any license, law or Contract as may be or become necessary for its execution and delivery of, the performance of its obligations pursuant to, and the consummation of the transactions contemplated under this Agreement, and each party will cooperate reasonably with the other parties in promptly seeking to obtain all such authorizations, consents, orders and approvals, giving such notices, and making such filings. Notwithstanding the foregoing, provided that the Company promptly provides all information requested by Buyer that is required to complete the regulatory filings, within fifteen (15) days after the date hereof, Buyer shall file all necessary regulatory filings set forth on Schedule 7.4; provided, further, that Buyer shall, to the extent possible and at its is sole cost and expense, utilize any expedited transfer protocols or processes available to obtain the licenses set forth on Schedule 7.4. The parties hereto agree not to take any action that will have the effect of unreasonably delaying, impairing or impeding the receipt of any required authorizations, consents, orders or approvals.

9.4 Confidentiality.

9.4.1 Parent and the Company shall comply with, and shall cause their respective counsel, accountants and other representatives and Affiliates to comply with, all of their respective obligations under the Confidentiality Agreements, which shall survive the Pre-Closing Period in accordance with the terms and conditions set forth therein.

9.4.2 Notwithstanding the foregoing, following the Closing, the limitations on Parent's use of the confidential information of the Company and the Company Subsidiaries set forth in the Designated Confidentiality Agreements (other than confidential information related solely to the Excluded Assets or the Excluded Liabilities) shall be of no force or effect; provided, that the Parent shall continue to maintain the confidentiality of any information it has received pertaining to the Shareholders.

9.5 Press Release. The parties agree to consult with each other prior to any press release, public announcement or publicly disseminated communication concerning this transaction, to discuss the content of any such announcement and to refrain from making any such press releases or public announcements without first receiving the other's prior consent, which shall not be unreasonably withheld; provided, however, that in no event shall Parent be prohibited or delayed from timely complying with federal and state securities laws or rules of a stock exchange on which Parent lists securities; provided, further, that the parties acknowledge that, within four (4) Business Days following the date hereof, Parent shall file a Current Report on Form 8-K pursuant to the Exchange Act announcing the transactions contemplated by this Agreement, and the Company shall have a reasonable opportunity to review and comment on such filing before it is made. A party shall be deemed to have given such consent if such party has not provided written notice of objection to the other party within two (2) Business Days following the delivery of notice to the non-disclosing party of such proposed communication.

9.6 Cooperation; Equity Offering.

9.6.1 During the Pre-Closing Period, each of the Buyer Parties, on the one hand, and the Company, on the other, shall reasonably cooperate with the other, without additional consideration, to carry out the purposes and intent of this Agreement. The parties further agree not to act or omit to act in such a manner and to not commit intentional acts in bad faith that would cause the acting party or the other party to terminate or violate the terms of this Agreement. The Company agrees to cooperate with Parent as reasonably requested by Parent to timely satisfy any post-Closing reporting obligations under the Exchange Act pursuant to Form 8-K related to the transactions contemplated hereby.

9.6.2 Subject to Section 9.4, prior to the Closing, the Company shall use its commercially reasonable efforts to cause its senior management, representatives and advisors (including legal and accounting advisors) to provide to Parent such cooperation as may be reasonably requested by Parent in connection with the Equity Offering, including: (i) to the extent as would be customary, participation at reasonable times in a reasonable number of meetings, drafting sessions, presentations, road shows (if applicable), and due diligence sessions; (ii) furnishing Parent the information contemplated by Section 9.10 and such financial and other information as Parent shall reasonably request in connection with the execution and consummation of the Equity Offering (all of the foregoing under clauses, collectively, the "**Offering Documents**") and delivering customary authorization letters and representation letters in connection with the Offering Documents; (iii) reasonably cooperating with the marketing efforts, if any, of Parent for any portion of the Equity Offering, including direct contact between senior management, on the one hand, and the actual or potential investors, on the other hand; and (iv) using reasonable best efforts to cause Company's independent accountants to deliver customary comfort letters, including as to customary negative assurances, and consents to use audit reports. Notwithstanding the foregoing, nothing in this Section 9.6.2 will require any cooperation by the Company, its senior management, representatives or advisors to the extent it would unreasonably interfere with the normal business or operations of the Company or any of the Company Subsidiaries. Parent shall promptly reimburse the Company and the Company Subsidiaries for any reasonable out-of-pocket expenses incurred in connection with this Section 9.6.2.

9.6.3 Notwithstanding anything to the contrary in this Agreement and without limiting the generality of Section 9.6.1, Parent shall use its commercially reasonable efforts to cause the condition to closing set forth in Section 7.5 to be satisfied as promptly as practicable. Parent shall keep the Company reasonably informed on a reasonably current basis as to the status of the Equity Offering.

9.7 Expenses. Except as otherwise provided in this Agreement, each of the parties hereto shall pay its own expenses and costs (including, without limitation, the fees, disbursements and expenses of its attorneys, accountants, auditors, consultants, and agents), incurred by it in negotiating, preparing, closing and carrying out this Agreement and the transactions contemplated hereby.

9.8 Insurance.

9.8.1 At least ten (10) Business Days prior to the Closing Date, the Company shall notify Buyer of the insurances policies set forth on Schedule 5.15.1 of the Disclosure Schedule that it can assign or cause to be assigned to Buyer (such policies to be included within the Acquired Assets and referred to as, the "**Acquired Policies**") and the insurance policies set forth on Schedule 5.15.1 of the Disclosure Schedule that it cannot assign or cause to be assigned to Buyer (the "**Retained Policies**"). Notwithstanding the foregoing, the Company's policy(ies) of director and officer liability insurance (including the executive liability tail policy referenced on Schedule 5.15.1 of the Disclosure Schedule) shall be Retained Policies.

9.8.2 To the extent that any Retained Policy covers any Losses related to an Acquired Asset or an Assumed Liability, the Company shall reasonably cooperate and cause its Affiliates to reasonably cooperate with Buyer in submitting claims with respect to such Losses on behalf of Buyer, and shall promptly remit the proceeds received therefrom to Buyer or its designee(s), less the Company's reasonable cost of collection.

9.8.3 To the extent that any Acquired Policy covers any Losses related to an Excluded Asset or an Excluded Liability, Buyer shall reasonably cooperate and cause its Affiliates to reasonably cooperate with the Company in submitting claims with respect to such Losses on behalf of the Company, and shall promptly remit the proceeds received therefrom to the Company or its designee(s), less Buyer's reasonable cost of collection.

9.8.4 With respect to any insurance policies set forth on Schedule 5.15.1 of the Disclosure Schedule maintained on a claims made basis (excluding, for the avoidance of doubt, the executive liability tail policy referenced on Schedule 5.15.1 of the Disclosure Schedule), the Company shall purchase (it being understood and agreed that 50% of all amounts paid by the Company or its Subsidiaries in connection with this Section 9.8.4 on or prior to the Closing shall increase the Purchase Price) on or before the Closing Date six year extended reporting endorsements ("tails") with limits consistent with amounts in effect as of the date hereof and will use its reasonable best efforts to add Buyer as an additional insured to said policies. The Company will provide a certificate of insurance evidencing any such tail policy to Buyer at the Closing.

9.9 Filing Returns.

9.9.1 Transfer Taxes. Parent shall be responsible for the first Two Hundred Thousand Dollars ($200,000.00) of any Transfer Taxes payable in connection with the transactions contemplated in this Agreement. Each of Buyer, on the one hand, and the Company, on the other hand, shall be responsible for fifty percent (50%) of any Transfer Taxes payable in excess of such amount. Each of the parties hereto shall fully cooperate with the other party with respect to the preparation and filing of any Tax Returns and other filings relating to any such Transfer Taxes as may be required.

9.9.2 Allocation of Taxes. All real property, personal property and similar *ad valorem* obligations levied with respect to the Acquired Assets for a taxable period which includes (but does not end on) the Closing Date (collectively, the "**Apportioned Obligations**") shall be apportioned between the Company and its Subsidiaries and Buyer based on the number of days of such taxable period before and after the Closing Date. The Company and its Subsidiaries shall be liable for the proportionate amount of such Apportioned Obligations that is attributable to the number of days of such taxable period ending on the Closing Date, and Buyer shall be liable for the proportionate amount of such Apportioned Obligations that is attributable to the number of days of such taxable period beginning after the Closing Date. Notwithstanding anything to the contrary in this Agreement, any Tax attributable to any action taken by Buyer on the Closing Date after the Closing that is not in the ordinary course of business shall be deemed to be allocated to Buyer's Apportioned Obligations.

9.9.3 Cooperation and Tax Record Retention. Buyer shall promptly furnish to the Company such information as the Company may reasonably request with respect to Tax matters relating to the Business, the Acquired Assets or the Assumed Liabilities, including by providing access to relevant books and records and making employees of the Buyer Parties available to provide additional information and explanation of any materials provided hereunder.

9.10 Pre-Closing Access. During the Pre-Closing Period, subject to Section 9.4.1, the Company shall, and shall cause the Company Subsidiaries to, provide each of the Buyer Parties and its counsel, accountants and other representatives with reasonable access during normal business hours to the premises of Company and the Company Subsidiaries and all property, both real and personal, contracts, leases, agreements and litigation documents relating to Company and the Company Subsidiaries, as well as the books of account and other records of the Company and Company Subsidiaries. The Buyer Parties shall make reasonable efforts to coordinate with the Company for time(s) and place(s) that such materials may be accessed. Notwithstanding anything to the contrary in this Agreement, during the Pre-Closing Period, none of the Company, the Company Subsidiaries or any of their respective representatives or Affiliates shall be required to provide access to, or disclose information to, any of the Buyer Parties or any of their respective representatives if such access or disclosure would violate any contract or law to which any of the Company or the Company Subsidiaries is a party or is subject, or which it reasonably determines upon the advice of counsel would result in the loss of the ability to successfully assert attorney-client or work product privileges.

9.11 Post-Closing Access to Records. Following the Closing, the Company and its representatives shall be permitted to access from the Buyer Parties and their Affiliates such books and records relating to the Company and the Company Subsidiaries and treated as Acquired Assets as are reasonably necessary to complete the transactions contemplated by this Agreement or prosecute or defend any third-party litigation or investigation or other third-party inquiry, including audits, compliance with governmental requirements, regulations and requests to which the Company or any of its Subsidiaries is a party or is subject, except to the extent necessary to (a) ensure compliance with any applicable law or (ii) preserve any applicable privilege. The Company shall be entitled to make copies of the books and records to which it is entitled access pursuant to this Section 9.11. Subject to Section 9.9, Parent agrees to hold all books and records relating to the Company and the Company Subsidiaries and treated as Acquired Assets in accordance with Parent's document retention policy or such longer time as may be required by law. Following the Closing, Buyer and its representatives shall be permitted to access from the Company and its Affiliates such books and records relating to the Business as are reasonably necessary to complete the transactions contemplated by this Agreement or prosecute or defend any third-party litigation or investigation or other third-party inquiry, including audits, compliance with governmental requirements, regulations and requests to which Parent or any of its Subsidiaries is a party or is subject, except to the extent necessary to (a) ensure compliance with any applicable law or (ii) preserve any applicable privilege. The Buyer shall be entitled to make copies of the books and records to which it is entitled access pursuant to this Section 9.11. The Company agrees to hold all books and records relating to the Business in accordance with the Company's document retention policy or such longer time as may be required by law.

9.12 Payroll and Benefit Matters. The Company and each Company Subsidiary will, for those Employees who accept employment with Buyer or its Affiliates, pay or accrue all payroll obligations within ordinary course time frames and will pay or accrue for all accrued paid-time-off liabilities prior to the Closing Date in accordance with the Accounting Principles. The Company and each Company Subsidiary will, for those Employees who do not accept employment with Buyer or its Affiliates, pay or accrue all payroll obligations within ordinary course time frames and will pay or accrue for all accrued paid-time-off liabilities prior to the Closing Date in accordance with the Accounting Principles. In addition, Company will take all steps reasonably necessary to terminate, and will terminate, Plans listed on Schedule 9.12 effective as of or immediately prior to the Closing Date. Parent shall cause its 401(k) or other tax-qualified defined contribution plan to accept rollovers of distributions (or direct rollovers) from the Company's 401(k) or other tax-qualified defined contribution plan (including plan loans).

9.13 Employees. Parent shall offer employment to all of the Employees, which offers shall include (i) base salary or wages or rate of pay not less than Employee's base salary or wages or rate of pay as of the Closing Date and (ii) benefits substantially similar in the aggregate to the benefits provided to similarly-situated employees of Parent; provided, however, that any offer of employment shall be contingent upon the Closing actually occurring. Nothing herein shall obligate Buyer to employ any Employees for any specific time period. Notwithstanding anything within this Agreement or any Plan to the contrary, in no event will the Company be liable for, or required to pay any severance or similar amounts or satisfy any severance or similar entitlements with respect to any Employee. If any Employee fails to meet Buyer's standard background screening requirements, (a) Buyer will nevertheless offer employment to such individuals for such minimum period as is necessary to permit eligibility for COBRA benefits under Buyer's health benefit plans; (b) such Employees will not be granted access to any Buyer systems; and (c) such Employees will not be eligible for any severance from Buyer or the Company. Nothing herein shall be construed to grant any Employee any rights as a third party beneficiary.

9.14 Consents to Certain Assignments.

9.14.1 Notwithstanding anything in this Agreement or the Bill of Sale, Assignment and Assumption Agreement to the contrary, this Agreement shall not constitute an agreement to transfer or assign any Acquired Asset or any benefit arising thereunder or resulting therefrom if an attempted assignment thereof, without the consent of a third party, would constitute a breach or other contravention under any agreement or law to which any the Company is a party or by which it is bound.

9.14.2 The Company (with the reasonable cooperation of the Buyer) shall use its commercially reasonable efforts to obtain any consent or waiver required to assign to the Buyer any Acquired Asset prior to the Closing. If any such consent or waiver is not obtained prior to Closing and as a result thereof Buyer shall be prevented by such third party from receiving the rights and benefits with respect to such Acquired Asset intended to be transferred hereunder, or if any attempted assignment would adversely affect the rights of the Company or a Company Subsidiary thereunder so that Buyer would not in fact receive all such rights, the Company and Buyer shall use their commercially reasonable efforts to obtain such consent or waiver after the Closing Date, and to take such actions such that Buyer would obtain the economic claims, rights and benefits under such asset and assume the economic burdens and obligations under the same terms and for the same duration with respect thereto in accordance with this Agreement, including by subcontracting, sublicensing or subleasing to Buyer. The Company shall use commercially reasonable efforts to take all actions reasonably necessary to provide the Buyer the benefits of and enforce the Buyer's rights with respect to such Acquired Asset under the same terms and for the same duration, and the Company shall promptly pay to the Buyer when received all monies received by the Company in respect of or related to such Acquired Asset. Buyer shall pay the Company's out-of-pocket expenses incurred after the Closing in connection with the compliance of the Company with its obligations under this Section 9.14.2. The obligations set forth in this Section 9.14.2 shall terminate ninety (90) days following the Closing.

9.15 Authorized Share Capital. At all times following the Closing, Parent shall maintain adequate share capital to issue the maximum number of shares issued or issuable pursuant to Sections 4.1.2 and 11.3.4(ii).

9.16 Seller Names and Marks. The Company shall, for a period of twelve (12) months after the Closing Date, have a limited, worldwide, non-exclusive, non-transferable, non-sublicensable, fully paid-up, royalty free license to use the Seller Names and Seller Marks. No later than one (1) month after the Closing Date, the Company shall cause each Company Subsidiary that has the words "Home Solutions" or "Home Infusion Solutions" in its name to remove such words from its name.

9.17 Antitrust Filings. Each of Buyer and the Company shall, as soon as practicable, and in any event no later than ten (10) Business Days from the date of this Agreement, make any initial filings required under the HSR Act, and supply as promptly as reasonably practicable any additional information and documentary material that may be requested by a Governmental Entity pursuant to the HSR Act. Buyer shall pay all filing fees under the HSR Act, and neither the Company nor any Company Subsidiary shall be required to pay any fee, penalty or other payment to any Governmental Entity in connection with any filings under the HSR Act or such other filings as may be required under applicable law. The parties hereto shall consult and cooperate with one another, and consider in good faith the views of one another, in connection with any analyses, appearances, presentations, memoranda, briefs, arguments, opinions and proposals made or submitted by or on behalf of any party hereto in connection with proceedings under or relating to the HSR Act. Each of Buyer and the Company shall use reasonable best efforts to resolve such objections, if any, as may be asserted by any Governmental Entity with respect to the transactions contemplated by this Agreement under the HSR Act or any other law, rule or regulation having the purpose or effect of monopolization or restraint of trade (collectively, "**Antitrust Laws**"). Each of Buyer and the Company shall use reasonable best efforts to take such action as may be required to cause the termination or expiration of the notice periods under the Antitrust Laws with respect to the transactions contemplated hereby as promptly as possible after the execution of this Agreement. Without limiting the foregoing, each of Buyer and the Company shall take any and all of the following actions to the extent necessary or appropriate to obtain the approval of any Governmental Entity with jurisdiction over the enforcement of any applicable Antitrust Laws or other laws regarding the transactions contemplated hereby: (i) entering into negotiations; (ii) providing information required by Antitrust Law or governmental regulation adopted thereunder; (iii) providing information informally requested by a Governmental Entity reviewing the transactions contemplated hereby under the HSR Act; and (iv) undertaking reasonable best efforts to substantially comply with any Request for Additional Information and Documentary Material issued pursuant to the HSR Act. The preceding obligations shall expire if this Agreement is terminated pursuant to Article 12.

9.18 Receivables Collection.

9.18.1 After the Closing, (i) the Company and its Subsidiaries shall promptly remit to Buyer (or its designee(s)) the proceeds of any accounts receivable or other amounts (other than the Government Receivables) received by the Company and its Subsidiaries in respect of the Business and (ii) Buyer shall promptly remit to the Company (or its designee(s)) the proceeds of any Government Receivables received by Buyer or its Affiliates.

9.18.2 Buyer shall use its commercially reasonable efforts to facilitate, as promptly as practicable following the date hereof, an agreement, in a form reasonably acceptable to the Company, between the Company and its Subsidiaries and a third party Person experienced in the collection of healthcare receivables (the "**Receivables Collector**"), to be effective as of the Closing, pursuant to which the Receivables Collector will, following the Closing, facilitate the collection of the Government Receivables on behalf of the Company and its Subsidiaries.

9.18.3 As promptly as possible, but in any event within sixty (60) days after the first anniversary of the Closing Date, the Company will deliver to Buyer, with reasonable supporting detail, an accounting of the amount of the Government Receivables as set forth in the Closing Certificate that have actually been collected by the Company or on its behalf (including pursuant to the agreement contemplated by Section 9.18.2) as of such date (the "**Government Receivables Statement**"). If the amount of the Government Receivables set forth in the Government Receivables Statement (determined without taking into account any setoffs, reductions or recoupments imposed by any payor) is less than the amount of the estimated Government Receivables set forth in the Closing Certificate, Buyer shall promptly pay or cause to be paid to the Company or its designee(s) the amount of such shortfall in cash.

9.18.4 For the avoidance of doubt, no party hereto may offset or withhold any amounts that are required to be paid to another party hereto pursuant to this Section 9.18, it being acknowledged that the obligation to pay over such amounts is absolute and unconditional.

9.19 Power of Attorney. Contingent upon and effective as of the Closing, subject to the execution and delivery of the Power of Attorney as described in Section 7.3.7, and to the conditions and limitations contained therein, the Company authorizes the Buyer Parties to operate the Business until new licenses and registrations are obtained. Buyer shall diligently, and in good faith, prepare, file and make applications for and pursue issuance of DEA registrations as necessary to lawfully operate the Business in accordance with Section 9.3, including making such state notifications in advance of the Closing as mutually deemed appropriate by the parties with the advice of legal counsel. The Buyer Parties shall comply with all laws applicable to such DEA registration.

9.20 Patient Records. With respect to any Patient Records transferred to Buyer pursuant to this Agreement, Buyer shall comply with all state and federal laws and regulations applicable to the maintenance, use, and disclosure of medical record and individually identifiable health information, including HIPAA and regulations promulgated pursuant to HIPAA. After the Closing, Buyer shall keep and preserve all such medical records and other records of the Business received by Buyer as of the Closing and that are required to be kept and preserved (a) by an applicable federal or state law or (b) in connection with any claim or controversy still pending involving any of the Business.

9.21 Personnel Resources. From and after the Closing, Parent shall make available to the Company, during normal business hours, and without charge for internal costs, de minimis Employee personnel resources as the Company reasonably requests for purposes of assisting in the Company's collection of Government Receivables, providing general administrative support and preparing Tax filings. Any out-of-pocket costs and expenses incurred by Parent in connection with such assistance shall be paid by the Company.

9.22 Registered Stock. Promptly, and in any event within thirty (30) days following the Closing, Parent shall file with the SEC a registration statement on Form S-3 (or any successor form) under the Securities Act to register the resale of the Registrable Securities (as defined below). In the event that Parent ceases for any reason to be eligible to file with the SEC a registration statement on Form S-3 (or any successor form) under the Securities Act, such that the registration statement on Form S-3 (or any successor form) under the Securities Act previously filed to register the resale of the Registrable Securities may no longer be used to effect the resale of the securities registered thereunder, if so requested by the Company, Parent shall promptly file with the SEC a registration statement on Form S-1 (or any successor form) under the Securities Act to register the resale of the Registrable Securities. Parent shall use its reasonable best efforts to cause any registration statement filed pursuant to either of the preceding two sentences to be declared effective by the SEC as soon as practicable following the filing thereof and to maintain the effectiveness of such registration statement during such time as such securities remain Registrable Securities. Parent shall prepare and file with the SEC such amendments and supplements to any such registration statement and the prospectus included therein as may be necessary to keep any such registration statement continuously effective (and available for use) throughout such period and to ensure that any such registration statement and prospectus does not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading. Parent shall take such other reasonable actions (including, causing such securities to be listed or quoted on a national securities exchange) as may be necessary to facilitate the resale of such securities pursuant to any such registration statement. Parent shall bear all expenses incident to Parent's performance of or compliance with this Section 9.22, including all registration and filing fees, fees and expenses of compliance with securities or "blue sky" laws, listing application fees, printing expenses, transfer agent's and registrar's fees, costs of distributing prospectuses in preliminary and final form as well as any supplements thereto, and fees and disbursements of counsel for Parent and all independent certified public accountants and other persons retained by Parent. For the avoidance of doubt, the Company shall bear all underwriting discounts or commissions, brokerage fees and transfer taxes attributable to the sale or disposition by the Company of the securities registered under the registration statement and any fees or expenses of the Company or any counsel to the Company. "**Registrable Securities**" means the maximum number of shares of Parent Common Stock issuable by Parent in respect of the Equity Consideration, assuming satisfaction of the RSU criteria described in Article 4. Any particular Registrable Securities shall cease to be Registrable Securities (A) when a registration statement with respect to the sale of such securities shall have been declared effective under the Securities Act and such securities shall have been disposed of in accordance with such registration statement, (B) upon and from and after such time as such securities shall be eligible to be resold to the public pursuant to Rule 144 under the Securities Act (or any successor rule thereunder) without any volume or manner of sale restrictions thereunder or (C) when such securities, after having been issued pursuant to Article 4, shall cease to be outstanding. The parties agree to work in good faith to accomplish the registration for resale of any Indemnification Shares, consistent with the provisions set forth in this Section 9.22, to the extent applicable.

9.23 Parent Board Representation.

9.23.1 Scope of Rights. As soon as practicable following the Closing, Parent shall:

(i) cause any slate of directors (subject to satisfaction of all legal and governance requirements regarding services as a director of Parent) presented to Parent's stockholders for election to the board of directors of Parent (the "**Parent Board**") to consist of such nominees that, if elected, would result in the Parent Board containing two (2) directors designated by the Company ("**HS Directors**"); provided, however, that so long as Daniel Greenleaf is serving as the chief executive officer of Parent, one such nominee shall be Daniel Greenleaf, and, in the event that Daniel Greenleaf is no longer serving as chief executive officer of Parent, the Company shall be entitled pursuant to this Section 9.23.1 to designate one (1) nominee for presentation to Parent's stockholders for election to the Parent Board; and

(ii) ensure that the Parent Board will have a number of vacancies at least equal to the number of HS Directors.

9.23.2 Procedural Matters.

(i) Parent shall recommend that its stockholders vote in favor of the HS Directors nominated in accordance with the terms of this Section 9.23, and shall use its commercially reasonable efforts to solicit from the stockholders of Parent eligible to vote for the election of directors proxies in favor of the election of the HS Directors.

(ii) If, for any reason, a nominated HS Director is not elected to the Parent Board by the stockholders of Parent, then a new HS Director designated by the Company shall be recommended by Parent for election to the Parent Board pursuant to the procedures set forth in this Section 9.23.

(iii) If at any time a HS Director resigns or is removed in accordance with applicable law or Parent's bylaws, or becomes incapacited, a new HS Director designated by the Company shall be recommended by Parent for election to the Parent Board pursuant to the procedures set forth in this Section 9.23.

(iv) Parent agrees that the HS Directors shall be entitled to the same rights, privileges and compensation as the other members of the Parent Board in their capacity as such, including with respect to insurance coverage and reimbursement for Parent Board participation and related expenses. Parent shall maintain, at its own expense, directors' and officers' liability insurance with coverage no less favorable to the HS Directors than the policies that are in effect with respect to all other directors.

9.23.3 Termination of Nomination Rights. The rights of the Company pursuant to this Section 9.23 shall terminate automatically upon the earlier of (a) the date (if any) upon which the Company and its Affiliates cease, collectively, to hold at least fifty percent (50%) of the Parent Common Stock they hold following issuance of the Closing Equity Consideration (and issuance of any Parent Common Stock pursuant to the RSUs), and (b) the date that is three (3) years from the Closing Date.

ARTICLE 10
CERTAIN RESTRICTIVE COVENANTS

10.1 Certain Restrictive Covenants. The Company agrees that it shall not, directly or indirectly, alone or in association with others (other than Buyer or its Affiliates) in any capacity, for a period of three (3) years following the Closing Date:

(i) Participate within the Restricted Area, other than as a duly authorized agent of Buyer or its Affiliates or as an owner of five percent (5%) or less of any publicly traded company, in the ownership, management, sales, marketing, product development, business development, strategic planning, operation or control of any enterprise which provides or offers to provide or otherwise engages in the provision of any goods or any services related to (a) home or alternate site infusion, or (b) the provision of any other product or service provided by the Company or any Company Subsidiary within the twelve (12) months prior to the Closing;

(ii) Influence or attempt to influence any of the patients of Buyer or its Affiliates to transfer their patronage from Buyer or its Affiliates to any other business or enterprise;

(iii) Influence or attempt to influence any of the Referral Sources to refer patients to any business or enterprise providing the same or substantially the same goods and services as Buyer or its Affiliates; or

(iv) Solicit for employment (other than through general advertisements or executive searches not specifically directed at Buyer or its Affiliates), hire, offer employment to or employ, any employee of Buyer or its Affiliates, unless such person has (a) ceased to be an employee of Buyer or its Affiliates for at least six (6) months prior to such time or (b) been terminated by Buyer or its Affiliates.

10.2 Modification. If a court of competent jurisdiction should declare a covenant contained in this Article 10 unenforceable because of any unreasonable restriction of activities, duration or geographical area, then the parties hereby acknowledge and agree that such court shall have the express authority to reform such covenant to provide for reasonable restrictions.

10.3 Exceptions. Notwithstanding the foregoing, nothing in this Article 10 shall preclude the Company, its Subsidiaries or their representatives from collecting, or causing the collection of, the Government Receivables.

ARTICLE 11
INDEMNIFICATION

11.1 Indemnification by the Company and its Subsidiaries. Subject to this Article 11, following the Closing, the Company and its Subsidiaries shall, jointly and severally, indemnify, defend, and hold harmless the Buyer Indemnified Parties from, against and with respect to, any and all Losses incurred by the Buyer Indemnified Parties, arising from, resulting from, or attributable to, any of the following:

11.1.1 Any breach of any representation or warranty of the Company contained herein;

11.1.2 Any breach or default by the Company of any covenant, obligation or undertaking on its part contained herein; or

11.1.3 Any Excluded Liabilities.

11.2 Indemnification by Parent. Subject to this Article 11, following the Closing, the Buyer Parties shall, jointly and severally, indemnify, defend and hold harmless the Seller Indemnified Parties from, against and with respect to, any and all Losses incurred by the Seller Indemnified Parties arising from, resulting from, or attributable to, any of the following:

11.2.1 Any breach of any representation or warranty of the Buyer Parties contained herein;

11.2.2 Any breach or default by a Buyer Party of any covenant, obligation or undertaking on its part contained herein; or

11.2.3 Any Assumed Liabilities.

11.3 Limitations.

11.3.1 The following survival periods shall apply to claims for indemnification pursuant to this Article 11.

(i) Any claim for indemnification pursuant to Sections 11.1.1 or 11.2.1 in respect of the General Representations must be made in writing within eighteen (18) months following the Closing Date.

(ii) Any claim for indemnification pursuant to Sections 11.1.1 or 11.2.1 in respect of the representations and warranties contained in Sections 5.1 (Organizational and Good Standing), 5.2.1 (Authorization), 5.2.2(a)(i) (No Breach of Organizational Documents), 5.7.1 (Assets), 5.20 (No Brokers), 6.1 (Organization and Good Standing), 6.2.1 (Authorization), 6.2.2(a)(i) (No Breach of Organizational Documents), 6.3 (Capitalization of Parent), 6.4 (Brokers and Investment Advisors) (together, the "**Specified Representations**") must be made in writing within six (6) years following the Closing Date.

(iii) Any claim for indemnification pursuant to Section 11.1.1 in respect of the representations and warranties contained in Section 5.21 (Payment Programs) or 5.25 (HIPAA) (together, the "**Health Care Representations**") must be made in writing within three (3) years following the Closing Date.

(iv) Any claim for indemnification pursuant to Sections 11.1.2 or 11.2.2 in respect of a covenant, obligation or undertaking must be made in writing during the period contemplated by the terms of such covenant, obligation or undertaking, or, with respect to pre-Closing covenants, within eighteen (18) months of the Closing Date.

(v) Any claim for indemnification pursuant to Sections 11.1.3 or 11.2.3 must be made in writing by the earlier of (i) sixty (60) days following the expiration of the applicable statute of limitations and (ii) six (6) years following the Closing Date.

11.3.2 Claims will survive through the period during which a claim may be asserted in accordance with Section 11.3.1 and, if a claim is so asserted, until final disposition of such claim. Any claim for indemnification timely asserted in accordance with Section 11.3.1 must specify in writing the particular event or item for which indemnification is sought and shall survive until resolved.

11.3.3 Notwithstanding anything contained in this Agreement to the contrary, the following monetary limitations shall apply to claims for indemnification pursuant to Section 11.1, subject to Section 11.5.

(i) The Company and its Subsidiaries will not have any liability (A) under Sections 11.1.1 or 11.1.2, until the total of all Losses in respect of which the Buyer Indemnified Parties would otherwise be entitled to indemnification under Sections 11.1.1 or 11.1.2 exceeds Five Hundred Thousand Dollars ($500,000.00) ("**Basket**"), and then only to the extent that such Losses exceed the Basket, or (B) with respect to any individual claim made pursuant to Section 11.1, unless the aggregate Losses arising from such individual claim exceed Fifty Thousand Dollars ($50,000.00) (the "**Mini-Basket**"); provided, that such limitations shall not apply in respect of claims based on intentional fraud with respect to the representations and warranties set forth in this Agreement.

(ii) The sole recourse of the Buyer Indemnified Parties for indemnification pursuant to Sections 11.1.1 (other than in respect of the Specified Representations) or 11.1.2 will be to the Escrow Fund; provided, that, from the Escrow Fund, the Company and its Subsidiaries will not have any liability under Section 11.1.1 in respect of the General Representations in excess of Seven Million Five Hundred Thousand Dollars ($7,500,000.00).

(iii) The cumulative indemnification obligations of the Company and its Subsidiaries (and, if Section 11.5 applies, the Shareholders) pursuant to Section 11.1 (the "**Ultimate Cap**") shall not exceed Thirty Million Dollars ($30,000,000.00); provided, that the Ultimate Cap will be revised downward over time as follows: (A) one (1) year following the Closing Date, to an amount equal to Twenty Two Million Five Hundred Thousand Dollars ($22,500,000.00), (B) two (2) years following the Closing Date, to an amount equal to Fifteen Million Dollars ($15,000,000.00) and (C) three (3) years following the Closing Date, to an amount equal to Ten Million Dollars ($10,000,000.00).

11.3.4 Notwithstanding anything contained in this Agreement to the contrary, the following monetary limitations shall apply to claims for indemnification pursuant to Section 11.2.

(i) The Buyer will not have any liability (A) under Sections 11.2.1, until the total of all Losses in respect of which the Company Indemnified Parties would otherwise be entitled to indemnification under Sections 11.2.1 exceeds the Basket, and then only to the extent that such Losses exceed the Basket, or (B) with respect to any individual claim made pursuant to Section 11.2, unless the aggregate Losses arising from such individual claim exceed the Mini-Basket; provided, that such limitations shall not apply in respect of claims based on intentional fraud with respect to the representations and warranties set forth in this Agreement.

(ii) The Buyer and its Affiliates will not have any liability under Section 11.2 in excess of Twenty Million Dollars ($20,000,000.00); provided, that, the first Ten Million Dollars ($10,000,000.00) of such amount shall be payable in cash and the remaining Ten Million Dollars ($10,000,000.00) of such amount shall be payable in shares of Parent Common Stock (the "**Indemnification Shares**").

11.4 Matters Involving Third Parties.

11.4.1 If any third party shall notify any party (the "**Indemnified Party**") with respect to any matter (a "**Third Party Claim**") which may give rise to a claim for indemnification against any other party (the "**Indemnifying Party**") under this Article 11, then the Indemnified Party shall notify each Indemnifying Party thereof in writing within ten (10) days; provided, however, that no delay on the part of the Indemnified Party in notifying any Indemnifying Party shall relieve that Indemnifying Party from any obligation hereunder unless (and then solely to the extent) the Indemnifying Party thereby is prejudiced.

11.4.2 Any Indemnifying Party will have the right to defend the Indemnified Party against the Third Party Claim with counsel of its choice reasonably satisfactory to the Indemnified Party so long as (a) the Indemnifying Party notifies the Indemnified Party in writing within thirty (30) days after the Indemnified Party has given notice of the Third Party Claim that the Indemnifying Party elects to assume the defense thereof, (b) the Third Party Claim involves only money damages and does not seek an injunction or other equitable relief, (c) settlement of, or an adverse judgment with respect to, the Third Party Claim is not, in the good faith judgment of the Indemnified Party, likely to establish a precedential custom or practice materially adverse to the continuing business interests of the Indemnified Party, and (d) the Indemnifying Party conducts the defense of the Third Party Claim actively and diligently.

11.4.3 So long as the Indemnifying Party is conducting the defense of the Third Party Claim in accordance with Section 11.4.2: (a) the Indemnified Party may retain separate co-counsel at its sole cost and expense and participate in the defense of the Third Party Claim, (b) the Indemnified Party will not consent to the entry of any judgment or enter into any settlement with respect to the Third Party Claim without the prior written consent of the Indemnifying Party (not to be withheld unreasonably), and (c) the Indemnifying Party will not consent to the entry of any judgment or enter into any settlement with respect to the Third Party Claim without the prior written consent of the Indemnified Party (not to be withheld unreasonably) unless such settlement (i) is only for money damages, and (ii) does not admit fault on the party of the Indemnified Party.

11.4.4 In the event any of the conditions in Section 11.4.2 is or becomes unsatisfied, (a) the Indemnified Party may defend against, and, with the prior written consent of the Indemnifying Party (such consent, not to be unreasonably withheld, conditioned or delayed), consent to the entry of any judgment or enter into any settlement with respect to, the Third Party Claim, and (b) the Indemnifying Party will remain responsible for any Losses the Indemnified Party may suffer resulting from, arising out of, relating to, in the nature of, or caused by the Third Party Claim to the fullest extent provided in this Article 11.

11.4.5 The Indemnified Party and the Indemnifying Party shall cooperate with each other in all reasonable respects in connection with the defense of any Third Party Claim, including making available records relating to such Third Party Claim and furnishing to the defending party such management employees of the non-defending party as may be reasonably necessary for the preparation of the defense of such Third Party Claim.

11.4.6 No Indemnifying Party shall admit or permit to be admitted any fault, responsibility or liability on behalf of an Indemnified Party without such Indemnified Party's consent, which consent may be granted or withheld at Indemnified Party's sole discretion.

11.5 Payment. The Losses for which a Buyer Indemnified Party may make a claim for indemnification, up to the Ultimate Cap, pursuant to (a) Section 11.1.1 in respect of the Specified Representations, (b) Section 11.1.3 or (c) a claim based on intentional fraud with respect to the representations and warranties set forth in this Agreement, shall, subject to the following sentence, be settled solely from the amount of the Escrow Fund and thereafter from the forfeiture of shares of Parent Common Stock that are earned and paid over to the designee(s) of the Company pursuant to the RSUs (for the avoidance of doubt, even if such sources are less than the Ultimate Cap). To the extent the amount of such Losses exceeds the amount of the Escrow Fund and the Fair Market Value of the shares of Parent Common Stock that are earned and paid over to the designee(s) of the Company pursuant to the RSUs, each Shareholder shall, on a several basis, in accordance with such Shareholder's Pro Rata Share, indemnify, defend and hold harmless the applicable Buyer Indemnified Party from and against the amount of any such excess indemnifiable Losses; provided, that the sole recourse of the applicable Buyer Indemnified Party against any such Shareholder shall be the forfeiture of shares of Parent Common Stock earned and paid over pursuant to the RSUs that have become held by such Shareholder (for the avoidance of doubt, even if the Fair Market Value thereof is less than the Ultimate Cap).

11.6 Insurance Proceeds. If the Indemnified Party receives insurance proceeds on a claim for which it has already received indemnity from the Indemnifying Party, the Indemnified Party shall as soon as reasonably practicable thereafter pay the amount of such insurance proceeds or other recoveries, as applicable, to the Indemnifying Party to the extent necessary to refund the indemnity provided by the Indemnifying Party.

11.7 Mitigation. Each Person entitled to indemnification pursuant to this Article 11 shall take reasonable steps to mitigate all Losses after becoming aware of any event which could reasonably be expected to give rise to any Losses that are indemnifiable or recoverable hereunder or in connection herewith.

11.8 Exclusive Remedies. Following the Closing, a claim pursuant to this Article 11 shall be an Indemnified Party's sole and exclusive remedy with respect to (a) any violation or breach of any covenant, representation or warranty contained in this Agreement or (b) any other matters in respect of this Agreement or the transactions contemplated hereby, in each case, regardless of whether such claim arises in contract, tort, breach of warranty or any other legal or equitable theory; provided, however, that Section 4.3 shall govern disputes related to the final determination of the Net Working Capital Adjustment Amount, Section 4.7 shall govern disputes related to the final determination of the allocation of the purchase price (as determined for Tax purposes), the Company and its Subsidiaries shall be entitled to the rights and remedies set forth in the Power of Attorney, and the rights of specific performance shall be available to the extent provided in Section 13.14. In furtherance of the foregoing, each of the parties hereby waives, from and after the Closing, to the fullest extent permitted under applicable law, any and all other rights, claims and causes of action such party or any of its Affiliates may have against any other party or its Affiliates relating to this Agreement or the transactions contemplated hereby, whether arising in contract, tort, breach of warranty or any other legal or equitable theory. Notwithstanding anything to the contrary in this Agreement, subject to Section 11.5, each of the parties hereto retains all of its rights and remedies with respect to claims based on intentional fraud with respect to the representations and warranties set forth in this Agreement.

11.9 Characterization of Indemnity Payments. Any indemnification payments made pursuant to this Agreement shall be considered, to the extent permissible under applicable law, as adjustments to the purchase price for all Tax purposes.

ARTICLE 12
TERMINATION

12.1 Termination. This Agreement may be terminated at any time prior to the Closing:

12.1.1 by the mutual written agreement of the Company and Buyer;

12.1.2 by Buyer, if (i) there has been a violation or breach by the Company of any covenant, representation or warranty contained in this Agreement, which has prevented or would prevent the satisfaction of any of the Buyer Parties' conditions precedent to Closing and (A) such violation or breach has not been waived by Buyer, (B) Buyer has provided written notice to the Company of such violation or breach, and (C) the Company has not cured such violation or breach within ten (10) Business Days after receiving written notice thereof from Buyer, or (ii) the transactions contemplated hereby have not been consummated by the date that is ninety (90) days following the date hereof (the "**Outside Closing Date**"); provided, however, Buyer shall not be entitled to terminate this Agreement pursuant to this Section 12.1.2(ii) if a Buyer Party's breach of this Agreement has substantially contributed to the failure of the consummation of the transactions contemplated hereby to occur by the Outside Closing Date;

12.1.3 by the Company, if (i) there has been a violation or breach by a Buyer Party of any covenant, representation or warranty contained in this Agreement, which has prevented or would prevent the satisfaction of any of the Company's conditions precedent to Closing and (A) such violation or breach has not been waived by the Company, (B) the Company has provided written notice to Buyer of such violation or breach, and (C) such Buyer Party has not cured such violation or breach within ten (10) Business Days after receiving written notice thereof from the Company, or (ii) the transactions contemplated hereby have not been consummated by the Outside Closing Date; provided, however, the Company shall not be entitled to terminate this Agreement pursuant to this Section 12.1.3(ii) if the Company's breach of this Agreement has substantially contributed to the failure of the consummation of the transactions contemplated hereby to occur by the Outside Closing Date;

12.1.4 by the Company, if the condition to the Closing set forth in Section 7.5 shall not have been satisfied within seventeen (17) days following the date hereof; or

12.1.5 by Buyer or the Company, if any permanent injunction or other order of a Governmental Entity preventing the consummation of the transactions contemplated hereby shall have become final and nonappealable.

12.2 Effect of Termination. In the event of a valid termination pursuant to Section 12.1, all rights and obligations of the parties hereto shall terminate without any liability on the part of any of the parties hereto or their respective owners, directors, officers or employees, except that Sections 9.4 and 9.5, this Section 12.2 and Article 13 shall survive termination of this Agreement. Notwithstanding the foregoing, no such termination of this Agreement shall preclude any claim by a Buyer Party against the Company or by the Company against a Buyer Party based on or arising from any breach or default by the other party with respect to its representations, warranties, covenants or agreements contained in this Agreement; provided, that such breach or default, as applicable, has been the basis for such termination.

ARTICLE 13
MISCELLANEOUS

13.1 Notices. All notices, requests, demands and other communications required or permitted to be given or made under this Agreement shall be in writing and shall be deemed delivered (a) on the date of personal delivery or transmission by confirmed telegram or confirmed facsimile transmission, (b) on the third (3rd) Business Day following the date of deposit in the United States mail, postage prepaid, by registered or certified mail, return receipt requested, (c) on the first (1st) Business Day following the date of delivery to a nationally-recognized overnight courier service, or (d) by e-mail, upon acknowledgment of receipt, in each case addressed as follows, or to such other address, person or entity as either party shall designate by notice to the other in accordance herewith:

If to the Company, addressed to:	c/o KRG Capital Partners, LLC 1800 Larimer Street #2200 Denver, CO 80202 Attention: Steven Neumann and Charles Gwirtsman Facsimile: (303) 390-5015 E-mail: sneumann@krgcapital.com; cgwirtsman@krgcapital.com
With a copy to:	Ropes & Gray LLP 191 North Wacker Drive 32nd Floor Chicago, IL 60606 Attention: Gregory R. Metz Facsimile: (312) 845-5500 E-mail: gregory.metz@ropesgray.com
If to the Buyer Parties, addressed to:	BioScrip, Inc. 1600 Broadway, Suite 950 Denver, CO 80202 Attention: General Counsel Facsimile: (312) 416- 4722 E-mail: kathryn.stalmack@bioscrip.com
With a copy to:	Polsinelli PC 100 South Fourth Street, Suite 1000 St. Louis, MO 63102 Attention: Jane Arnold Facsimile: (314) 754-9481 E-mail: jarnold@polsinelli.com

13.2 [Intentionally Omitted]

13.3 Waiver. The failure of any party to insist, in any one or more instances, on performance of any of the terms and conditions of this Agreement shall not be construed as a waiver or relinquishment of any rights granted hereunder or of the future performance of any such term, covenant or condition, but the obligations of the parties with respect thereto shall continue in full force and effect.

13.4 Third Parties. Except for the provisions of Article 11 (in respect of which the Indemnified Parties shall be express third party beneficiaries) and Section 13.17 (in respect of which the Non-Parties shall be express third party beneficiaries), none of the provisions of this Agreement shall confer rights or benefits as third party beneficiaries or otherwise upon any party that is not expressly a party to this Agreement, and the provisions of this Agreement shall not be enforceable by any such third party.

13.5 Severability. If any part of this Agreement should be determined to be invalid, unenforceable, or contrary to law, that part shall be amended, if possible, to conform to law, and if amendment is not possible, that part shall be deleted and other parts of this Agreement shall remain fully effective, but only if, and to the extent, such modification or deletion would not materially and adversely frustrate the parties' essential objectives as expressed in this Agreement.

13.6 Amendment. This Agreement may be amended, supplemented, altered or modified at any time only by a written instrument duly executed by the Company and the Buyer Parties.

13.7 Counterparts. This Agreement may be executed simultaneously in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The parties to this Agreement may deliver their executed counterparts by facsimile or other electronic means.

13.8 Headings. The headings contained in this Agreement have been inserted for the convenience of reference only and shall in no way restrict or modify any of the terms or provisions hereof.

13.9 Entire Agreement. This Agreement (including the schedules and exhibits hereto, and all other agreements and documents executed in connection herewith, including the Power of Attorney) constitutes the entire agreement among the parties hereto with respect to the subject hereof.

13.10 Assignment. All terms and provisions of this Agreement shall be binding upon and inure to the benefit of and be enforceable by the respective successors and permitted assigns of the parties hereto, whether so expressed or not. No party hereto may assign (whether by operation of law or otherwise) this Agreement or any rights, interests or obligations provided by this Agreement without the prior written consent of the other parties hereto; provided, however, that Buyer may assign any or all of its rights and obligations under this Agreement to an Eligible Subsidiary; provided, further, that no such assignment shall release Buyer from any liability under this Agreement.

13.11 Governing Law; Jurisdiction. The parties specifically agree that this Agreement and any dispute hereunder, whether in law or in equity, whether in contract or in tort, by statute or otherwise, shall in all respects be interpreted, read construed and governed by the internal laws of the State of Delaware, exclusive of its conflicts of law rules. The parties hereby irrevocably consent to the exclusive jurisdiction of the Chancery Court of the State of Delaware (or, if the Chancery Court of the State of Delaware declines to accept jurisdiction over a particular matter, any state or federal court sitting in Delaware) and each party hereto expressly agrees to waive any challenge to either jurisdiction or venue in any of the aforementioned courts; provided, that each party hereto agrees that a final, non-appealable judgment in any action or proceeding so brought may be enforced in any court of competent jurisdiction by suit on the judgment or in any other manner provided by law. Each party hereto hereby consents to service of process in any such proceeding in any manner permitted by Delaware law, and agrees that service of process by registered or certified mail, return receipt requested, at its address specified pursuant to Section 13.1 is reasonably calculated to give actual notice. EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF SUCH PROCEEDING. EACH PARTY HERETO CERTIFIES AND ACKNOWLEDGES THAT: (A) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF SUCH PROCEEDING, SEEK TO ENFORCE THE FOREGOING WAIVER, (B) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) IT MAKES THIS WAIVER VOLUNTARILY AND (D) IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 13.11.

13.12 Interpretation; Construction. Unless the context otherwise requires, words importing the singular shall include the plural, and vice versa. The use in this Agreement of the term "including" (whether or not followed by the words "without limitation" or "but not limited to") means "including, without limitation". The words "shall" and "will" shall be used interchangeably in this Agreement. The word "or" is not exclusive and shall mean "and/or" unless the context requires otherwise. The words "herein", "hereof", "hereunder", "hereby", "hereto", and other words of similar import refer to this Agreement as a whole, including the Disclosure Schedule and exhibits, as the same may from time to time be amended, modified, supplemented or restated, and not to any particular article, section, subsection, paragraph, subparagraph or clause contained in this Agreement. All references to articles, sections, subsections, clauses, paragraphs, schedules and exhibits mean such provisions of this Agreement and the Disclosure Schedule, and exhibits attached to this Agreement, except where otherwise stated. For purposes of this Agreement, if the Company or a Person acting on its behalf has posted a document (a) to the online data room hosted on behalf of the Company and located at https://services.intralinks.com, (b) to the online data room hosted on behalf of the Company by Egnyte, or (c) to the Company's online contract management site utilizing Meditract software at www.meditract.com, in each case, prior to 6:00 p.m. (New York City time) on the date prior to the date hereof, such document shall be deemed to have been "delivered", "furnished", "made available" or "provided" (or any similar formulation) to the Buyer Parties by the Company. The language used in this Agreement shall be deemed to be the language chosen by the parties to express their mutual intent, and no rule of strict construction shall be applied against any party hereto.

13.13 RSU Shares. For purposes of determining the number of earned and paid over shares of Parent Common Stock to be issued or forfeited pursuant to Article 11 in respect of any indemnifiable Losses, the amount of such Losses shall be divided by the Fair Market Value of the Parent Common Stock to be issued or forfeited, rounded to the nearest whole number. Notwithstanding anything to the contrary in this Agreement, the number of shares of Parent Common Stock to be paid over upon the satisfaction of any RSU criteria described in this Agreement shall be adjusted as may be equitably required to reflect any stock split, reverse stock split, recapitalization, reclassification, reorganization, exchange, subdivision or combination. Parent shall take such actions, including the re-cutting and cancellation of stock certificates, as are reasonably requested by the Company in order to effect the transfer of shares of Parent Common Stock paid over pursuant to the RSUs.

13.14 Specific Performance. The parties hereto agree that irreparable damage would occur in the event that any of the provisions of this Agreement are not performed in accordance with their specific terms or are otherwise breached, and that money damages or legal remedies would not be an adequate remedy for any such damages. Therefore, it is accordingly agreed that each party hereto shall be entitled to an injunction or injunctions to prevent or restrain any breach or threatened breach of this Agreement by any other party hereto and to enforce specifically the terms and provisions of this Agreement to prevent breaches or threatened breaches of, or to enforce compliance with, the covenants and obligations of any other party hereto, and appropriate injunctive relief shall be granted in connection therewith. Any party hereto seeking an injunction, a decree or order of specific performance or other equitable remedy shall not be required to provide any bond or other security in connection therewith and any such remedy shall be in addition to and not in substitution for any other remedy to which such party is entitled at law or in equity. Each of the parties hereby waives any defenses in any action for specific performance, including the defense that a remedy at law would be adequate. Notwithstanding the foregoing, the remedies of injunctive relief and specific performance (or any other equitable remedy) will not be available to the Buyer Indemnified Parties after the Closing for the enforcement of any monetary obligation, it being the intent of the parties that the Buyer Indemnified Parties' sole post-Closing remedies for the enforcement of monetary obligations will be those remedies set forth in Article 11.

13.15 Disclosure Schedules. Each Disclosure Schedule is hereby incorporated in and made a part of this Agreement as if set forth in full herein. Any matter or item disclosed on one Schedule of a Disclosure Schedule shall be deemed to have been disclosed on each other Schedule of such Disclosure Schedule in which it is reasonably apparent on the face of such disclosure that the information is required to be included. Disclosure of any item on any Schedule of a Disclosure Schedule shall not constitute an admission or indication that such item or matter is material or establish any standard of materiality. No disclosure on a Schedule of a Disclosure Schedule relating to a possible breach or violation of any Contract, law or order shall be construed as an admission or indication that a breach or violation exists or has actually occurred. The specification of any dollar amount or the inclusion of any item in a Disclosure Schedule is not intended to imply that the amounts, or higher or lower amounts, or the items so included, or other items, are or are not required to be disclosed (including whether such amounts or items are required to be disclosed as material or threatened) or are within or outside of the ordinary course of business, and no party will use the fact of the setting of the amounts or the fact of the inclusion of any item in such Disclosure Schedule in any dispute or controversy between the parties as to whether any obligation, item or matter not described or included in such Disclosure Schedule is or is not required to be disclosed (including whether the amount or items are required to be disclosed as material or threatened) or is within or outside of the ordinary course of business for purposes of this Agreement. Any capitalized terms used in any Schedule of a Disclosure Schedule or Exhibit but not otherwise defined therein shall be defined as set forth in this Agreement.

13.16 Legal Representation. Each of the Buyer Parties hereby agrees, on its own behalf and on behalf of its directors, members, partners, officers, employees and Affiliates, and each of their respective successors and assigns, including, following the Closing, the Company and the Company Subsidiaries (all such parties, the "**Waiving Parties**"), that Ropes & Gray LLP may represent the Company and the Company Subsidiaries or any or all of the Shareholders in connection with any dispute, Action, claim, or obligation arising out of or relating to this Agreement, and each of the Buyer Parties on behalf of itself and the Waiving Parties hereby consents thereto and irrevocably waives (and will not assert) any conflict of interest or any objection arising therefrom or relating thereto. Each of the Buyer Parties, for itself and the Waiving Parties, hereby irrevocably acknowledges and agrees that all communications between the Company, the Company Subsidiaries, the Shareholders and any of their respective Affiliates (the "**Seller Group**") and their counsel, including Ropes & Gray LLP, made in connection with the negotiation, preparation, execution or delivery of this Agreement, any agreements contemplated by this Agreement or the transactions contemplated hereby, or any matter relating to any of the foregoing, are privileged communications, and none of the Buyer Parties or any of the Waiving Parties, nor any Person purporting to act on behalf of or through the Buyer Parties or any of the Waiving Parties, will seek to obtain the same by any process. From and after the Closing, each of the Buyer Parties, on behalf of itself and the Waiving Parties, waives and will not assert any attorney-client privilege with respect to any communication between Ropes & Gray LLP and the Company or the Company Subsidiaries or any other Person in the Seller Group made in connection with the negotiation, preparation, execution or delivery of this Agreement, any agreements contemplated by this Agreement or the transaction contemplated hereby, or any matter relating to any of the foregoing.

13.17 Non-Recourse. This Agreement may only be enforced against, and any Action that may be based upon, in respect of, arise under, out of or by reason of, be connected with, or relate in any manner to this Agreement, or the negotiation, execution, performance or breach (whether willful, intentional, unintentional or otherwise), of this Agreement, including any representation or warranty made or alleged to have been made in connection with, or as an inducement to, this Agreement (each of such above-described legal, equitable or other theories or sources of liability, a "**Recourse Theory**") may only be made or asserted against (and are expressly limited to) the Persons that are expressly identified as the parties hereto in the preamble to and signature pages of this Agreement and solely in their capacities as such. No Person who is not a party hereto (including (a) any former, current or future direct or indirect equity holder, controlling Person, management company, incorporator, member, general or limited partner, manager, director, officer, employee, agent, Affiliate, attorney or representative of, and any financial advisor or lender to (all above-described Persons in this subclause (a), collectively, "**Affiliated Persons**") a party hereto or any Affiliate of such party, and (b) any Affiliated Persons of such Affiliated Persons but specifically excluding the parties hereto (the Persons in subclauses (a) and (b), together with their respective successors, assigns, heirs, executors or administrators, collectively, but specifically excluding the parties hereto, "**Non-Parties**")) shall have any liability whatsoever in respect of, based upon or arising out of any Recourse Theory. Without limiting the rights of any party hereto against the other parties hereto as set forth herein, in no event shall any party hereto, any of its Affiliates or any Person claiming by, through or on behalf of any of them institute any Action under any Recourse Theory against any Non-Party. Notwithstanding the foregoing, nothing in this Section 13.17 shall limit the rights of any Buyer Indemnified Party pursuant to Article 11, including its right to receive payment pursuant to Section 11.5.

13.18 Performance Guarantee. Subject to the prior satisfaction of any conditions set forth herein, Parent unconditionally and irrevocably agrees to take any and all actions necessary to cause Buyer and its permitted assignees to perform all of its covenants, agreements and obligations under this Agreement, including with respect to the consummation of the transactions contemplated hereby and the payment of the Purchase Price, indemnification and other obligations relating to or arising under Article 2, Article 3, Article 4, Article 9, Article 11, Article 12 and this Article 13, and Parent shall be liable for any breach by Buyer or its permitted assignees of any such covenant, agreement or obligation.

[Remainder of page reserved intentionally]

* * * * *

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the date first written above.

PARENT:
BioScrip, Inc., a Delaware corporation

By: /s/ Richard M. Smith
Printed Name: Richard M. Smith
Its: President and Chief Executive Officer

BUYER:
HomeChoice Partners, Inc., a Delaware corporation

By: /s/ Richard M. Smith
Printed Name: Richard M. Smith
Its: President

COMPANY:
HS Infusion Holdings, Inc., a Delaware corporation

By:	/s/ Daniel Greenleaf
Printed Name:	Daniel Greenleaf
Its:	Chairman and CEO

COMPANY SUBSIDIARIES:
HS Infusion Intermediate Holdings, Inc., a Delaware corporation

By: /s/ Daniel Greenleaf
Printed Name: Daniel Greenleaf
Its: Chairman and CEO

Home Solutions Holdings, LLC, a Delaware limited liability company

By: /s/ Daniel Greenleaf
Printed Name: Daniel Greenleaf
Its: Chairman and CEO

Home Infusion Solutions, LLC, a Delaware limited liability company

By: /s/ Daniel Greenleaf
Printed Name: Daniel Greenleaf
Its: Chairman and CEO

Home Infusion Solutions (NY), LLC, a New York limited liability company

By: Home Infusion Solutions, LLC, its sole member

By: /s/ Daniel Greenleaf
Printed Name: Daniel Greenleaf
Its: Chairman and CEO

Best Healthcare Services, Inc., a New Jersey corporation

By: /s/ Daniel Greenleaf
Printed Name: Daniel Greenleaf
Its: Chairman and CEO

CERTIFICATE OF DESIGNATIONS OF
SERIES B CONVERTIBLE PREFERRED STOCK,
PAR VALUE $0.0001 PER SHARE,
OF
BIOSCRIP, INC.

Pursuant to Section 151 of the
General Corporation Law of the State of Delaware

The undersigned DOES HEREBY CERTIFY that the following resolution was duly adopted by the Board of Directors (the "Board") of BioScrip, Inc., a Delaware corporation (hereinafter called the "Corporation"), with the voting powers, designations, preferences and relative, participating, optional or other special rights, qualifications, limitations or restrictions thereof, having been fixed by the Board pursuant to authority granted to it under Article FIFTH of the Corporation's Second Amended and Restated Certificate of Incorporation (as amended through the date hereof, the "Certificate of Incorporation") and in accordance with the provisions of Section 151 of the General Corporation Law of the State of Delaware:

RESOLVED: That, pursuant to authority conferred upon the Board by the Certificate of Incorporation, the Board hereby authorizes 825,000 shares of Series B Convertible Preferred Stock, par value $0.0001 per share, of the Corporation and hereby fixes the voting powers, designations, preferences and relative, participating, optional or other special rights, qualifications, limitations or restrictions thereof, of such shares, in addition to those set forth in the Certificate of Incorporation, as follows:

Defined terms used, but not separately defined herein, shall have the respective meanings ascribed thereto in Section 10 of this Certificate of Designations.

Section 1. Number and Designation. The shares of such series shall be designated "Series B Convertible Preferred Stock," and the number of shares so designated shall be 825,000 (the "Series B Preferred Stock"). The number of shares of Series B Preferred Stock may be increased or decreased by resolution of the Board and the approval by the holders of the Series B Preferred Stock as provided in Section 5(b)(iii) hereof; provided, however, that no decrease shall reduce the number of shares of Series B Preferred Stock to a number less than the number of shares of such series then outstanding. Each share of Series B Preferred Stock shall have a par value of $0.0001 per share.

Section 2. Ranking. The Series B Preferred Stock shall, with respect to dividend rights and rights upon liquidation, winding up or dissolution, rank (a) equal to the outstanding shares of the Company's "Series A Convertible Preferred Stock, par value $0.0001 per share (the "Series A Preferred Stock") and (b) senior to the common stock of the Corporation, par value $0.0001 per share (the "Common Stock") and each other class or series of shares of the Corporation that the Corporation may issue in the future the terms of which do not expressly provide that such class or series ranks equally with, or senior to, the Series B Preferred Stock, with respect to dividend rights and/or rights upon liquidation, winding up or dissolution (such junior stock being referred to hereinafter collectively as "Junior Stock").

The Series B Preferred Stock shall, with respect to dividend rights and rights upon liquidation, winding up or dissolution, rank equally with each other class or series of shares of the Corporation that the Corporation may issue in the future the terms of which expressly provide that such class or series shall rank equally with the Series B Preferred Stock with respect to dividend rights and rights upon liquidation, winding up or dissolution ("Parity Stock").

The Series B Preferred Stock shall, with respect to dividend rights and rights upon liquidation, winding up or dissolution, rank junior to each class or series of shares of the Corporation that the Corporation may issue in the future the terms of which expressly provide that such class or series shall rank senior to the Series B Preferred Stock with respect to dividend rights and rights upon liquidation, winding up or dissolution ("Senior Stock"). The Series B Preferred Stock shall also rank junior to the Corporation's existing and future Indebtedness.

Section 3. Dividends.

(a) **Regular Dividends.**

(i) The Corporation may pay a noncumulative cash dividend on each share of Series B Preferred Stock, when, as and if declared by the Board and permitted by the DGCL, out of any funds that are legally available therefor, at the rate of eight and one-half percent (8.5%) per annum on the Liquidation Preference then in effect (as defined in Section 4(a) below) (a "Cash Dividend") before any dividends shall be declared, set apart for or paid upon the Junior Stock. Following the Issue Date, on or before the third (3rd) Business Day immediately preceding each fiscal quarter of the Corporation, the Corporation shall determine its intention whether or not to pay a Cash Dividend with respect to such ensuing fiscal quarter and shall give notice of such intention to each holder of Series B Preferred Stock as soon as practicable thereafter.

(ii) In the event the Corporation does not declare and pay a Cash Dividend pursuant to Section 3(a)(i), the Liquidation Preference shall be increased to an amount equal to the Liquidation Preference in effect at the start of the applicable Regular Dividend Period, plus an amount equal to such then applicable Liquidation Preference multiplied by eleven and one-half percent (11.5%) per annum, computed on the basis of a 365-day year and the actual number of days elapsed from the start of the applicable Regular Dividend Period to the applicable date of determination (the "Accrued Dividend" and together with the Cash Dividend, the "Regular Dividends").

(b) **Participating Dividends.** In the event that the Corporation shall, at any time, pay a dividend or make a distribution, whether in cash, in kind or other property, on the outstanding shares of Common Stock (other than any dividend in the form of stock, warrants, options or other rights where the dividended stock or the stock issuable upon exercise of such warrants, options or other rights is Common Stock or stock that ranks equally with or junior to the Common Stock; in which case an adjustment shall be made to the Conversion Price in accordance with Section 8(a) or Section 8(b), as applicable), the Corporation shall, at the same time, pay to each holder of Series B Preferred Stock a dividend equal to the dividend that would have been payable to such holder if all (*i.e.*, without regard to any restrictions on conversion at such time) of the shares of Series B Preferred Stock Beneficially Owned by such holder had been converted into Common Stock pursuant to Section 6 immediately prior to the applicable record date for determining the stockholders eligible to receive such dividend or distribution (the "Participating Dividends" and, together with the Cash Dividends, the "Dividends").

(c) **Dividend Payment Dates.** If and to the extent declared by the Board, Cash Dividends shall be payable quarterly in arrears on January 1, April 1, July 1 and October 1 of each year (unless any such day is not a Business Day, in which event such dividends shall be payable on the next succeeding Business Day, without accrual to the actual payment date), commencing on June 10, 2016 (each such payment date being a "Regular Dividend Payment Date," and the period from the Issue Date to June 30, 2016 and each full quarterly period thereafter being a "Regular Dividend Period"). Participating Dividends shall be payable if, as and when paid to the holders of shares of Common Stock (each such date being a "Participating Dividend Payment Date," and, together with each Regular Dividend Payment Date, a "Dividend Payment Date"). For the avoidance of doubt, nothing herein shall require declaration or payment of any cash Dividends on the shares of Series B Preferred Stock.

(d) **Accrual of Dividends.** If declared, the Cash Dividend shall begin to accrue on the first day of the applicable Regular Dividend Period. Cash Dividends are noncumulative. If applicable, the Accrued Dividend (i) shall begin to accrue and be cumulative on the first day of each applicable Regular Dividend Period and shall remain accumulated dividends with respect to such Series B Preferred Stock until paid and (ii) shall compound at the applicable annual rate on each applicable subsequent Regular Dividend Payment Date. Accrued Dividends shall accrue whether or not there are profits, surplus or other funds of the Corporation legally available for the payment of dividends. Any Cash Dividends payable on the Series B Preferred Stock pursuant to Section 3(a)(i) for any period shall be computed on the basis of a 365-day year and the actual number of days elapsed.

(e) **Partial Payments of Dividends.** When Cash Dividends are not paid in full upon the shares of Series B Preferred Stock, all dividends declared on Series B Preferred Stock and any other Parity Stock shall be paid pro rata so that the amount of dividends so declared on the shares of Series B Preferred Stock and each such other class or series of Parity Stock shall in all cases bear to each other the same ratio as accumulated dividends on the shares of Series B Preferred Stock and such other class or series of Parity Stock bear to each other.

(f) **Priority of Series B Preferred Stock Dividends.** The Corporation shall not declare or pay any dividends on shares of Common Stock unless the holders of the Series B Preferred Stock then outstanding shall simultaneously receive Participating Dividends. From and after the time, if any, that the Corporation shall have failed to pay on the date set for payment any Cash Dividend declared by the Board for any applicable Regular Dividend Period, no dividends shall be declared or paid or set apart for payment, or other distribution declared or made, upon any Junior Stock, nor shall any Junior Stock be redeemed, purchased or otherwise acquired for any consideration (nor shall any moneys be paid to or made available for a sinking fund for the redemption of any shares of any such Junior Stock) by the Corporation, directly or indirectly until all such Cash Dividends have been paid in full, without the approval of holders of the Series B Preferred Stock, as provided in Section 5(b)(iv) hereof; provided, however, that the foregoing limitation shall not apply to: (i) purchases, redemptions or other acquisitions of shares of Junior Stock that are approved by the Board and made in connection with any employment contract, benefit plan or other similar arrangement with or for the benefit of any one or more employees, officers, directors, managers or consultants of or to the Corporation or any of its Subsidiaries; (ii) an exchange, redemption, reclassification or conversion of any class or series of Junior Stock solely for any class or series of Junior Stock; or (iii) any dividend in the form of stock, warrants, options or other rights where the dividended stock or the stock issuable upon exercise of such warrants, options or other rights is the same stock as that on which the dividend is being paid or ranks equal or junior to that stock.

(g) **Forfeiture of Certain Cash Dividends**. Shares of Series B Preferred Stock shall not be entitled to any Cash Dividends or any other cash dividend to the extent provided in Section 4(a).

Section 4. Liquidation, Dissolution or Winding Up.

(a) Upon any voluntary or involuntary liquidation, dissolution or winding up of the Corporation (each, a "Liquidation Event"), after satisfaction of all liabilities and obligations to creditors of the Corporation and distribution of any assets of the Corporation to the holders of Senior Stock, and before any distribution or payment shall be made to holders of any Junior Stock, each holder of Series B Preferred Stock, at their election, shall be entitled to receive, out of the assets of the Corporation or proceeds thereof (whether capital, surplus or earnings) legally available therefor, (xx) an amount in cash per share of Series B Preferred Stock equal to the Liquidation Preference or (yy) assuming notice of conversion has been given by the holder of the Series B Preferred Stock, such amount payable (in the same form of consideration payable upon shares of Common Stock) per share of Common Stock issuable upon conversion of the Series B Preferred Stock pursuant to Section 6 hereof immediately prior to such Liquidation Event (in either case, the "Liquidation Amount"). As used in this Certificate of Designations, the term "Liquidation Preference" shall mean $115.34 (the "Issue Price"), as such amount may be adjusted from time to time pursuant to Section 3(a)(ii); provided, however, that if, at any applicable date of determination of the Liquidation Preference hereunder, (i) any Cash Dividend has been declared by the Board but is unpaid or (ii) the Corporation has given notice (or failed to give such notice) of its intention to pay a Cash Dividend pursuant to Section 3(a)(i) but such Cash Dividend has not yet been declared by the Board, then Cash Dividends described in the foregoing clause (i) and Cash Dividends described in the foregoing clause (ii) shall be deemed, for purposes of calculating the applicable Liquidation Preference, to be Accrued Dividends, determined and calculated as of the first day of any Regular Dividend Period in which the foregoing clauses (i) or (ii) shall apply. Upon (1) payment of the Liquidation Amount pursuant to this Section 4 or (2) the determination of the Liquidation Preference for purposes of a conversion or redemption of shares of Series B Preferred Stock pursuant to Section 6 or Section 7 hereof, as applicable, shares of Series B Preferred Stock that have received such payment of the Liquidation Amount or the Liquidation Preference, as the case may be, or that are being so converted or redeemed shall not be entitled to any Cash Dividends described in the foregoing clause (i), even if outstanding on the record date set for payment of such Cash Dividends, or Cash Dividends described in the foregoing clause (ii). If, in connection with any distribution described in the first sentence of this Section 4(a), the assets of the Corporation or proceeds thereof are not sufficient to pay in full the Liquidation Preference then in effect and the corresponding amounts payable on the Parity Stock, then such assets, or the proceeds thereof, shall be distributed to the holders of Series B Preferred Stock and the holders of the Parity Stock in proportion to the full amounts to which the holders of the Series B Preferred Stock and the holders of the Parity Stock would otherwise be entitled pursuant to this Section 4(a) and the certificate of designations (or other governing instrument) of the Parity Stock, respectively.

(b) After the payment of the full Liquidation Preference of the Series B Preferred Stock as set forth in Section 4(a), the assets of the Corporation legally available for distribution, if any, shall be distributed ratably to the holders of the Common Stock. For the avoidance of doubt, the Series B Preferred Stock shall not be convertible into Common Stock after the payment of the Liquidation Preference pursuant to Section 4(a) above, and the holders of Series B Preferred Stock shall not participate in any distribution made to the holders of Common Stock pursuant to this Section 4(b).

(c) The occurrence of a Change of Control (but solely to the extent contemplated by clause (ii) of the definition thereof) shall be deemed a Liquidation Event hereunder (a "Deemed Liquidation Event"), unless such treatment is waived in writing by holders of a majority in voting power of the outstanding shares of the Series B Preferred Stock, and the holders of Series B Preferred Stock, in accordance with their election pursuant to Section 4(a) above, shall receive payment of the Liquidation Preference in cash upon such Deemed Liquidation Event.

Section 5. Voting Rights.

(a) **General Rights**. Except as otherwise provided herein or as required by law, holders of shares of Series B Preferred Stock shall be entitled to vote with the holders of shares of Common Stock (and any other class or series that may similarly be entitled to vote with the holders of Common Stock) and not as a separate class, at any annual or special meeting of stockholders of the Corporation, and may act by written consent in the same manner as the holders of Common Stock. In the event of any such vote or action by written consent, each holder of shares of Series B Preferred Stock shall be entitled to that number of votes equal to the whole number of shares of Common Stock into which such holder's aggregate number of shares of Series B Preferred Stock are convertible (pursuant to Section 6 hereof) as of the Close of Business on the record date fixed for such vote or such written consent. Subject to the foregoing, each holder of shares of the Series B Preferred Stock shall be entitled to the number of votes equal to the largest number of full shares of Common Stock into which all shares of Series B Preferred Stock held of record by such holder could then be converted (taking into account, for the avoidance of doubt, the Liquidation Preference then in effect for purposes of the Conversion Rate and any Conversion Price adjustments made pursuant to Section 8) at the record date for the determination of the stockholders entitled to vote on or consent to such matters. The holders of Series B Preferred Stock shall be entitled to notice of any meeting of stockholders in accordance with the bylaws of the Corporation (the "Bylaws").

(b) **Separate Vote of Preferred Stock**. In addition to any other vote or consent required herein or by applicable law, unless waived in writing by holders of a majority in voting power of the outstanding shares of the Series B Preferred Stock, the vote or written consent of the holders of a majority in voting power of the outstanding shares of the Series B Preferred Stock shall be necessary for effecting or validating the following actions (whether taken by amendment, merger, consolidation or otherwise):

(i) Any change, amendment, alteration or repeal (including as a result of a merger, consolidation, or other similar or extraordinary transaction) of any provisions of the Certificate of Incorporation or Bylaws that amends or modifies, in a manner adverse to, in any material respect, the rights, preferences, privileges or voting powers of the Series B Preferred Stock;

(ii) Any authorization, designation, recapitalization, whether by reclassification, by merger or otherwise, or issuance of any new class or series of stock or any other securities convertible into equity securities of the Corporation having rights, preferences or privileges senior to or on a parity with the Series B Preferred Stock (including additional shares of Series B Preferred Stock);

(iii) Any increase or decrease in the authorized number of shares of Series B Preferred Stock;

(iv) Any redemption, repurchase or other acquisition, or payment of dividends or other distributions, by the Corporation with respect to any securities of the Corporation that constitute Junior Stock, except as permitted by Section 3(f);

(v) The entry by the Corporation into any contract, agreement, arrangement, or understanding that would prohibit or otherwise restrict the Corporation from performing its obligations to the holders of Series B Preferred Stock under this Certificate of Designations, the Certificate of Incorporation or otherwise;

(vi) The entry by any Subsidiary into any contract, agreement, arrangement, or understanding that would prohibit or otherwise restrict the payment of dividends or the making of distributions to the Corporation, other than the Credit Facility or the Indenture;

(vii) The issuance by the Corporation of equity or securities convertible into equity of the Corporation at a price that is more than 25% below fair market value of such equity or securities at the time of issuance thereof;

(viii) Any voluntary initiation of any liquidation, dissolution or winding up of the Corporation but only if such liquidation, dissolution or winding up of the Corporation would result in each holder of the Series B Preferred Stock not having the option to receive a distribution equal to the full Liquidation Preference in accordance with Section 4(a) above; or

(ix) Any Deemed Liquidation Event, but only if as a result of the Deemed Liquidation Event each holder of the Series B Preferred Stock would not have the option to receive a distribution equal to the full Liquidation Preference in accordance with Section 4(a) above. Notwithstanding the forgoing, the voting rights of the Series B Preferred Stock shall not apply with respect to any Deemed Liquidation Event that is effected by the holders (or any administrative or collateral agent acting on their behalf) of the Indebtedness under either the Credit Facility or the Indenture in the exercise of their rights and remedies with respect to, or in connection with the satisfaction of all or a portion of the obligations under, the Credit Facility or the Indenture, including, without limitation, any consensual or non-consensual debt restructuring, recapitalization, reclassification, exchange, merger, consolidation, sale of assets, liquidation or similar transaction (a "Creditor Deemed Liquidation Event"), unless the Creditor Deemed Liquidation Event is required by applicable law to be approved by the holders of Common Stock in order to be effective.

(c) **Board of Directors.** So long as shares of Series B Preferred Stock representing at least five percent (5%) of the outstanding Voting Stock of the Corporation (on an as converted basis) are outstanding, holders of shares of Series B Preferred Stock, by the vote or written consent of the holders of a majority in voting power of the outstanding shares of the Series B Preferred Stock shall have the right to designate one (1) member to the Board of Directors of the Corporation, in addition to such members as are elected by holders of Common Stock of the Corporation. Subject to applicable law (including the listing standards of The Nasdaq Stock Market), the director designated to the Board of Directors of the Corporation pursuant to this Section 5(c) shall also be appointed to a minimum of two committees of the Board of Directors of the Corporation at such director's request.

Section 6. Conversion.

(a) **Optional Conversion by Holders**. Subject to and in compliance with the provisions of this Section 6, any shares of Series B Preferred Stock may, at the option of the holder thereof, be converted at any time into fully paid and nonassessable shares of Common Stock. Upon conversion, a holder of Series B Preferred Stock shall be entitled to a number of shares of Common Stock equal to the product obtained by multiplying the Conversion Rate (as defined in and determined as provided for in Section 6(d)) then in effect, by the number of shares of Series B Preferred Stock being converted, plus cash in lieu of fractional shares, as set out in Section 8(i).

(b) **Optional Conversion by the Corporation**. If, at any time following the third anniversary date of the Issue Date, the VWAP of the Common Stock equals or exceeds three (3) times the Conversion Price for a period of 30 consecutive Trading Days (the Business Day immediately following such 30th Trading Day, the "Corporation Conversion Date"), and if the Corporation shall so elect, any or all shares of Series B Preferred Stock may be converted automatically (and without further action following any such election) into a number of shares of Common Stock equal to the product obtained by multiplying the Conversion Rate then in effect, by the number of shares of Series B Preferred Stock being converted, plus cash in lieu of fractional shares, as set out in Section 8(i) (the "Corporation Conversion"). Notwithstanding the foregoing, the Corporation may not elect a Corporation Conversion at any time during the period (the "Standstill Period") commencing on the earlier of (1) the date that the Corporation shall have made a public announcement and (2) the date that such information is otherwise made public, that the Corporation is in negotiations relating to, or has entered into, a definitive agreement with respect to a transaction constituting a Deemed Liquidation Event and ending on the date of the first to occur of (i) the consummation of such transaction and (ii) the date that the Corporation shall have made a public announcement that any such definitive agreement or the negotiations relating thereto has been terminated. For purposes of calculating the next available Corporation Conversion Date, the VWAP shall not be deemed to equal or exceed three (3) times the Conversion Price at any time during the Standstill Period.

(c) **Optional Special Dividend and Conversion on Certain Change of Control**. At the written election (including written notice to the Corporation) by holders of a majority in voting power of the outstanding shares of the Series B Preferred Stock, upon the occurrence of a Change of Control pursuant to clause (i) of the definition thereof (but solely in connection with a transaction that is a third party tender offer that is publicly disclosed and approved (or recommended to stockholders of the Corporation) by the Board and does not otherwise contemplate any other transaction that would constitute a Change of Control apart from clause (i) of the definition of thereof):

(i) the Board shall, subject to applicable law, declare and the Corporation shall pay a special cash dividend (as such may be adjusted pursuant to this Section 6(c), the "Special Dividend") on each share of Series B Preferred Stock, out of any funds that are legally available therefor (the "Legally Available Funds"), in the amount of the Liquidation Preference per share then in effect with respect to the Series B Preferred Stock; provided, however, that to the extent the Legally Available Funds are not sufficient to pay the Special Dividend in full (the amount of such shortfall being referred to as a "Funds Shortfall"), the aggregate Special Dividend in respect of all shares of Series B Preferred Stock and any special dividend applicable to Parity Stock shall be reduced to an aggregate amount equal to the Legally Available Funds and the Special Dividend (as so reduced) and any applicable special dividend with respect to Parity Stock shall be paid to the holders of Series B Preferred Stock and the holders of the Parity Stock in proportion to the full amounts to which the holders of the Series B Preferred Stock and the holders of the Parity Stock would otherwise be entitled pursuant to Section 3(e) and the certificate of designations (or other governing instrument) of the Parity Stock, respectively; and

(ii) as of the payment date of the Special Dividend, all outstanding shares of Series B Preferred Stock automatically shall be converted (without further action) into a number of shares of Common Stock equal to the product obtained by multiplying the Conversion Rate then in effect, by the number of shares of Series B Preferred Stock being converted, plus cash in lieu of fractional shares, as set out in Section 8(i); provided; however, that for purposes of determining the Conversion Rate as applicable to this Section 6(c)(ii), the aggregate Liquidation Preference on each share of Series B Preferred Stock and the liquidation preference on each share of any applicable Parity Stock as provided in the certificate of designations (or other governing instrument) of such Parity Stock shall be increased by the Funds Shortfall applicable to each such share.

(d) **Conversion Rate and Conversion Price**. The conversion rate in effect at any applicable time for conversion of each share of Series B Preferred Stock into Common Stock (the "Conversion Rate") shall be the quotient obtained by dividing the Liquidation Preference then in effect by the Conversion Price (as defined below). The conversion price for the Series B Preferred Stock shall initially be $5.17 (the "Conversion Price"). Such initial Conversion Price shall be adjusted from time to time in accordance with Section 8. All references to the Conversion Price herein shall mean the Conversion Price as so adjusted.

(e) **Conversion Procedures**. In order to exercise the conversion privilege set forth in Section 6(a) with respect to any shares of Series B Preferred Stock held in book-entry form with the Depositary Trust Company or its successor ("DTC"), a holder must comply with DTC's procedures for converting any shares of Series B Preferred Stock. In order to exercise the conversion privilege set forth in Section 6(a) with respect to any certificated shares of Series B Preferred Stock, a holder must do each of the following in order to convert its shares of Series B Preferred Stock:

(i) complete and manually sign the conversion notice provided by the conversion agent, and deliver such notice to the conversion agent;

(ii) deliver to the conversion agent the certificate or certificates representing the shares of Series B Preferred Stock to be converted (or, if such certificate or certificates have been lost, stolen or destroyed, a lost certificate affidavit and indemnity in form and substance reasonably acceptable to the Corporation);

(iii) if required, furnish appropriate endorsements and transfer documents in form and substance reasonably acceptable to the Corporation; and

(iv) if required, pay any stock transfer, documentary, stamp or similar taxes not payable by the Corporation pursuant to Section 6(i).

(f) **Effect of Conversion**. Effective immediately prior to the Close of Business on the Conversion Date applicable to any shares of Series B Preferred Stock, dividends shall no longer accrue or be declared on any such shares of Series B Preferred Stock and such shares of Series B Preferred Stock shall cease to be outstanding.

(g) **Record Holder of Underlying Securities as of Conversion Date**. The Person or Persons entitled to receive the Common Stock and, to the extent applicable, cash, payable in lieu of fractional shares, upon conversion of Series B Preferred Stock on any applicable Conversion Date shall be treated for all purposes as the record holder(s) of such shares of Common Stock and/or cash as of the Close of Business on such Conversion Date. As promptly as practicable on or after the applicable Conversion Date and, in the case of a conversion pursuant to Section 6(a), compliance by the applicable holder with the relevant conversion procedures contained in Section 6(e) (and in any event no later than three Trading Days thereafter), the Corporation shall issue the number of whole shares of Common Stock issuable upon conversion (and deliver payment of cash in lieu of fractional shares). Such delivery of shares of Common Stock shall be made, at the option of the applicable holder, in certificated form or by book-entry. Any such certificate or certificates shall be delivered by the Corporation to the appropriate holder on a book-entry basis or by mailing certificates evidencing the shares to the holders at their respective addresses as set forth in the conversion notice. If fewer than all of the shares of Series B Preferred Stock Beneficially Owned by any holder hereto are converted pursuant to this Section 6, then book-entry shares (or, if elected by the holder, a new certificate) representing the unconverted shares of Series B Preferred Stock shall be issued to such holder concurrently with the issuance of the certificates (or book-entry shares) representing the applicable shares of Common Stock. Any cash payable in lieu of fractional shares shall be delivered to the applicable holder at the address for such holder as set forth in the conversion notice. In the event that a holder shall not by written notice designate the name in which shares of Common Stock and, to the extent applicable, cash to be delivered upon conversion of shares of Series B Preferred Stock should be registered or paid, or the manner in which such shares and, if applicable, cash should be delivered, the Corporation shall be entitled to register and deliver such shares and, if applicable, cash in the name of the holder and in the manner shown on the records of the Corporation.

(h) **Status of Converted or Acquired Shares**. Shares of Series B Preferred Stock duly converted in accordance with this Certificate of Designations, or otherwise acquired by the Corporation in any manner whatsoever, shall be retired promptly after the conversion or acquisition thereof. All such shares shall upon their retirement and any filing required by the DGCL become authorized but unissued shares of preferred stock of the Corporation, without designation as to series until such shares are once more designated as part of a particular series by the Board pursuant to the provisions of the Certificate of Incorporation.

(i) **Taxes**.

(i) The Corporation and its paying agent shall be entitled to withhold taxes on all payments on the Series B Preferred Stock, Common Stock, or other securities issued upon conversion of the Series B Preferred Stock to the extent required by law. Prior to the date of any such payment, each holder of Series B Preferred Stock shall deliver to the Corporation or its paying agent a duly executed, valid, accurate and properly completed Internal Revenue Service Form W-9 or an appropriate Internal Revenue Service Form W-8, as applicable.

(ii) The Corporation shall pay any and all documentary, stamp and similar issue or transfer tax due on (A) the issue of the Series B Preferred Stock and (B) the issue of shares of Common Stock upon conversion of the Series B Preferred Stock. However, in the case of conversion of Series B Preferred Stock, the Corporation shall not be required to pay any tax or duty that may be payable in respect of any transfer involved in the issue and delivery of shares of Common Stock or Series B Preferred Stock in a name other than that of the holder of the shares to be converted, and no such issue or delivery shall be made unless and until the person requesting such issue has paid to the Corporation the amount of any such tax or duty, or has established to the satisfaction of the Corporation that such tax or duty has been paid.

Section 7. Redemption.

(a) **Redemption at the Option of the Holder Upon a Change of Control**.

(i) Upon the occurrence of a Change of Control (other than (A) a Change of Control constituting a Deemed Liquidation Event (unless such Deemed Liquidation Event is waived as provided in Section 4(c)) and (B) a Change of Control resulting in a conversion under Section 6(c)) and subject to applicable law and the prior indefeasible payment in full in cash of all outstanding Indebtedness and other obligations under the Credit Facility (and the termination of all commitments thereunder) and the Indenture (and the termination of all commitments thereunder), each holder of shares of Series B Preferred Stock that remain outstanding thereafter, if any, shall have the right to require the Corporation to redeem, in full, out of funds legally available therefor, by irrevocable written notice to the Corporation, all of such holder's shares of Series B Preferred Stock at a redemption price per share equal to the Liquidation Preference then in effect per share of the Series B Preferred Stock.

(ii) Within 30 days of the occurrence of a Change of Control, the Corporation shall send notice by first class mail, postage prepaid, addressed to the holders of record of the shares of Series B Preferred Stock at their respective last addresses appearing on the books of the Corporation stating (A) that a Change of Control has occurred, (B) subject to (x) the prior indefeasible payment in full of all outstanding Indebtedness and other obligations under the Credit Facility (and the termination of all commitments thereunder), if required by the terms thereof and (y) the consummation of a Change of Control Offer under the Indenture (as defined in the Indenture), if required by the terms thereof, that all shares of Series B Preferred Stock tendered prior to a Business Day no earlier than 30 days nor later than 60 days from the date such notice is mailed shall be accepted for redemption and (C) the procedures that holders of the Series B Preferred Stock must follow in order for their shares of Series B Preferred Stock to be redeemed, including the place or places where certificates for such shares are to be surrendered (or an indemnification undertaking as reasonably determined by the Corporation with respect to such certificates in the event of their loss, theft or destruction) for payment of the redemption price. Any notice mailed as provided in this subsection shall be conclusively presumed to have been duly given, whether or not the holder receives such notice, but failure duly to give such notice by mail, or any defect in such notice or in the mailing thereof, to any holder of shares of Series B Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series B Preferred Stock.

(b) **Redemption at the Option of the Holder Other Than Upon a Change of Control.**

(i) Subject to applicable law, each holder of shares of Series B Preferred Stock, at any time from and after the tenth (10th) anniversary date of the Issue Date, shall have the right to request that the Corporation redeem, in full, out of funds legally available therefor, by irrevocable written notice to the Corporation, all of such holder's shares of Series B Preferred Stock at a redemption price per share equal to the Liquidation Preference then in effect per share of the Series B Preferred Stock. Such notice shall be given by first class mail, postage prepaid, addressed to the Corporation, and shall be conclusively presumed to have been duly given on the day the notice is mailed to the Corporation, whether or not the Corporation receives such notice. Each notice of redemption given to the Corporation shall state: (A) the redemption date and (B) the number of shares of the Series B Preferred Stock to be redeemed. Such mailing shall be at least 30 days and not more than 60 days before the date fixed for redemption in the notice.

(ii) If the Corporation elects to exercise its option to redeem a holder's shares of Series B Preferred Stock pursuant to the notice provided by such holder pursuant to Section 7(b)(i), then, upon receipt of such notice, the Corporation shall within three (3) Business Days notify such holder, by irrevocable written notice to such holder, of (A) its election to redeem such shares of Series B Preferred Stock pursuant to the notice and (B) the place or places where certificates for such shares are to be surrendered (or an indemnification undertaking as reasonably determined by the Corporation with respect to such certificates in the event of their loss, theft or destruction) for payment of the redemption price.

(iii) If the Corporation elects not to exercise its option to redeem a holder's shares of Series B Preferred Stock pursuant to the notice provided by such holder pursuant to Section 7(b)(i), then, upon receipt of such notice, the Corporation shall within three (3) Business Days notify such holder, by irrevocable written notice to such holder, of its election not to so redeem such shares of Series B Preferred Stock. In such an event, the Conversion Price then in effect with respect to the shares of Series B Preferred Stock subject to the notice provided by such holder pursuant to Section 7(b)(i) shall, as of the date the Corporation provides notice to such holder pursuant to this Section 7(b)(iii), be decreased to the lesser of (A) the Conversion Price then in effect and (B) 80% of the VWAP of the Common Stock for the 10 consecutive Trading Days prior to the date such holder duly gives notice to the Corporation pursuant to Section 7(b)(i).

(iv) If the Corporation does not provide notice to such holder pursuant to Section 7(b)(ii) or 7(b)(iii), then the Corporation will be deemed to have not elected to exercise its option to redeem a holder's shares of Series B Preferred Stock pursuant to the notice provided by such holder pursuant to Section 7(b)(i), and the Conversion Price then in effect with respect to the shares of Series B Preferred Stock subject to the notice provided by such holder pursuant to Section 7(b)(i) shall, as of the date the holder provided notice to the Corporation pursuant to Section 7(b)(i), be decreased to the lesser of (A) the Conversion Price then in effect and (B) 80% of the VWAP of the Common Stock for the 10 consecutive Trading Days prior to the date such holder duly gives notice to the Corporation pursuant to Section 7(b)(i).

(v) Any adjustment to the Conversion Price pursuant to Section 7(b)(iii) or 7(b)(iv) shall be in addition to any adjustments to the Conversion Price pursuant to Section 8 herein.

(c) **Redemption at the Option of the Corporation**. Subject to applicable law, the Series B Preferred Stock may be redeemed, in whole or in part, out of funds legally available therefor, at any time from and after the tenth (10th) anniversary date of the Issue Date, at the option of the Corporation, upon giving notice of redemption pursuant to Section 7(d), at a redemption price per share equal to the Liquidation Preference then in effect per share of the Series B Preferred Stock.

(d) **Notice of Redemption at the Option of the Corporation**. Notice of every redemption of shares of Series B Preferred Stock pursuant to Section 7(c) shall be given by first class mail, postage prepaid, addressed to the holders of record of the shares to be redeemed at their respective last addresses appearing on the books of the Corporation. Such mailing shall be at least 30 days and not more than 60 days before the date fixed for redemption. Any notice mailed as provided in this Section 7(d) shall be conclusively presumed to have been duly given, whether or not the holder receives such notice, but failure duly to give such notice by mail, or any defect in such notice or in the mailing thereof, to any holder of shares of Series B Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series B Preferred Stock. Each notice of redemption given to a holder shall state: (i) the redemption date; (ii) the number of shares of the Series B Preferred Stock to be redeemed and, if less than all the shares held by such holder are to be redeemed, the number of such shares to be redeemed from such holder; (iii) the redemption price; and (iv) the place or places where certificates for such shares are to be surrendered (or an indemnification undertaking as reasonably determined by the Corporation with respect to such certificates in the event of their loss, theft or destruction) for payment of the redemption price.

(e) **Partial Redemption**. In case of any redemption of part of the shares of Series B Preferred Stock at the time outstanding pursuant to this Section 7, the shares to be redeemed shall be selected pro rata. Subject to the provisions hereof, the Corporation shall have the power and authority to prescribe reasonable and customary terms and conditions upon which shares of Series B Preferred Stock shall be redeemed from time to time. If fewer than all the shares represented by any certificate are redeemed, then book-entry shares (or, if elected by the holder, a new certificate) shall be issued representing the unredeemed shares without charge to the holder thereof.

(f) **Effectiveness of Redemption**. Notwithstanding that any certificate for any share so called for redemption has not been surrendered for cancellation, on and after the redemption date dividends shall cease to accrue on all shares so called for redemption, all shares so called for redemption shall be retired as provided for in Section 6(h) and such shares will no longer be issued and outstanding and all rights with respect to such shares shall forthwith on such redemption date cease and terminate, except only the right of the holders thereof to receive the amount payable on such redemption, without interest.

Section 8. Anti-Dilution Provisions.

(a) **Adjustment Upon Common Stock Event**. Upon the (i) the issuance by the Corporation of additional shares of Common Stock as a dividend or other similar distribution on outstanding shares of Common Stock, (ii) a subdivision of the outstanding shares of Common Stock into a greater number of shares of Common Stock, or (iii) a combination of the outstanding shares of Common Stock into a smaller number of shares of Common Stock (other than such events wherein the holders of the Series B Preferred Stock participate therein pursuant to Section 3(b)) (each, a "Common Stock Event") after the Issue Date, the Conversion Price shall, simultaneously with the happening of such Common Stock Event, be adjusted by multiplying the Conversion Price in effect immediately prior to such Common Stock Event by a fraction, (A) the numerator of which shall be the number of shares of Common Stock issued and outstanding immediately prior to such Common Stock Event, and (B) the denominator of which shall be the number of shares of Common Stock issued and outstanding immediately after such Common Stock Event, and the product so obtained shall thereafter be the Conversion Price. The Conversion Price shall be readjusted in the same manner upon the happening of each subsequent Common Stock Event.

(b) **Adjustments for Other Dividends and Distributions**. If at any time or from time to time after the Issue Date, the Corporation pays a dividend or makes another distribution to the holders of the Common Stock payable in securities of the Corporation, other than an event constituting a Common Stock Event and other than such events wherein the holders of the Series B Preferred Stock participate therein pursuant to Section 3(b), then in each such event provision shall be made so that the holders of Series B Preferred Stock shall receive upon conversion thereof, in addition to the number of shares of Common Stock receivable upon conversion thereof, the amount of securities of the Corporation which they would have received had their Series B Preferred Stock been converted into Common Stock on the date of such event (or such record date, as applicable) and had they thereafter, during the period from the date of such event (or such record date, as applicable) to and including the applicable Conversion Date, retained such securities receivable by them as aforesaid during such period, subject to all other adjustments called for during such period under this Section 8 with respect to the rights of the holders of Series B Preferred Stock or with respect to such other securities by their terms.

(c) **Adjustment for Reclassification, Exchange and Substitution**. If at any time or from time to time after the Issue Date, the Common Stock issuable upon the conversion of Series B Preferred Stock is changed into the same or a different number of shares of any class or classes of stock, whether by recapitalization, reclassification or otherwise (other than by a Common Stock Event described in Section 8(a) or as described in Section 8(b)), then in any such event each holder of such Series B Preferred Stock shall have the right thereafter to convert such stock into the kind and amount of stock and other securities and property receivable upon such recapitalization, reclassification or other change by holders of the number of shares of Common Stock into which such shares of Series B Preferred Stock could have been converted immediately prior to such recapitalization, reclassification or change, all subject to further adjustment as provided herein or with respect to such other securities or property by the terms thereof.

(d) **Reorganizations, Mergers and Consolidations**. If at any time or from time to time after the Issue Date, there is a reorganization of the Corporation (other than as described in Section 8(a), (b) or (c)) or a merger or consolidation of the Corporation with or into another corporation (except, for all purposes of this Section 8(d), a Deemed Liquidation Event that is not waived as provided in Section 4(c)), then, as a part of such reorganization, merger or consolidation, provision shall be made so that the holders of such Series B Preferred Stock shall then have the right to convert such stock into the kind and amount of stock and other securities and property receivable upon such reorganization, merger or consolidation by holders of the number of shares of Common Stock into which such shares of Series B Preferred Stock could have been converted immediately prior to such reorganization, merger or consolidation, all subject to further adjustment as provided herein or with respect to such other securities or property by the terms thereof. In any such case, appropriate adjustment shall be made in the application of the provisions of this Section 8 with respect to the rights of the holders of such Series B Preferred Stock after the reorganization, merger or consolidation to the end that the provisions of this Section 8 (including adjustment of the Conversion Price then in effect and number of shares issuable upon conversion of the Series B Preferred Stock) shall be applicable after that event and be as nearly equivalent to the provisions hereof as may be practicable. This Section 8(d) shall similarly apply to successive reorganizations, mergers and consolidations. The Corporation shall not effect any such reorganization, merger or consolidation unless prior to the consummation thereof the successor entity (if other than the Corporation) resulting from such consolidation or merger shall assume by written instrument the obligations of the Corporation under this Certificate of Designations.

(e) **Successive Adjustments**. After an adjustment to the Conversion Price under this Section 8, any subsequent event requiring an adjustment under this Section 8 shall cause an adjustment to each such Conversion Price as so adjusted.

(f) **Multiple Adjustments**. For the avoidance of doubt, if an event occurs that would trigger an adjustment to the Conversion Price pursuant to this Section 8 under more than one subsection hereof, such event, to the extent fully taken into account in a single adjustment, shall not result in multiple adjustments hereunder; provided, however, that if more than one subsection of this Section 8 is applicable to a single event, the subsection shall be applied that produces the largest adjustment.

(g) **Notice of Adjustments**. Whenever the Conversion Price is adjusted as provided under this Section 8, the Corporation shall as soon as reasonably practicable following the occurrence of an event that requires such adjustment (or if the Corporation is not aware of such occurrence, as soon as reasonably practicable after becoming so aware):

(i) compute the adjusted applicable Conversion Rate in accordance with this Section 8 and prepare and transmit to the conversion agent an officer's certificate setting forth the applicable Conversion Rate, the method of calculation thereof in reasonable detail, and the facts requiring such adjustment and upon which such adjustment is based; and

(ii) provide a written notice to the holders of the Series B Preferred Stock of the occurrence of such event and a statement in reasonable detail setting forth the method by which the adjustment to the applicable Conversion Rate was determined and setting forth the adjusted applicable Conversion Rate.

(h) **Conversion Agent**. The conversion agent, if other than the Corporation, shall not at any time be under any duty or responsibility to any holder of Series B Preferred Stock to determine whether any facts exist that may require any adjustment of the applicable Conversion Price or with respect to the nature or extent or calculation of any such adjustment when made, or with respect to the method employed in making the same. The conversion agent, if other than the Corporation, shall be fully authorized and protected in relying on any officer's certificate delivered pursuant to Section 8(g) and any adjustment contained therein and the conversion agent shall not be deemed to have knowledge of any adjustment unless and until it has received such certificate. The conversion agent, if other than the Corporation, shall not be accountable with respect to the validity or value (or the kind or amount) of any shares of Common Stock, or of any securities or property, that may at the time be issued or delivered with respect to any Series B Preferred Stock; and the conversion agent makes no representation with respect thereto. The conversion agent, if other than the Corporation, shall not be responsible for any failure of the Corporation to issue, transfer or deliver any shares of Common Stock pursuant to the conversion of Series B Preferred Stock or to comply with any of the duties, responsibilities or covenants of the Corporation contained in this Section 8.

(i) **Fractional Shares**. No fractional shares of Common Stock will be delivered to the holders of Series B Preferred Stock upon conversion of shares of Series B Preferred Stock into Common Stock as provided herein. In lieu of fractional shares otherwise issuable, holders of Series B Preferred Stock will be entitled to receive an amount in cash equal to the fraction of a share of Common Stock, multiplied by the Closing Price of the Common Stock on the Trading Day immediately preceding the applicable Conversion Date. In order to determine whether the number of shares of Common Stock to be delivered to a holder of Series B Preferred Stock upon the conversion of such holder's shares of Series B Preferred Stock will include a fractional share (in lieu of which cash would be paid hereunder), such determination shall be based on the aggregate number of shares of Series B Preferred Stock of such holder that are being converted on any single Conversion Date.

Section 9. Reservation of Shares Issuable Upon Conversion. The Corporation shall at all times reserve and keep available out of its authorized and unissued shares of Common Stock for the sole purpose of issuance upon conversion of the Series B Preferred Stock and payment of dividends on the Series B Preferred Stock, each as herein provided, free from preemptive rights, not less than such aggregate number of shares of the Common Stock as shall be issuable (taking into account the adjustments and restrictions of Section 8) upon the conversion of all outstanding shares of Series B Preferred Stock and payment of dividends hereunder (and all dividends payable in the next twelve (12) months, assuming all such dividends will be Accrued Dividends); provided, however, that the holders of a majority in voting power of the outstanding shares of the Series B Preferred Stock may waive the Corporation's reservation obligation under this Section 9 on such terms and conditions as such majority holders and the Corporation may agree (the terms and conditions of any such waiver being herein referred to as the "Waiver Terms"). The Corporation shall comply with all securities laws regulating the offer and delivery of shares of Common Stock upon conversion of the Series B Preferred Stock. If at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all the then-outstanding shares of the Series B Preferred Stock and payment of dividends hereunder (and all dividends payable in the next twelve (12) months, assuming all such dividends will be Accrued Dividends), the Corporation shall take, subject to any applicable Waiver Terms, such corporate action as may be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purpose. All shares of Common Stock which may be issued in connection with the conversion provisions set forth herein will, upon issuance by the Corporation, be validly issued, fully paid and nonassessable.

Section 10. Certain Definitions.

As used in this Certificate of Designations, the following terms shall have the following meanings, unless the context otherwise requires:

"Accrued Dividend" shall have the meaning ascribed to it in Section 3(a)(ii).

"Affiliate" with respect to any Person, any Person directly or indirectly controlling, controlled by or under common control with, such other Person; provided, however, that the Corporation, any of its Subsidiaries, or any of the Corporation's other controlled Affiliates, in each case, will not be deemed to be Affiliates of the Investors for purposes of this Certificate of Designations. For purposes of this definition, "control" (including, with correlative meanings, the terms "controlled by" and "under common control with") when used with respect to any Person, means the possession, directly or indirectly, of the power to cause the direction of management or policies of such Person, whether through the ownership of voting securities, by contract or otherwise.

"Beneficially Own" shall mean "beneficially own" as defined in Rule 13d-3 of the Exchange Act or any successor provision thereto.

"Board" shall have the meaning ascribed to it in the recitals.

"Business Day" shall mean a day that is a Monday, Tuesday, Wednesday, Thursday or Friday and is not a day on which banking institutions in New York, New York generally are authorized or obligated by law, regulation or executive order to close.

"Bylaws" shall have the meaning ascribed to it in Section 5(a).

"Capital Stock" shall mean any and all shares, interests, rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated) stock issued by the Corporation.

"Cash Dividend" shall have the meaning ascribed to it in Section 3(a)(i).

"Certificate of Designations" shall mean this Certificate of Designations relating to the Series B Preferred Stock, as it may be amended from time to time.

"Certificate of Incorporation" shall have the meaning ascribed to it in the recitals.

"Change of Control" shall mean the occurrence of any of the following:

(i) any Person (other than the Investors or any of their respective Affiliates or a Person acting as a group with the Investors or any of their respective Affiliates) shall Beneficially Own, directly or indirectly, through a purchase, merger or other acquisition transaction or series of transactions, shares of the Corporation's Capital Stock entitling such Person to exercise 50% or more of the total voting power of all classes of Voting Stock of the Corporation, other than an acquisition by the Corporation, any of the Corporation's Subsidiaries or any of the Corporation's employee benefit plans (for purposes of this clause (i), "Person" shall include any group as such term is used in Rule 13d-5(b) promulgated under the Exchange Act); or

(ii) the Corporation (A) merges or consolidates with or into any other Person, another Person merges with or into the Corporation, or the Corporation sells, leases, licenses, transfers, or otherwise disposes of all or substantially all of the assets of the Corporation to another Person or (B) engages in any recapitalization, reclassification or other transaction in which all or substantially all of the Common Stock is exchanged for or converted into cash, securities or other property, in each case other than a merger or consolidation:

(1) that does not result in a reclassification, conversion, exchange or cancellation of outstanding Common Stock; or

(2) which is effected solely to change the Corporation's jurisdiction of incorporation and results in a reclassification, conversion or exchange of outstanding shares of the Common Stock solely into shares of common stock of the surviving entity; or

(3) where the Voting Stock outstanding immediately prior to such transaction is converted into or exchanged for Voting Stock of the surviving or transferee Person constituting a majority of the outstanding shares of such Voting Stock of such surviving or transferee Person (immediately after giving effect to such issuance).

"Close of Business" shall mean 5:00 p.m., New York City time, on any applicable Business Day.

"Closing Price" shall mean, on any particular date, (a) the last reported trade price per share of Common Stock on such date on the Trading Market (as reported by Bloomberg L.P. at 4:15 p.m. (New York City time)), or (b) if there is no such price on such date, the closing bid price on the Trading Market on the date nearest preceding such date (as reported by Bloomberg L.P. at 4:15 p.m. (New York City time)), or (c) if the Common Stock is not then listed or quoted for the Trading Market and if prices for the Common Stock are then reported in the "pink sheets" published by Pink Sheets LLC (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported, or (d) if the shares of Common Stock are not publicly traded, the fair market value of a share of Common Stock as determined by the Board in good faith.

"Common Stock" shall have the meaning ascribed to it in Section 2.

"Common Stock Event" shall have the meaning ascribed to it in Section 8(a).

"Conversion Date" shall mean, with respect to a conversion of Series B Preferred Stock pursuant to:

(a) Section 6(a), the date on which a holder complies in all respects with the procedures set forth in Section 6(e);

(b) Section 6(b), the Corporation Conversion Date; and

(c) Section 6(c), the date of the applicable conversion event specified therein.

"Conversion Price" shall have the meaning ascribed to it in Section 6(d).

"Conversion Rate" shall have the meaning ascribed to it in Section 6(d).

"Corporation" shall have the meaning ascribed to it in the recitals.

"Corporation Conversion" shall have the meaning ascribed to it in Section 6(b).

"Corporation Conversion Date" shall have the meaning ascribed to it in Section 6(b).

"Credit Facility" means that certain senior secured credit agreement, dated July 31, 2013, by and among the Corporation, the several banks and financial institutions and lenders from time to time party thereto, and SunTrust Bank, in its capacity as administrative agent (as amended, modified, supplemented, restated, replaced or refinanced from time to time.

"Creditor Deemed Liquidation Event" shall have the meaning ascribed to it in Section 5(b)(ix).

"Deemed Liquidation Event" shall have the meaning ascribed to it in Section 4(c).

"DGCL" shall mean the Delaware General Corporation law, as amended from time to time.

"Dividends" shall have the meaning ascribed to it in Section 3(b).

"Dividend Payment Date" shall have the meaning ascribed to it in Section 3(c).

"DTC" shall have the meaning ascribed to it in Section 6(e).

"Funds Shortfall" shall have the meaning ascribed to it in Section 6(c)(i).

"Indebtedness" shall mean any indebtedness (including principal and premium) in respect of borrowed money.

"Indenture" means that certain Indenture, dated as of February 11, 2014, by and among the Company, the Guarantors party thereto and U.S. Bank National Association, as Trustee.

"Issue Date" shall mean June 10, 2016.

"Issue Price" shall have the meaning ascribed to it in Section 4(a).

"Junior Stock" shall have the meaning ascribed to it in Section 2.

"Legally Available Funds" shall have the meaning ascribed to it in Section 6(c)(i).

"Liquidation Amount" shall have the meaning ascribed to it in Section 4(a).

"Liquidation Event" shall have the meaning ascribed to it in Section 4(a).

"Liquidation Preference" shall have the meaning ascribed to it in Section 4(a).

"Parity Stock" shall have the meaning ascribed to it in Section 2.

"Participating Dividends" shall have the meaning ascribed to it in Section 3(b).

"Participating Dividend Payment Date" shall have the meaning ascribed to it in Section 3(c).

"Person" shall mean any individual, company, partnership, limited liability company, joint venture, association, joint stock company, trust, unincorporated organization, government or agency or political subdivision thereof or any other entity.

"Regular Dividends" shall have the meaning ascribed to it in Section 3(a)(ii).

"Regular Dividend Payment Date" shall have the meaning ascribed to it in Section 3(c).

"Regular Dividend Period" shall have the meaning ascribed to it in Section 3(c).

"Senior Stock" shall have the meaning ascribed to it in Section 2.

"Series A Preferred Stock" shall have the meaning ascribed to it in Section 2.

"Series B Preferred Stock" shall have the meaning ascribed to it in Section 1.

"Special Dividend" shall have the meaning ascribed to it in Section 6(c)(i).

"Standstill Period" shall have the meaning ascribed to it in Section 6(b).

"Subsidiary" means any entity for which the Corporation owns, directly or indirectly, an amount of the voting securities, other voting rights or voting partnership interests of which is sufficient to elect at least a majority of its board of directors or other governing body (or, if there are no such voting interests, more than 50% of the equity interests of such entity).

"Trading Day" shall mean any Business Day on which the Common Stock is traded, or able to be traded, on the principal national securities exchange on which the Common Stock is listed or admitted to trading, or if the Common Stock is not trading on a national securities exchange, a Business Day on which the Common Stock is trading in its principal market.

"Trading Market" means the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market or the New York Stock Exchange.

"Voting Stock" shall mean Capital Stock of the class or classes pursuant to which the holders thereof have the general voting power under ordinary circumstances (determined without regard to any classification of directors) to elect one or more members of the Board of Directors of the Corporation (without regard to whether or not, at the relevant time, Capital Stock of any other class or classes (other than Common Stock) shall have or might have voting power by reason of the happening of any contingency).

"VWAP" shall mean, as of any applicable date of determination, the volume weighted average per share price of the Common Stock on the applicable Trading Day on the principal national securities exchange on which the Common Stock is listed or admitted to trading, of not so admitted or listed, as otherwise reasonably determined by the Board.

Section 11. Headings. The headings of the paragraphs of this Certificate of Designations are for convenience of reference only and shall not define, limit or affect any of the provisions hereof.

Section 12. Record Holders. To the fullest extent permitted by applicable law, the Corporation and the transfer agent, if any, may deem and treat the record holder of any share of the Series B Preferred Stock as the true and lawful owner thereof for all purposes, and, to the fullest extent permitted by law, neither the Corporation nor such transfer agent shall be affected by any notice to the contrary.

Section 13. Notices. All notices or communications in respect of the Series B Preferred Stock shall be sufficiently given if given in writing and delivered in person or by first class mail, postage prepaid, or if given in such other manner as may be permitted in this Certificate of Designations, in the Certificate of Incorporation or Bylaws or by applicable law or regulation. Notwithstanding the foregoing, if the Series B Preferred Stock is issued in book-entry form through The Depository Trust Corporation or any similar facility, such notices may be given to the holders of the Series B Preferred Stock in any manner permitted by such facility.

In the event :

(a) that the Corporation shall authorize the issuance of rights, options or warrants to subscribe for or purchase shares of Common Stock or of any other subscription rights or warrants;

(b) that the Corporation shall authorize a dividend or distribution to all holders of shares of Common Stock; or

(c) of any Change of Control, Liquidation Event and/or Deemed Liquidation Event;

then the Corporation shall cause to be given to each holder of Series B Preferred Stock notice, pursuant to this Section 13, at least twenty (20) Business Days prior to the applicable record date (or in the case of events for which there is no record date, at least twenty (20) Business Days prior to such event), of: (x) the date as of which the holders of record of shares of Common Stock to be entitled to receive any such dividend or distribution are to be determined, (y) the initial expiration date set forth in any tender offer or exchange offer for shares of Common Stock or (z) the date on which any such Change of Control, Liquidation Event and/or Deemed Liquidation Event is expected to become effective or be consummated, and the date as of which it is expected that holders of record of shares of Common Stock shall be entitled to exchange such shares for securities or other property, if any, deliverable upon such Change of Control, Liquidation Event and/or Deemed Liquidation Event or other transactions.

Section 14. Replacement Certificates. The Corporation shall replace any mutilated certificate at the holder's expense upon surrender of that certificate to the Corporation. The Corporation shall replace certificates that become destroyed, stolen or lost at the holder's expense upon delivery to the Corporation of reasonably satisfactory evidence that the certificate has been destroyed, stolen or lost, together with any indemnity that may be required by the Corporation.

Section 15. Transfer Agent, Conversion Agent, Registrar and Paying Agent. The duly appointed transfer agent, conversion agent, registrar and paying agent for the Series B Preferred Stock shall be the Corporation. The Corporation may, in its sole discretion, appoint a successor transfer agent and remove such transfer agent in accordance with the agreement between the Corporation and the transfer agent; provided, however, that the Corporation shall appoint a successor transfer agent who shall accept such appointment prior to the effectiveness of such removal. Upon any such removal or appointment, the Corporation shall send notice thereof by first-class mail, postage prepaid, to the holders of the Series B Preferred Stock.

Section 16. Severability. If any term of the Series B Preferred Stock (or part thereof) set forth herein is invalid, unlawful or incapable of being enforced by reason of any rule of law or public policy, all other terms (or parts thereof) set forth herein which can be given effect without the invalid, unlawful or unenforceable term will, nevertheless, remain in full force and effect, and no term herein (or parts thereof) set forth will be deemed dependent upon any other such term unless so expressed herein.

Section 17. Other Rights. The shares of Series B Preferred Stock shall not have any rights, preferences, privileges or voting powers or relative, participating, optional or other special rights, or qualifications, limitations or restrictions thereof, other than as set forth herein or in the Certificate of Incorporation or as provided by applicable law and regulation.

IN WITNESS WHEREOF, Bioscrip, Inc. has caused this Certificate of Designations to be duly executed by its authorized corporate officer this 10th day of June, 2016.

BioScrip, Inc.

By: /s/ Richard M. Smith
Name: Richard M. Smith
Title: President and Chief Executive Officer

Exhibit 4.1

AMENDMENT NO. 1 TO REGISTRATION RIGHTS AGREEMENT

THIS AMENDMENT NO. 1 TO THE REGISTRATION RIGHTS AGREEMENT (this "Amendment"), effective as of June 10, 2016, is by and between BioScrip, Inc. (the "Company"), Coliseum Capital Partners, L.P., a Delaware limited partnership, Coliseum Capital Partners II, L.P., a Delaware limited partnership and Blackwell Partners, LLC Series A, a Georgia limited liability company (each a "Stockholder" and collectively, the "Stockholders"). Capitalized but otherwise undefined terms herein have the meanings given to them in the Registration Rights Agreement (as defined below).

WHEREAS, the Company and the Stockholders are party to that certain Registration Rights Agreement, dated March 9, 2015 (the "Registration Rights Agreement"), governing the Company's obligations to register Registrable Securities of the Stockholders; and

WHEREAS, in connection with entering into that certain Exchange Agreement, dated as of the date hereof, by and between the Company and the Stockholders pursuant to which the Company will issue shares of Series B Convertible Preferred Stock of the Company in exchange for shares of Series A Convertible Preferred Stock of the Company, the Company and the Stockholders desire to amend the Registration Rights Agreement pursuant to Section 11(c) thereof and upon such terms as set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Amendments to Registration Rights Agreement.

a. A new definition shall be added to Section 10 of the Registration Rights Agreement to read:

> ""**Preferred Stock**" means any shares of Series A Convertible Preferred Stock of the Company, $0.0001 par value per share, or any shares of Series B Convertible Preferred Stock, $0.0001 par value per share."

b. The definition of Registrable Securities in Section 10 of the Registration Rights Agreement is hereby amended and restated in its entirety to read as follows:

> ""**Registrable Securities**" means the Common Stock that has been or will be issued upon conversion of any Preferred Stock or the exercise of the Warrant, together with any securities issued or issuable upon any stock split, dividend or other distribution, recapitalization or similar event with respect to the foregoing. For purposes of this Agreement, a Person shall be deemed to be a holder of Registrable Securities whenever such Person has the right to acquire such Registrable Securities (upon conversion or exercise, in connection with a transfer of securities or otherwise, but disregarding any restrictions or limitations upon the exercise of such right), whether or not such acquisition has actually been effected. As to any particular Registrable Securities, such securities shall cease to be Registrable Securities when (A) a Registration Statement covering such securities has been declared effective by the Securities and Exchange Commission and such securities have been disposed of pursuant to such effective Registration Statement, (B) such securities are sold under circumstances in which all of the applicable conditions of Rule 144 (or any similar provisions then in force) under the Securities Act are met, (C) such securities are eligible for sale by the Holder without registration pursuant to Rule 144 (or any similar provisions then in force) under the Securities Act without limitation thereunder on volume or manner of sale, (D) such securities are otherwise transferred and such securities may be resold without limitation or subsequent registration under the Securities Act, (E) such securities shall have ceased to be outstanding, or (F) the stock certificates or evidences of book-entry registration relating to such securities have had all restrictive legends removed."

2. Confirmation. Except as expressly modified by the terms and provisions of this Amendment, all of the terms and provisions of the Registration Rights Agreement are unchanged and continue in full force and effect and all rights, remedies, liabilities and obligations evidenced by the Registration Rights Agreement are hereby acknowledged by the Company and the Stockholders to be valid and in full force and effect.

3. Counterparts. This Amendment may be executed in any number of counterparts, by facsimile if necessary, each of which shall be an original, but all of which together shall constitute one instrument.

4. Governing Law. This Amendment shall be governed by and construed in accordance with the internal laws of New York applicable to parties residing in New York, without regard applicable principles of conflicts of law. Each party irrevocably consents to the exclusive jurisdiction of any court located within New York County, New York, in connection with any matter based upon or arising out of this Amendment or the matters contemplated hereby and it agrees that process may be served upon it in any manner authorized by the laws of the State of New York for such persons and waives and covenants not to assert or plead any objection which it might otherwise have to such jurisdiction and such process.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed and delivered as of the date first above written.

COMPANY:

BIOSCRIP, INC.

/s/ Richard M. Smith
Name: Richard M. Smith
Title: President & Chief Executive Officer

STOCKHOLDERS:

COLISEUM CAPITAL PARTNERS, L.P.
COLISEUM CAPITAL PARTNERS II, L.P.
BLACKWELL PARTNERS, LLC SERIES A

By: Coliseum Capital Management, LLC as Investment Manager

/s/ Adam Gray
Name: Adam Gray
Title: Managing Partner

Address:
One Station Place, 7th Floor South
Stamford, CT 06902

[Signature Page to Amendment No. 1 to Registration Rights Agreement]

Exhibit 10.1

EXECUTION VERSION

EXCHANGE AGREEMENT

This Exchange Agreement (this "Agreement"), dated as of June 10, 2016 (the "Effective Date"), is entered into by and among BioScrip, Inc., a Delaware corporation (the "Company"), and each of the other persons who are signatories to this Agreement and who are listed on Schedule 1 attached hereto (each of them is referred to as a "Stockholder" and together they are referred to as "Stockholders").

RECITALS

WHEREAS, collectively the Stockholders beneficially own and hold (i) 625,000 shares of the Company's Series A convertible preferred stock, par value $0.0001 per share (the "Series A Preferred Stock") , (ii) 1,800,000 Class A Warrants (the "Class A Warrants") to purchase the shares of the Company's common stock, par value $0.0001 per share (the "Common Stock") and (iii) 1,800,000 Class B Warrants (the "Class B Warrants" and, together with the Class A Warrants, the "Warrants" and, together with the Series A Preferred Stock, the "Securities") to purchase the shares of Common Stock;

WHEREAS, the Board of Directors of the Company (the "Board") is considering launching a public offering of shares of Common Stock (the "Equity Offering");

WHEREAS, a significant number of shares of Common Stock are reserved for issuance to the Stockholders upon the conversion of the Series A Preferred Stock and exercise of the Warrants, and if such shares could be issued by the Company, an Equity Offering of a larger size could be undertaken;

WHEREAS, the Company, based on instructions from the Board, has contacted the Stockholders to determine upon what terms the Stockholders would be willing to enter into a series of transactions to allow the Company to utilize the Common Stock underlying the Series A Preferred Stock and the Warrants and the Stockholders and the Company have agreed to enter into this Agreement in order to facilitate such transactions; and

WHEREAS, each Stockholder desires to exchange the number of shares of Series A Preferred Stock (the "Exchange") set forth on Schedule 1 for a new series of convertible preferred stock (the "Series B Preferred Stock") of the Company, to be designated "Series B Convertible Preferred Stock," having the terms set forth in the form of Certificate of Designations of Series B Convertible Preferred Stock, par value $0.0001 per share, of the Company set forth on Exhibit A hereto (the "Certificate of Designations"), and the Company desires to issue the Series B Preferred Stock in exchange for such Series A Preferred Stock, all on the terms and conditions set forth in this Agreement in reliance on the exemption from registration provided by Section 3(a)(9) of the Securities Act of 1933, as amended (the "Securities Act").

NOW THEREFORE, in order to implement the foregoing and in consideration of the mutual agreements contained herein and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Company and each of the Stockholders agree as follows:

Section 1. Exchange of Shares.

(a) Each of the parties hereto agrees that on the Effective Date the Company shall issue to each Stockholder, and each such Stockholder shall receive and accept from the Company, the number of shares of Series B Preferred Stock set forth on Schedule 1 to this Agreement in exchange (the "Exchange") for all of such Stockholder's rights, interests and claims with respect to the shares of Series A Preferred Stock set forth on Schedule 1 to the extent such rights, interests and claims are held by such Stockholder.

(b) Assuming the accuracy of the representations and warranties of the Company and each Stockholder set forth in Sections 2 and 3, respectively, of this Agreement, the parties acknowledge and agree that the purpose of such representations and warranties is, among other things, to ensure that the Exchange qualifies as an exchange of securities under Section 3(a)(9) of the Securities Act.

(c) As part of the Exchange, the Company shall promptly issue to each such Stockholder a stock certificate evidencing the shares Series B Preferred Stock as set forth next to such Stockholder's name on Schedule 1 upon the delivery by such Stockholder of this Agreement and the surrender by such Stockholder of each stock certificate or certificates, if any, representing the shares of Series A Preferred Stock set forth on Schedule 1 hereto. The Company and the Stockholders agree to use their commercially reasonable efforts to cooperate with each other and the Company's stock transfer agent and registrar following the Effective Date to effectuate the issuance of such new stock certificates representing shares of Series B Preferred Stock and the surrender of existing stock certificates representing shares of Series A Preferred Stock.

Section 2. Representations and Warranties of the Company. The Company represents and warrants to each Stockholder as of the date hereof that:

(a) Common Stock; Preferred Stock. The authorized capital stock of the Company consists of 125,000,000 shares of Common Stock, of which 68,680,241 shares are issued and outstanding, and 5,000,000 shares preferred stock, par value $0.0001 ("Preferred Stock"), of which 825,000 shares of Preferred Stock have been designated as Series A Preferred Stock, of which 635,822 shares are issued and outstanding. The table attached hereto as Schedule 2.2(a) sets forth, as of the date hereof, the shares of Common Stock currently reserved for issuance with respect to (1) the Company's equity incentive plan, (2) the Series A Preferred Stock, (3) the Warrants and (4) certain other matters. Upon consummation of the Exchange and the other transactions contemplated by the Transaction Documents (the "Transactions"), (a) 825,000 shares of Preferred Stock shall be designated as Series B Preferred Stock pursuant to the terms of the Certificate of Designations, all of which will be duly authorized, and when issued pursuant to the Exchange will be validly issued, fully paid and non-assessable and (b) the shares of Common Stock issuable upon conversion of the Series B Preferred Stock, when issued, will be validly issued, fully paid and non-assessable. As of the Effective Date, the Stockholders own all of the outstanding Series B Preferred Stock, free and clear of all liens, security interests, mortgages, pledges, charges, equities, claims or restrictions on transferability or encumbrances of any kind (collectively, "Liens") and none of the shares of Series B Preferred Stock, or, after the Stockholder Approval has been obtained, shares of Common Stock issuable upon conversion of the Series B Preferred Stock, will have been, or will be, issued in violation of the preemptive rights of any security holders of the Company arising as a matter of law or under or pursuant to the Company's certificate of incorporation, as amended, the Company's bylaws, as amended, or any agreement or instrument to which the Company is a party or by which it is bound. The Stockholders, as the holders of the Series B Preferred Stock, shall be entitled to all rights accorded to a holder of Series B Preferred Stock or Common Stock, in accordance with, and as set forth in, the Certificate of Designations.

(b) Capitalization and Other Capital Stock Matters. All of the issued and outstanding shares of capital stock of the Company have been duly authorized and validly issued, are fully paid and nonassessable and were not issued in violation of, and are not subject to, any preemptive or similar rights.

(c) Subsidiaries. Each corporation, partnership or other entity in which the Company, directly or indirectly through any of its subsidiaries, owns more than fifty percent (50%) of any class of equity securities or interests is listed on Schedule 2(c) (the "Subsidiaries").

(d) Organization and Qualification. The Company and each of the Subsidiaries (i) has been duly organized or formed, as the case may be, is validly existing and is in good standing under the laws of its jurisdiction of organization, (ii) has all requisite power and authority to carry on its business and to own, lease and operate its properties and assets and (iii) is duly qualified or licensed to do business and is in good standing as a foreign corporation, partnership or other entity as the case may be, authorized to do business in each jurisdiction in which the nature of such businesses or the ownership or leasing of such properties requires such qualification, except where the failure to be so qualified or, solely with respect to the Subsidiaries, in good standing would not, individually or in the aggregate, have a material adverse effect on (A) the properties, business, prospects, operations, earnings, assets, liabilities or condition (financial or otherwise) of the Company and the Subsidiaries, taken as a whole, (B) the ability of the Company or any Subsidiary to perform its obligations in all material respects under any Transaction Document, (C) the validity or enforceability of any of the Transaction Documents, or (D) the consummation of any of the Transactions (each, a "Material Adverse Effect")

(e) Legal Power and Authority. The Company has all necessary power and authority to execute, deliver and perform its obligations under the Transaction Documents and to consummate the Transactions, and no stockholder actions are necessary for the Company's execution, delivery and performance of its obligations under the Transaction Documents and to consummate the Transactions, other than, for the avoidance of doubt, Stockholder Approval to allow the Company to comply with its obligations under Section 4(b) of this Agreement.

(f) This Agreement. This Agreement has been duly and validly authorized, executed and delivered by the Company and constitutes a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except that the enforcement thereof may be subject to (i) bankruptcy, insolvency, reorganization, receivership, moratorium, fraudulent conveyance, fraudulent transfer or other similar laws now or hereafter in effect relating to creditors' rights generally, (ii) general principles of equity (whether applied by a court of law or equity) and the discretion of the court before which any proceeding therefor may be brought and (iii) with respect to the rights to indemnity or contribution hereunder, federal and state securities laws and public policy considerations.

(g) Compliance with Existing Instruments. Neither the Company nor any of the Subsidiaries is (i) in violation of its certificate of incorporation, by-laws or other organizational documents (the "Charter Documents"); (ii) in violation of any U.S. or non-U.S. federal, state or local statute, law (including, without limitation, common law) or ordinance, or any judgment, decree, rule, regulation, order or injunction (collectively, "Applicable Law") of any U.S. or non-U.S. federal, state, local or other governmental or regulatory authority, governmental or regulatory agency or body, court, arbitrator or self-regulatory organization (each, a "Governmental Authority"), applicable to any of them or any of their respective properties, except as would not result in a Material Adverse Effect; or (iii) in breach of or default under any Applicable Agreement (defined below), except as set forth in Schedule 2(g). To the Company's Knowledge, all Applicable Agreements are in full force and effect and are legal, valid and binding obligations. For purposes of this Agreement, (A) "Applicable Agreement" means any agreement or instrument entered into by the Company, including the Existing Indebtedness Agreements, a breach or default of which could reasonably be expected to have a Material Adverse Effect, (B) "Knowledge" means in the case of the Company and its Subsidiaries, the actual knowledge as of the date of this Agreement of Richard M. Smith, Jeffrey M. Kreger and Kathryn Stalmack and (C) "Existing Indebtedness Agreements" shall mean (x) that certain credit agreement, dated July 31, 2013 (as amended, modified or supplemented to date), by and among the Company, the several banks and other financial institutions and lenders from time to time party thereto, and SunTrust Bank, in its capacity as administrative agent (the "Credit Facility") and (y) the Company's 8.875% Senior Notes due 2021 issued pursuant to that indenture, dated as of February 11, 2014, by and among the Company, the guarantors party thereto and U.S. Bank National Association, as trustee (the "Senior Notes Indenture").

(h) No Consents. No consent, approval, authorization, order, filing or registration of or with any Governmental Authority or third party is required for execution, delivery or performance of the Transaction Documents or the consummation of the Transactions, except (i) those that have been official or made, as the case may be, that are in full force and effect and (ii) as may be required under the securities or "Blue Sky" laws of U.S. state or non-U.S. jurisdictions.

(i) No Material Applicable Laws or Proceedings. (i) No Applicable Law has have been enacted, adopted or issued, (ii) no stop order suspending the qualification or exemption from qualification of any of the shares of Common Stock in any jurisdiction has been issued and no proceeding for that purpose has been commenced or, to the Company's Knowledge, is pending or contemplated, and (iii) there is no legal, administrative, arbitral or other proceeding, action, claim, suit, demand, hearing, arbitration, mediation, governmental or regulatory investigation or audit, notice of violation or deficiency, or proceeding pending, or, to the Knowledge of the Company threatened or contemplated by Governmental Authorities or threatened by others (collectively, "Proceedings") that, with respect to clauses (i), (ii), and (iii) of this Section 2(i) would at the date hereof restrain, enjoin, prevent or interfere with the consummation of the Exchange or any of the Transactions or would, individually or in the aggregate, have a Material Adverse Effect.

(j) Issuance of Series B Preferred Stock. The issuance of the Series B Preferred Stock is duly authorized and, upon issuance in accordance with the terms hereof, the shares of Series B Preferred Stock will be validly issued, fully paid and non-assessable. The shares of Common Stock issued upon conversion or exercise of the Series B Preferred Stock, when issued and delivered in accordance with the terms of the Series B Preferred Stock, will be duly and validly issued, fully paid and non-assessable, free and clear of all Liens, other than restrictions on transfer under applicable state and federal securities laws. The issuance by the Company of the Series B Preferred Stock in accordance with this Agreement is exempt from the registration requirements of the Securities Act under Section 3(a)(9) of the Securities Act.

(k) No Conflicts. The execution, delivery and performance by the Company of this Agreement and the other Transaction Documents to which it is a party, the issuance of the Series B Preferred Stock and the consummation by it of the Transactions will not conflict with, violate, constitute a breach of or a default (with the passage of time or otherwise) or a "Debt Repayment Triggering Event" under, or result in the imposition of a Lien on any assets of the Company or any of its Subsidiaries, or the imposition of any penalty under or pursuant to (i) the Charter Documents, (ii) any Applicable Agreement, (iii) any Applicable Law or (iv) any order, writ, judgment, injunction, decree, determination or award binding upon the Company and the Subsidiaries. As used herein, a "Debt Repayment Triggering Event" means any event or condition that gives, or with the giving of notice or lapse of time would give, the holder of any note, debenture or other evidence of indebtedness (or any person acting on such holder's behalf) the right to require the repurchase, redemption or repayment of all or a portion of such indebtedness by the Company or any of the Subsidiaries or any of their respective properties. For purposes of this Agreement, the "Transaction Documents" means this Agreement, the Registration Rights Agreement dated as of March 9, 2015, by and among the Company and the Stockholders and the amendment of such Registration Rights Agreement dated as of the date hereof, and any documents executed in connection with this Agreement or the Transactions.

(l) Acknowledgment Regarding the Exchange. The Company acknowledges and agrees that each Stockholder is acting solely in the capacity of an arm's length third party with respect to this Agreement and the transactions contemplated hereby. The Company further acknowledges that no Stockholder is acting as a financial advisor or fiduciary of the Company (or in any similar capacity) with respect to this Agreement and the transactions contemplated hereby, and the Company has not relied in any way on any advice given by any Stockholder or any of representatives or agents of any Stockholder in connection with this Agreement, any other Transaction Document or any of the Transactions.

(m) 3(a)(9) Representation. The Company has not, nor has any person acting on its behalf, directly or indirectly made any offers or sales of any security or solicited any offers to buy any security under circumstances that would cause the Exchange and the issuance of the Series B Preferred Stock pursuant to this Agreement to be integrated with prior offerings by the Company for purposes of the Securities Act which would prevent the Company from delivering the Series B Preferred Stock to the Stockholders pursuant to Section 3(a)(9) of the Securities Act, nor will the Company take any action or steps that would cause the Exchange or the issuance and delivery of the Series B Preferred Stock to be integrated with other offerings to the effect that the delivery of the Series B Preferred Stock to the Stockholders would be seen not to be exempt pursuant to Section 3(a)(9) of the Securities Act.

(n) Company SEC Reports. The Company has timely filed with or furnished to, as applicable, the Securities and Exchange Commission (the "SEC") all registration statements, prospectuses, reports, schedules, forms, statements and other documents (including exhibits and all other information incorporated by reference) required to be filed or furnished by it with the SEC since January 1, 2015 (the "Company SEC Documents"). As of their respective filing dates (or, if amended or superseded by a subsequent filing, as of the date of the last such amendment or superseding filing prior to the date hereof), each of the Company SEC Documents complied as to form in all material respects with the applicable requirements of the Securities Act, and the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and the rules and regulations of the SEC thereunder applicable to such Company SEC Documents. None of the Company SEC Documents, including any financial statements, schedules or exhibits included or incorporated by reference therein at the time they were filed (or, if amended or superseded by a subsequent filing, as of the date of the last such amendment or superseding filing prior to the date hereof), contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

Section 3. Representations and Warranties of the Stockholders. Each Stockholder hereby jointly and severally represents and warrants to the Company that:

(a) Ownership of the Series A Preferred Stock. Such Stockholder is the legal and beneficial owner of the Series A Preferred Stock and the Warrants listed next to such Stockholder's name on Schedule 1 to this Agreement. Each Stockholder acquired its (i) shares of Series A Preferred Stock pursuant to that certain Securities Purchase Agreement dated as of March 9, 2015 (the "Purchase Agreement"), and (ii) Warrants pursuant to that certain Warrant Agreement dated as of March 9, 2015 (the "Warrant Agreement") and has continuously held the Securities since issuance. Each Stockholder owns the Securities outright and free and clear of any options, contracts, agreements, Liens, security interests, or other encumbrances.

(b) No Public Sale or Distribution. Such Stockholder is acquiring the Series B Preferred Stock in the ordinary course of business for its own account, with the intention of holding such shares of Series B Preferred Stock for investment purposes and with no present intention of participating, directly or indirectly, in a distribution of such shares in violation of applicable securities laws.

(c) Accredited Investor. Such Stockholder is an "accredited investor" as that term is defined in Rule 501 of Regulation D under the Securities Act.

(d) Reliance on Exemptions. Such Stockholder understands that the Exchange is being made in reliance on specific exemptions from the registration requirements of United States federal and state securities laws and that the Company is relying in part upon the truth and accuracy of, and the Stockholder's compliance with, the representations, warranties, agreements, acknowledgments and understandings of each Stockholder set forth herein in order to determine the availability of such exemptions and the eligibility of each Stockholder to complete the Exchange and to acquire the Series B Preferred Stock .

(e) Information. Such Stockholder has been furnished with all materials relating to the business, finances and operations of the Company and materials relating to the Exchange which have been requested by such Stockholder. Such Stockholder has been afforded the opportunity to ask questions of the Company. Such Stockholder acknowledges that all of the documents filed by the Company with the SEC under Sections 13(a), 14(a) or 15(d) of the Exchange Act, that have been posted on the EDGAR site maintained by the Securities and Exchange Commission ("SEC") are available to such Stockholder, and such Stockholder has not relied on any statement of the Company not contained in such documents in connection with such Stockholder's decision to enter into this Agreement and the Exchange or any of the other Transaction Documents.

(f) No Governmental Review. Such Stockholder understands that no United States federal or state agency or any other government or governmental agency has passed on or made any recommendation or endorsement in connection with the Exchange or the fairness or suitability of the investment in the New Preferred Stock nor have such authorities passed upon or endorsed the merits of the New Preferred Stock.

(g) Organization; Authorization. Such Stockholder is duly organized, validly existing and in good standing under the laws of its state of formation and has the requisite organizational power and authority to enter into and perform its obligations under this Agreement.

(h) Validity; Enforcement. This Agreement has been duly and validly authorized, executed and delivered by such Investor. This Agreement is valid, binding and enforceable against such Investor in accordance with its terms, subject to (i) bankruptcy, insolvency, reorganization, receivership, moratorium, fraudulent conveyance, fraudulent transfer or other similar laws now or hereafter in effect relating to creditors' rights generally, (ii) general principles of equity (whether applied by a court of law or equity) and the discretion of the court before which any proceeding therefor may be brought and (iii) with respect to the rights to indemnity or contribution hereunder, federal and state securities laws and public policy considerations.

(i) Tax Consequences. Such Stockholder acknowledges that the Company has made no representation regarding the potential or actual tax consequences for such Stockholder which will result from entering into the Agreement and from consummation of the Exchange. Such Stockholder acknowledges that it bears complete responsibility for obtaining adequate tax advice regarding the Agreement and the Exchange.

Section 4. Covenants.

(a) Waiver of Reservation Obligation. Subject to the following sentence and the performance of the Company of the Company's obligations under this Agreement, each Stockholder hereby waives (the "Waiver") (i) the requirement under Section 9 of the Certificate of Designations that the Company reserve shares of Common Stock in an amount sufficient to satisfy the Stockholders' right to convert the shares of Series B Preferred Stock and (ii) the requirement under Section 3.1 of each of the Warrant Agreements that the Company reserve shares of Common Stock in an amount sufficient to allow the exercise in full of all Warrants. Notwithstanding the foregoing, the Company agrees that the upon consummation or abandonment of the Equity Offering, any shares of Common Stock not issued and sold by the Company in the Equity Offering shall be reserved and kept available out of its authorized and unissued shares in order to allow such shares to be utilized to allow for the conversion of the Series B Preferred Stock or exercise of the Warrants, as the case may be.

(b) Shareholder Vote. The Company agrees that within four (4) months following the date hereof, the Board shall submit for approval of the Company's stockholders at a special meeting of stockholders a proposal (the "Authorization Proposal") to increase the authorized capital stock of the Company in an amount at least sufficient enough to allow the Company to comply with its obligations under Section 9 of the Certificate of Designation and Section 3.1 of the Warrant Agreement as if the Waiver had not been granted (such approval, the "Stockholder Approval"). If the Stockholder Approval is not obtained at such meeting, the Board shall submit the Authorization Proposal on an annual basis beginning in 2017 at either the annual meeting of the Company's stockholders or at a special meeting of the Company's stockholders called to consider the Authorization Proposal until the Stockholder Approval is obtained or a waiver of this Section 4(b) is granted by the Majority-in-Interest (as defined below). Upon the receipt of Stockholder Approval, the Company agrees that it will promptly file an amendment to the Certificate of Incorporation of the Company to reflect the increased in authorized share capital.

(c) Prohibited Issuances. Until (1) the Stockholder Approval is obtained and (2) sufficient shares of Common Stock are reserved for issuance such that the Company is in compliance with Section 9 of the Certificate of Designations and Section 3.1 of the Warrant Agreement with respect to each Stockholder, the Company agrees that it shall not issue or undertake to issue any additional shares of Common Stock or any equity awards or any securities convertible into or exchangeable for shares of Common Stock without the consent of the holders of a majority of the voting power of the shares of Series B Preferred Stock (a "Majority-in-Interest"); provided, however, that (i) the foregoing shall not prohibit the Company from issuing shares of Common Stock in connection with the conversion or exchange or exercise of any securities of the Company outstanding on the date hereof and (ii) the Company may grant awards with respect to the 1,926,561 shares of Common Stock available for issuance under the Company's 2008 Equity Incentive Plan (any shares previously granted that have been forfeited and are made available by the Board under the 2008 Equity Incentive Plan shall increase the amount available under this proviso).

(d) Redemption.

(i) If sufficient shares of Common Stock have not been reserved for issuance such that the Company is in compliance with Section 9 of the Certificate of Designations and Section 3.1 of the Warrant Agreement with respect to each Stockholder, prior to the earlier of (X) May 17, 2021, and (Y) the date the that all of the Company's obligations under the Indenture (as defined in the Certificate of Designations) have been satisfied (such earlier date, the "Trigger Date"), then the Company shall provide notice to each holder of Series B Preferred Stock setting out the Trigger Date (the "Redemption Notice"), and the Company agrees that each holder of Series B Preferred Stock may require the Company to redeem in whole or in part, out of funds legally available therefor, by irrevocable written notice to the Company (the "Election Notice"), all or a portion of such holder's Impaired Shares (as defined below) at a cash redemption price per share (the "Redemption Price") equal to the greater of (A) the Liquidation Preference (as defined in the Certificate of Designations) then in effect per share of the Series B Preferred Stock and (B) the product of (1) the Average Price (as defined below) for a share of Common Stock and (2) the number of shares of Common Stock into which an Impaired Share is convertible. An Election Notice shall include the date on which the redemption should take place, which shall be the 10th day following the date of the Election Notice. Each holder electing to have its Series B Preferred Stock redeemed shall be entitled to have the Company redeem up to (X) that number of shares of Series B Preferred Stock owned by such holder multiplied by (Y) the Pro Rata Proportion (as defined below).

(ii) If the Company does not redeem some or all of the Shares of Series B Preferred Stock for which holders were entitled to, and requested, redemption pursuant to Section 4(d)(1), then from the date set forth in the Redemption Notice for redemption until the date on which the Company pays the Redemption Price with respect to such shares of Series B Preferred Stock, interest at the rate of the WSJ Prime Rate plus 3% per annum shall accrue on such aggregate Redemption Price and the Company shall be in breach of its contractual obligations under this Agreement. In addition, in such event, the Company shall be required to pay any dividends required to be paid in respect of such Impaired Shares under the Certificate of Designations as a "Cash Divided" (as defined in the Certificate of Designations) pursuant to Section 3(a)(i) of the Certificate of Designations and shall not be entitled to elect to accrue such dividends under Section 3(a)(ii) of the Certificate of Designations.

(iii) "Average Price" means the VWAP (as defined in the Certificate of Designations) of the Common Stock for the ten (10) consecutive trading day period ending two (2) trading days prior to the date of the Redemption Notice.

(iv) "Impaired Shares" means shares of Series B Preferred Stock (X) for which there are not sufficient authorized shares of Common Stock to allow conversion of such shares of Series B Preferred or (Y) the holder of which cannot exercise the voting rights of such shares.

(v) "Pro Rata Proportion" means as of any date (A) the sum of (1) the aggregate number of shares of Impaired Shares on an as converted basis, plus (2) the aggregate number of Uncovered Warrants (as defined below) divided by (B) the sum of (1) the aggregate number of shares of Series B Preferred Stock outstanding on an as converted basis, plus (2) the aggregate number of Warrants outstanding.

(e) Cash Settlement of Warrants. If (1) the Stockholder Approval has not been obtained and the (2) sufficient shares of Common Stock have not been reserved for issuance such that the Company is in compliance with Section 9 of the Certificate of Designations and Section 3.1 of the Warrant Agreement with respect to each Stockholder, prior to the Trigger Date, then the Company shall provide notice to each holder of Warrants setting out the Trigger Date (the "Warrant Notice"), and the Company agrees that any Stockholder holding Warrants for which there are not sufficient authorized shares of Common Stock to allow exercise of such Warrants (the "Uncovered Warrants") may exercise by irrevocable written notice (the "Exercise Notice") such Uncovered Warrants and that the Company will satisfy (within 10 days of such exercise, a "Warrant Deadline") its obligations to the Stockholder holding such Uncovered Warrants pursuant to the Warrant Agreement in cash in an amount equal to the product of (i) (A) the Average Price on the Trigger Date minus (B) the exercise price of such Uncovered Warrant and (ii) (A) the number of shares of Common Stock subject to the Warrants owned by such holder multiplied by (B) the Pro Rata Proportion (the "Warrant Settlement Amount"). If the Company does not pay the Warrant Settlement Amount with respect to any particular Exercise Notice, then from the Warrant Deadline with respect to such Exercise Notice until the date on which the Company pays the Warrant Settlement Amount with respect to the Uncovered Warrants for which an Exercise Notice was provided, interest at the rate of the WSJ Prime Rate plus 3% per annum shall accrue on such Warrant Settlement Amount and the Company shall be in breach of its contractual obligations under this Agreement.

(f) Voting Agreement.

(i) Each Stockholder hereby agrees that, at any regular or special meeting of the stockholders of the Company at which the Stockholder Approval is sought, however called, including any adjournment, recess or postponement thereof, and in connection with any written consent of the stockholders of the Company, each Stockholder shall, in each case to the fullest extent that the Covered Securities (as defined below) are entitled to vote thereon or consent thereto, (A) appear (in person or by proxy) at each such meeting or otherwise cause all of the Covered Securities to be counted as present thereat for purposes of calculating a quorum; and (B) vote (or cause to be voted), in person or by proxy, or deliver (or cause to be delivered) a written consent covering, all of the Covered Securities Beneficially Owned (as defined below) by such Stockholder: (1) in favor of the Authorization Proposal; (2) in favor of the approval of any proposal to adjourn or postpone any meeting of the stockholders of the Company to a later date if there are not sufficient votes for adoption of the Authorization Proposal on the date on which such meeting is held; (3) against any action, proposal, transaction or agreement that would reasonably be expected to result in a breach of any covenant, representation or warranty or any other obligation or agreement of the Stockholders contained in this Agreement; and (4) against any action, proposal, transaction or agreement that would reasonably be expected to impede, interfere with, discourage, frustrate, prevent, nullify, adversely affect or inhibit the Authorization Proposal; provided, however, that nothing in this Section 4(f) shall require the Stockholders to vote for any proposal at any meeting of Stockholders other than the Authorization Proposal. For purposes of this Agreement, "Covered Securities" means the shares of Series B Preferred Stock that are Beneficially Owned by the Stockholders, together with any other Common Stock or other voting securities of the Company and any securities convertible into or exercisable or exchangeable for Common Stock or other voting securities of the Company, in each case that a Stockholder acquires Beneficial Ownership of in accordance with this Agreement. "Beneficial Ownership" by a person of any securities includes ownership by any person who, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, has or shares (i) voting power which includes the power to vote, or to direct the voting of, such security and/or (ii) investment power which includes the power to dispose, or to direct the disposition, of such security; and shall otherwise be interpreted in accordance with the term "beneficial ownership" as defined in Rule 13d-3 adopted under the Exchange Act. The terms "Beneficially Own," "Beneficially Owned" and "Beneficial Owner" shall have a correlative meaning.

(ii) Each Stockholder hereby represents, covenants and agrees that, except for this Agreement, such Stockholder (A) has not entered into, and shall not enter into, any voting agreement, voting trust or similar agreement or understanding, with respect to any of the Covered Securities, (B) has not granted, and shall not grant at any time while this Agreement remains in effect, a proxy, consent or power of attorney with respect to any of the Covered Securities, (C) has not given, and shall not give, any voting instructions in any manner inconsistent with this Section 4(f), with respect to any of the Covered Securities and (D) has not taken and shall not knowingly take any action that would constitute a breach hereof, make any representation or warranty of such Stockholder contained herein untrue or incorrect or have the effect of preventing or disabling the Stockholder from performing any of its obligations under this Agreement.

Section 5. Indemnification.

(a) The Company shall indemnify, defend and hold the Stockholders and each officer, director, member, partner, affiliate, employee, agent and representative of the Stockholders (collectively, "Stockholder Indemnitees") harmless against all liability, loss, and damage (including taxes thereon) together with all reasonable and properly documented costs and expenses related thereto (including reasonable and properly documented legal fees and expenses), relating to or arising from: (i) any breach of any of the representations, warranties, covenants or agreements of the Company contained in this Agreement, and (ii) the execution or delivery of any Transaction Document, the performance by the parties to the Transaction Documents of their respective obligations thereunder or the consummation of the Exchange and any transaction facilitated thereby, except to the extent that any such losses, claims, damages, expenses and liabilities are attributable to the gross negligence, willful misconduct or fraud of such Stockholder Indemnitee. In the event that any Stockholder Indemnitee claims any such right of indemnification, such Stockholder Indemnitee shall provide to the Company prompt written notice thereof, together with reasonable detail regarding such claims and in the event that such claim involves third party claims, allow the Company at its expense to defend such claim(s) on the Stockholder Indemnitee's behalf. The Company shall promptly reimburse each Stockholder Indemnitee for any reasonable and properly documented legal and any other necessary expenses incurred by such Stockholder Indemnitee in connection with investigating and defending any such expense, loss, judgment, claim, damage, liability or action, but only to the extent incurred prior to the assumption by the Company of the defense thereof. Any reimbursement by the Company under this Section 5(a) shall be within sixty (60) days of the Stockholder Indemnitee providing reasonable and documented evidence of such expenses, provided that any individual expense in excess of $10,000 shall require the Company's prior approval. Notwithstanding the foregoing, the Company reserves the right to withhold approval where in the good faith judgment of the Company, the expenses are not reasonable or properly documented. The Company agrees that it will not, without the Stockholder Indemnitee's prior written consent, settle or compromise any claim or consent to entry of any judgment in respect thereof in any pending or threatened action, suit, claim or proceeding in respect of which indemnification has been sought hereunder unless such settlement or compromise includes an unconditional release of such Stockholder Indemnitee from all liability arising out of such action, suit, claim or proceeding. The obligations of the Company under this Section 5 shall survive the consummation of the transactions contemplated by this Agreement and the transfer, conversion, exchange or redemption of any Series B Preferred Stock. Notwithstanding anything contained in this Agreement to the contrary, the Company shall not be liable to any Stockholder Indemnitee for any consequential, incidental, indirect, special, exemplary or punitive damages of such Stockholder Indemnitee relating to any matters for which indemnification is provided for under this Section 5, other than any such damages arising from a claim of a third party. Except for fraud, the provisions of this Section 5 are intended to and shall provide for the exclusive monetary remedy for any and all Stockholder Indemnitees for the matters for which a Stockholder Indemnitee may be indemnified under this Section 5 following the consummation of the transactions contemplated by this Agreement.

(b) The foregoing right to the indemnity and advancement of expenses shall be in addition to any rights that the Stockholder Indemnities may have at common law, pursuant to contract or otherwise (both as to action in his or its official capacity and as to action in another capacity while holding such position or related to the Company). Each of the parties hereto acknowledges that certain Stockholder Indemnities have or may have certain rights to indemnification, advancement of expenses and/or insurance provided by the Company (through an insurance policy) or the Stockholders or the affiliates of a Stockholder (collectively, the "Other Indemnitors") and hereby agrees that the Company and its affiliates are, collectively, the indemnitor of first resort (it being understood, for the avoidance of doubt, that the obligations of the Other Indemnitors, if any, are secondary and any obligation of the Company to advance expenses or to provide indemnification (including, without limitation, through director and officer insurance policies) for the same expenses or liabilities incurred by the Stockholder Indemnitees are primary).

(c) Each Stockholder shall, severally, not jointly, indemnify, defend and hold the Company and each officer, director, member, partner, employee, agent and representative of the Company (collectively, "Company Indemnitees") harmless against all liability, loss, and damage (including taxes thereon) together with all reasonable and properly documented costs and expenses related thereto (including reasonable and properly documented legal fees and expenses), relating to or arising from any breach of any of the representations, warranties, covenants or agreements of the Stockholders contained in this Agreement. In the event that any Company Indemnitee claims any such right of indemnification, such Company Indemnitee shall provide to such Stockholder written notice thereof, together with reasonable detail regarding such claims and in the event that such claim involves third party claims, allow such Stockholder at its expense to defend such claim(s) on the Company Indemnitee's behalf. Such Stockholder shall promptly reimburse the Company Indemnitee for any reasonable and properly documented legal and any other necessary expenses incurred by the Company Indemnitee in connection with investigating and defending any such expense, loss, judgment, claim, damage, liability or action, but only to the extent incurred prior to the assumption by such Stockholder of the defense thereof. Any reimbursement by the Stockholder under this Section 5(c) shall be within sixty (60) days of the Company Indemnitee providing reasonable and documented evidence of such expenses, provided that any individual expense in excess of $10,000 shall require such Stockholder's prior approval. Notwithstanding the foregoing, such Stockholder reserves the right to withhold approval where in the good faith judgment of such Stockholder, the expenses are not reasonable or properly documented. The Company agrees that it will not, without the Company Indemnitee's prior written consent, settle or compromise any claim or consent to entry of any judgment in respect thereof in any pending or threatened action, suit, claim or proceeding in respect of which indemnification has been sought hereunder unless such settlement or compromise includes an unconditional release of such Company Indemnitee from all liability arising out of such action, suit, claim or proceeding. The obligations of such Stockholder under this Section 5 shall survive the consummation of the transactions contemplated by this Agreement and the transfer, conversion, exchange or redemption of any Series B Preferred Stock. Notwithstanding anything contained in this Agreement to the contrary, such Stockholder shall not be liable to any Company Indemnitee for any consequential, incidental, indirect, special, exemplary or punitive damages of such Company Indemnitee relating to any matters for which indemnification is provided for under this Section 5, other than any such damages arising from a claim of a third party. Except for fraud, the provisions of this Section 5 are intended to and shall provide for the exclusive monetary remedy for any and all Company Indemnitees for the matters for which a Company Indemnitee may be indemnified under this Section 5 following the consummation of the transactions contemplated by this Agreement.

Section 6. Expenses. The Company shall pay all of the reasonable and documented fees and expenses of the Company and the Stockholders (including, without limitation, the reasonable and documented fees of Paul Hastings LLP and Potter Anderson Corroon LLP) incurred in connection with the preparation, execution and delivery of the Transaction Documents and the consummation of the transactions contemplated thereby; provided, however, that such fees and expenses shall not exceed $100,000 without the prior written consent of the Company, such consent not to be unreasonably withheld.

Section 7. Governing Law; Jurisdiction; Consent to Service of Process. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to the conflicts of laws principles thereof. Each party hereto agrees that it shall bring any action, proceeding, suit, demand, or claim with respect to any matter arising out of or related to this Agreement or the transactions contained in or contemplated by this Agreement, exclusively in the Delaware Court of Chancery and any state appellate court therefrom within the State of Delaware (unless the Delaware Court of Chancery shall decline to accept jurisdiction over a particular matter, in which case, in any Delaware state or federal court within the State of Delaware) (such courts, collectively, the "Delaware Courts"), and solely in connection with claims arising under this Agreement or the transactions that are the subject of this Agreement (i) irrevocably submits to the exclusive jurisdiction of the Delaware Courts, (ii) waives any objection to laying venue in any such action or proceeding in the Delaware Courts, (iii) waives any objection that the Delaware Courts are an inconvenient forum or do not have jurisdiction over either party hereto, (iv) agrees that service of process upon such party in any such action or proceeding shall be effective if notice is given in accordance with Section 11 of this Agreement, although nothing contained in this Agreement shall affect the right to serve process in any other manner permitted by law and (v) agrees not to seek a transfer of venue on the basis that another forum is more convenient. Notwithstanding anything herein to the contrary, (A) nothing in this Section 7 shall prohibit any party from seeking or obtaining orders for conservatory or interim relief from any court of competent jurisdiction and (B) each party hereto agrees that any judgment issued by a Delaware Court may be recognized, recorded, registered or enforced in any jurisdiction in the world and waives any and all objections or defenses to the recognition, recording, registration or enforcement of such judgment in any such jurisdiction.

Section 8. Nature of Obligations; No Waiver. The obligations of the Stockholders under this Agreement are several and not joint. The Company acknowledges and agrees that by executing this Agreement the Stockholders are not waiving any claims they may have under, or releasing the Company from any obligations it may have under the Purchase Agreement.

Section 9. Assignment; Binding Effect; Benefits. This Agreement is not assignable without the written consent of each of the other parties hereto. Subject to the foregoing, the provisions of this Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, legal representatives, successors and permitted assigns. Nothing in this Agreement, express or implied, is intended or shall be construed to give any person other than the parties or their respective successors or assigns any legal or equitable right, remedy or claim under or in respect of any agreement or any provision contained herein.

Section 10. Amendment. This Agreement may be amended only by a written instrument signed by each of the parties hereto which specifically states that it is amending this Agreement.

Section 11. Counterparts. This Agreement may be executed in counterparts or in facsimiles, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. Notwithstanding anything in this Agreement to the contrary, the failure of one or more Stockholders (for whom this Agreement sets forth a signature line) to execute or otherwise to become bound by this Agreement shall not affect the enforceability of this Agreement against, or otherwise impact the validity of this Agreement with respect to, the persons who execute and deliver this Agreement.

Section 12. Notice. All notices and other communications made under this Agreement shall be in writing and shall be mailed by registered or certified U.S. mail or a nationally reputable overnight carrier, postage prepaid, sent by facsimile or otherwise delivered by hand or courier addressed to each party's address or facsimile number set forth on the signature page hereto.

(Remainder of Page Intentionally Left Blank)

IN WITNESS WHEREOF, the parties have executed this Exchange Agreement as of the date first written above.

BIOSCRIP, INC.

/s/ Richard M. Smith
Name: Richard M. Smith
Title: President and Chief Executive Officer

(Signature page to Exchange Agreement)

IN WITNESS WHEREOF, the parties have executed this Exchange Agreement as of the date first written above.

STOCKHOLDERS:

COLISEUM CAPITAL PARTNERS, L.P.
COLISEUM CAPITAL PARTNERS II, L.P.
BLACKWELL PARTNERS, LLC SERIES A

By: Coliseum Capital Management, LLC as Investment Manager

/s/ Adam Gray
Name: Adam Gray
Title: Managing Partner

Address:
One Station Place, 7th Floor South
Stamford, CT 06902

(Signature page to Exchange Agreement)

SCHEDULE 1

Name of Stockholder	Number of shares of Series A Preferred Stock to be exchanged	Number of shares of Series B Preferred Stock to be Issued in Exchange for the Series A Preferred Stock
COLISEUM CAPITAL PARTNERS, L.P.	386,655	386,655
COLISEUM CAPITAL PARTNERS II, L.P.	86,520	86,520
BLACKWELL PARTNERS, LLC SERIES A	141,002	141,002
Total:		614,177

Exhibit A
Certificate of Designations

Exhibit 99.1

Contact:
Jeffrey M. Kreger
BioScrip Chief Financial Officer
(720) 697-5200
jeffrey.kreger@bioscrip.com

BIOSCRIP ANNOUNCES TRANSFORMATIVE ACQUISITION OF HOME SOLUTIONS THAT WILL ENHANCE FOCUS AS HOME INFUSION LEADER

Combination with Home Solutions Adds Experienced and Proven Leadership Team

Accretive Transaction Provides Substantial Operating Synergies and Deleveraging Opportunity

Enhances Focus on Higher Margin Core Infusion Therapies

DENVER, CO and HAMMONTON, NJ – June 13, 2016 – BioScrip, Inc. (NASDAQ: BIOS) ("BioScrip" or the "Company"), a leading national provider of infusion and home care management solutions, today announced that it has entered into an agreement to acquire the business of HS Infusion Holdings, Inc. ("Home Solutions"), in a highly synergistic, transformational and accretive transaction with significant benefits for all stakeholders. Based in Hammonton, New Jersey, Home Solutions is a leading provider of home infusion and home nursing products and services to patients suffering from chronic and acute medical conditions. Home Solutions is a privately held company whose principal shareholder is KRG Capital Partners LLC.

Under the terms of the transaction, BioScrip will acquire substantially all of the assets and assume certain liabilities of Home Solutions and its subsidiaries for total transaction consideration of $85.0 million at closing (the "Closing Consideration") and additional contingent consideration in the form of restricted stock units ("RSUs") (the "Contingent Consideration").

The Closing Consideration will consist of $80.0 million payable in cash, subject to certain adjustments and $5.0 million in shares of the Company's common stock. The Contingent Consideration will consist of restricted shares of BioScrip common stock, issued in two tranches with different vesting conditions. The number of RSUs in Tranche A and Tranche B is approximately 3.1 million and 2.475 million, respectively. The RSUs would vest in two tranches when BioScrip shares exceed 20-day average trading prices of $4.00 per share and $5.00 per share, respectively, subject to certain time restrictions and under certain circumstances, in the event of a change of control.

In 2015, BioScrip and Home Solutions generated revenue of $982 million and $109 million, respectively. On a pro forma basis, the combined company is expected to generate over $1 billion in revenue. The transaction is expected to be accretive to BioScrip's financial results and is estimated to generate $14-17 million of synergies approximately 12-18 months following the closing. The operating synergies are primarily related to supply chain efficiencies, infrastructure optimization and other corporate and organizational improvements.

The additional financial contribution from Home Solutions, including anticipated synergies, is expected to strengthen the Company's balance sheet and leverage profile, thereby improving BioScrip's strategic flexibility and competitive positioning and realigning the Company as a growth platform in the attractive post-acute care segment.

The combination of BioScrip and Home Solutions brings together two highly complementary core infusion services portfolios that will have greater scale and financial resources. Home Solutions is one of the largest independent home infusion providers in the country, with branches that span across the East Coast. For full year 2015, core revenue increased 8.3% and core admits increased 12.0%, both over the prior year period.

The combined company will have an enhanced national presence, providing expanded core infusion services for patients and benefitting from additional payor relationships. The addition of Home Solutions will enhance BioScrip's revenue mix and margins, as Home Solutions' revenues from core infusion therapies represented 81% of total gross revenues at the end of 2015.

Carter Pate, Chairman of BioScrip, said, "This highly compelling transaction will deliver meaningful benefits to our stakeholders and position the company extraordinarily well for future growth and strategic opportunities. We are energized by this combination and for the shared benefit of our patient-focused organizations. I also wish to thank Rick Smith for his leadership and his significant contributions to both BioScrip and the Home Infusion Industry. I look forward to continuing to work with Rick, Dan and the Board to grow the business and drive value."

Daniel Greenleaf, Chairman and Chief Executive Officer of Home Solutions, said, "This transaction is a terrific opportunity to combine with a complementary infusion services company that shares our passion and commitment for providing national reach and local care. Together we will be able to further deliver on our shared mission of providing cost-effective care that is driven by clinical excellence, customer service, and values that promote positive outcomes and an enhanced quality of life for patients. I appreciate Rick's partnership and friendship, as well as the support of Carter and the entire Board as we deliver value to shareholders by building the largest independent home infusion provider."

Leadership

Upon completion of the transaction, Daniel Greenleaf will become Chief Executive Officer of BioScrip and join the Company's Board. At that time, Rick Smith, Director and Chief Executive Officer of BioScrip will become Vice Chairman of the Board of Directors.

Mr. Greenleaf has over two decades of relevant experience in senior leadership positions in the healthcare industry. Prior to serving as Chairman and CEO of Home Solutions, Mr. Greenleaf served as President and Chief Executive Officer of Coram Specialty Infusion Services and led Coram to become the industry leader in home infusion and one of the top-performing healthcare companies in the U.S. with approximately $1.2 billion in revenue, approximately 5,000 employees and nearly 85 locations. While serving as President and Chief Executive Officer of Coram, Mr. Greenleaf assumed responsibility as Chief Operating Officer of Coram's parent company, Apria Healthcare Group Inc., which had approximately $2.2 billion in revenue, approximately 13,000 employees and 600 locations. Coram, which was originally purchased by Apria for $350 million, was later sold by Apria's private equity owner, The Blackstone Group, to CVS Caremark (currently, CVS Health Corp) for $2.1 billion, which underscores the value created for Coram's Home Infusion platform during Mr. Greenleaf's tenure at Coram. Prior to his roles at Coram and Apria, Mr. Greenleaf served as President and CEO of VioQuest Pharmaceuticals Inc. and held leadership roles with Celltech Biopharmaceuticals, Nabi Pharmaceuticals and Schering-Plough Corporation.

Jeffrey Kreger, Chief Financial Officer of BioScrip, will serve as the combined company's Chief Financial Officer and Treasurer.

BioScrip will continue to be headquartered in Denver, Colorado and plans to maintain branches throughout the United States, and maintain Home Solutions' Hammonton, New Jersey billing and operations center.

Richard Smith, Chief Executive Officer of BioScrip, said, "We are excited to bring together our two complementary companies, both of which have tremendously talented teams, and to expand on the premier quality-of-care we provide to individuals who require home infusion services. We look forward to welcoming Dan and the Home Solutions team and expect a seamless integration."

Transaction Financing, Timing and Approvals

The transaction is anticipated to be financed through the net proceeds from an equity offering to be initiated promptly under the Company's existing shelf registration statement, subject to market conditions. Any excess proceeds from the offering following the acquisition will be primarily used to reduce BioScrip's outstanding indebtedness.

The transaction, which is expected to close in the third quarter of 2016, is subject to receipt of necessary regulatory approvals, a financing contingency and approval of certain matters by BioScrip shareholders, as well as customary closing conditions.

Advisors

Jefferies LLC is acting as financial advisor to BioScrip. Polsinelli PC, Dechert LLP and Gibson, Dunn & Crutcher LLP are acting as legal advisors to BioScrip. Houlihan Lokey is acting as financial advisor to Home Solutions and Ropes & Gray LLP is acting as legal advisor.

ABOUT BIOSCRIP

BioScrip, Inc. is a leading national provider of infusion and home care management solutions. BioScrip partners with physicians, hospital systems, skilled nursing facilities, healthcare payors, and pharmaceutical manufacturers to provide patients access to post-acute care services. BioScrip operates with a commitment to bring customer-focused pharmacy and related healthcare infusion therapy services into the home or alternate-site setting. By collaborating with the full spectrum of healthcare professionals and the patient, BioScrip provides cost-effective care that is driven by clinical excellence, customer service, and values that promote positive outcomes and an enhanced quality of life for those it serves.

ABOUT HOME SOLUTIONS

Home Solutions, headquartered in Hammonton, New Jersey, is a leading specialty infusion provider servicing approximately 14,000 patients annually throughout the Northeastern and Mid-Atlantic regions of the U.S. Current projects are underway that will allow the company to reach additional patients in the New England and Southeastern regions of the U.S. The Company is committed to clinical excellence, compassion and professionalism. Home Solutions is Joint Commission accredited and provides a full range of infusion and specialty services in the home and alternate setting. Our commitment is to put the patient first in delivering a quality service while offering cost effective solutions to various industry stakeholders such as physicians, hospitals, managed care payors, and governmental agencies. InfuLink®, the Company's proprietary web monitoring tool, shares data with healthcare providers to help optimize clinical outcomes. More information about Home Solutions is available at www.infusioncare.com.

Forward-Looking Statements – Safe Harbor
This press release includes statements that may constitute "forward-looking statements," including projections of certain measures of the Company's results of operations, including its revenues and cash flows, projections of future cost savings associated with the absence or reduction of certain charges and expenses, and other statements regarding the Company's expectations regarding the impact of its financial improvement plan and strategy. These statements are made pursuant to the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. You can identify these statements by the fact that they do not relate strictly to historical or current facts. In some cases, forward-looking statements can be identified by words such as "may," "should," "could," "anticipate," "estimate," "expect," "project," "outlook," "aim," "intend," "plan," "believe," "predict," "potential," "continue" or comparable terms. Because such statements inherently involve risks and uncertainties, actual future results may differ materially from those expressed or implied by such forward-looking statements. Investors are cautioned that any such forward-looking statements are not guarantees of future performance and involve risks and uncertainties, and that actual results may differ materially from those in the forward-looking statements as a result of various factors. Important factors that could cause or contribute to such differences include but are not limited to risks associated with: the Company's ability to integrate the acquisition of Home Solutions and obtain financing in connection therewith, the Company's ability to grow its core Infusion revenues, the Company's ability to continue to experience positive results from its financial improvement plan to reduce operating costs; reductions in federal, state and commercial reimbursement for the Company's products and services; increased government regulation related to the health care and insurance industries; as well as the risks described in the Company's periodic filings with the Securities and Exchange Commission. The Company does not undertake any duty to update these forward-looking statements after the date hereof, even though the Company's situation may change in the future. All of the forward-looking statements herein are qualified by these cautionary statements.

Additional Information and Where to Find It
In connection with the proposed transaction, the Company will prepare a proxy statement to be filed with the Securities and Exchange Commission (“SEC”). When completed, a definitive proxy statement and a form of proxy will be mailed to the stockholders of the Company. **The Company’s security holders are urged to read the proxy statement carefully when it becomes available, as well as any other relevant documents filed by the Company with SEC, because they will contain important information.** The Company’s stockholders will be able to obtain, without charge, a copy of the proxy statement (when available) and other relevant documents filed with the SEC from the SEC’s website at http://www.sec.gov. The Company’s stockholders will also be able to obtain, without charge, a copy of the proxy statement and other relevant documents (when available) by directing a request by mail or telephone to BioScrip, Inc., Attn: Chief Financial Officer, 1600 Broadway, Suite 950, Denver, CO 80202, telephone: (720) 697-5200, or from the investor relations page on the Company’s website at http://bioscrip.com/overview.

The Company and its directors and officers may be deemed to be participants in the solicitation of proxies from the Company’s stockholders in connection with the proposed transaction. Information about the Company’s directors and executive officers and their ownership of the Company’s equity interests is set forth in the proxy statement for the Company’s 2016 Annual Meeting of Stockholders, which was filed with the SEC on April 27, 2016. Stockholders may obtain additional information regarding the interests of the Company and its directors and executive officers in the proposed transaction, which may be different than those of the Company’s stockholders generally, by reading the proxy statement and other relevant documents regarding the proposed transaction when filed with the SEC.

For Further Information:

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Media Contact
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slewis@pairelations.com

Exhibit 99.2

Contact:
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BioScrip Chief Financial Officer
(720) 697-5200
jeffrey.kreger@bioscrip.com

BIOSCRIP ANNOUNCES PROPOSED PUBLIC OFFERING OF COMMON STOCK

DENVER, CO, June 13, 2016 – BioScrip, Inc. (NASDAQ: BIOS) (the "Company" or "BioScrip") today announced it has commenced an underwritten public offering of its common stock (the "Equity Offering"). Jefferies LLC is acting as sole book-running manager. The Company expects to grant the underwriters a 30-day option to purchase up to an additional 13% of the shares of common stock offered in the public offering. The offering is subject to market conditions, and there can be no assurance as to whether or when the offering may be completed, or as to the final size or terms of the offering.

On June 11, 2016, BioScrip entered into an Asset Purchase Agreement (the "Asset Purchase Agreement"), by and among HS Infusion Holdings, Inc., a Delaware corporation ("Home Solutions"), certain subsidiaries of Home Solutions, the Company, and HomeChoice Partners, Inc., a Delaware corporation. Home Solutions is a privately held company that is a leading provider of home infusion and home nursing products and services to patients suffering from chronic and acute medical conditions. Pursuant to the Asset Purchase Agreement, the Company will acquire substantially all of the assets and assume certain liabilities of Home Solutions and its subsidiaries (the "Transaction") for the Transaction Consideration (as defined below). Subject to certain net working capital adjustments, the consideration for the Transaction (the "Transaction Consideration") is comprised of: (i) $85.00 million in cash and stock; and (ii) contingent consideration in the form of restricted shares of our common stock, issued in two tranches with different vesting conditions.

We intend to use the net proceeds from the Equity Offering (i) to fund the cash portion of the Transaction Consideration and pay fees and expenses in connection with the Transaction, (ii) to repay a portion of our outstanding borrowings under our revolving credit facility and (iii) for general corporate purposes. The Equity Offering is not conditioned on the closing of the Transaction, and we cannot assure you that the Transaction will be completed on the terms described herein or at all. If the Transaction is not completed, we intend to use any net proceeds from the Equity Offering (i) to repay a portion of our outstanding borrowings under our revolving credit facility and (ii) for general corporate purposes.

The securities described above are being offered by BioScrip pursuant to a registration statement previously filed and declared effective by the Securities and Exchange Commission. This press release does not constitute an offer to sell or a solicitation of an offer to buy the securities described herein, nor shall there be any sale of these securities in any state or jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such state or jurisdiction. Copies of the prospectus supplement and accompanying prospectus relating to the Equity Offering, when available, may be obtained from: Jefferies LLC, Attention: Equity Syndicate Prospectus Department, 520 Madison Avenue, 12th Floor, New York, New York, 10022, Telephone: 877-547-6340, Email: Prospectus_Department@Jefferies.com.

About BioScrip, Inc.

BioScrip, Inc. is a leading national provider of infusion and home care management solutions. BioScrip partners with physicians, hospital systems, skilled nursing facilities, healthcare payors, and pharmaceutical manufacturers to provide patients access to post-acute care services. BioScrip operates with a commitment to bring customer-focused pharmacy and related healthcare infusion therapy services into the home or alternate-site setting. By collaborating with the full spectrum of healthcare professionals and the patient, BioScrip provides cost-effective care that is driven by clinical excellence, customer service, and values that promote positive outcomes and an enhanced quality of life for those it serves.

Forward-Looking Statements – Safe Harbor

This press release includes statements that may constitute "forward-looking statements," that involve substantial risks and uncertainties. These statements are made pursuant to the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. You can identify these statements by the fact that they do not relate strictly to historical or current facts. In some cases, forward-looking statements can be identified by words such as "may," "should," "could," "anticipate," "estimate," "expect," "project," "intend," "plan," "believe," "predict," "potential," "continue" or comparable terms. These forward-looking statements include, among others, statements about the Company's expectations with respect to the proposed offering, including its intention to offer and sell shares and its intended use of proceeds from the Equity Offering. Such forward-looking statements involve known and unknown risks, uncertainties and other factors, which may cause actual results to be materially different from any results expressed or implied by such forward-looking statements. For example, there are risks associated with the Transaction, market conditions, the underwriter fulfilling its obligations to purchase the shares in the Equity Offering and the Company's ability to satisfy certain conditions precedent to the closing of the Equity Offering; as well as the risks described in the prospectus supplement and the Company's periodic filings with the Securities and Exchange Commission, including, but not limited to, the Company's annual report on Form 10-K for the year ended December 31, 2015. The Company does not undertake any duty to update these forward-looking statements after the date hereof, even though the Company's situation may change in the future. All of the forward-looking statements herein are qualified by these cautionary statements.

Additional Information and Where to Find It

In connection with the proposed Transaction, the Company will prepare a proxy statement to be filed with the Securities and Exchange Commission ("SEC"). When completed, a definitive proxy statement and a form of proxy will be mailed to the stockholders of the Company. **The Company's security holders are urged to read the proxy statement carefully when it becomes available, as well as any other relevant documents filed by the Company with SEC, because they will contain important information.** The Company's stockholders will be able to obtain, without charge, a copy of the proxy statement (when available) and other relevant documents filed with the SEC from the SEC's website at http://www.sec.gov. The Company's stockholders will also be able to obtain, without charge, a copy of the proxy statement and other relevant documents (when available) by directing a request by mail or telephone to BioScrip, Inc., Attn: Chief Financial Officer, 1600 Broadway, Suite 950, Denver, CO 80202, telephone: (720) 697-5200, or from the investor relations page on the Company's website at http://bioscrip.com/overview.

The Company and its directors and officers may be deemed to be participants in the solicitation of proxies from the Company's stockholders in connection with the proposed Transaction. Information about the Company's directors and executive officers and their ownership of the Company's equity interests is set forth in the proxy statement for the Company's 2016 Annual Meeting of Stockholders, which was filed with the SEC on April 27, 2016. Stockholders may obtain additional information regarding the interests of the Company and its directors and executive officers in the proposed Transaction, which may be different than those of the Company's stockholders generally, by reading the proxy statement and other relevant documents regarding the proposed Transaction when filed with the SEC.