

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

In Re: Penn Treaty Network America : No. 1 PEN 2009  
Insurance Company (in Liquidation) :

**APPLICATION FOR APPROVAL OF THE SALE OF THE  
INFRASTRUCTURE ASSETS OF PENN TREATY NETWORK AMERICA  
INSURANCE COMPANY (IN LIQUIDATION) TO TRIPLUS SERVICES INC.**

The Applicant, Jessica K. Altman, Insurance Commissioner of the Commonwealth of Pennsylvania, in her capacity as Statutory Liquidator (the “Liquidator”) of Penn Treaty Network America Insurance Company (in Liquidation) (“PTNA”), respectfully requests that this Court enter an Order approving the sale of the infrastructure assets of PTNA to TriPlus Services Inc. (“TriPlus”) as described more fully in, and in accordance with, the Asset Purchase Agreement attached as Exhibit A. In support of this Application, the Liquidator states the following:

1. On March 1, 2017, this Court issued Orders placing PTNA and American Network Insurance Company (“ANIC”) in liquidation.
2. Beginning on March 1, 2017, the life and health insurance guaranty associations in the states in which PTNA and ANIC were licensed to do business assumed responsibility for PTNA’s and ANIC’s insurance policies, including continuing coverage and paying eligible claims.

3. The guaranty associations contracted with the Liquidator for PTNA to administer policies issued by PTNA and ANIC (the “Penn Treaty Block”) on behalf of the guaranty associations using PTNA’s computer systems, policy and claim records, procedures (the infrastructure assets) and staff, and to this date PTNA continues to administer those policies on behalf of nearly all of the guaranty associations.

4. The guaranty associations for which PTNA is continuing to administer policies have recently contracted with TriPlus, a company experienced in long-term care insurance administration, to take over responsibility for policy administration.

5. In order to facilitate TriPlus’ assumption of policy administration duties, TriPlus desires to purchase from PTNA certain PTNA infrastructure assets pursuant to an Asset Purchase Agreement.

6. The Liquidator desires to sell TriPlus the infrastructure assets in order to monetize those assets and provide longer term employment opportunities for a majority of the PTNA staff.

### **THE SALE PROCESS**

7. In October 2017, following an investment advisor selection process, the Liquidator engaged Boenning & Scattergood (“Boenning”), an independent

investment banking firm, to request, collect, and review indications of interest by multiple companies interested in acquiring PTNA's infrastructure assets.

8. Boenning's goals were to maximize the value for the PTNA estate, maintain employment in Pennsylvania, and find a buyer interested in infrastructure acquisition with or without a contract with the guaranty associations.

9. Following the launch of this multi-phase project, Boenning contacted 67 parties, 23 of which signed confidentiality agreements and reviewed a confidential memorandum about the proposed transaction.

10. Boenning collected ten (10) indications of interest by late December 2017.

11. After Boenning and the Liquidator conducted due diligence and management meetings with each company, the number of contenders was culled down to two (2) companies during the second quarter of 2018, with "Bidder A" selected as the winning bidder and TriPlus as the runner-up.

12. Bidder A, following its selection by the Liquidator as the winning bidder, began discussions with the guaranty associations, through the National Organization of Life and Health Insurance Guaranty Associations and LTC Re, concerning a contract to provide administrative services to the guaranty associations for the Penn Treaty Block.

13. Bidder A and the guaranty associations were unable to reach agreement on the terms of a contract for administrative services, and the guaranty associations during the third quarter of 2018 launched their own process to solicit third party proposals for the administration of the Penn Treaty Block.

14. In light of the guaranty associations decision not to contract with Bidder A without first conducting a third party administrator selection process, and in the interest of contingency planning, the Liquidator launched a Phase Two of the investment banking process to determine if any entity was interested in purchasing the infrastructure assets with or without a contract with the guaranty associations to administer the Penn Treaty Block.

15. During the third quarter of 2018, Boenning contacted the ten (10) companies that had previously submitted indications of interest in late 2017.

16. In early 2019, the Liquidator identified three finalists in its Phase Two Process: TriPlus, Bidder A (the winner from the first phase of bidding) and “Bidder C.”

17. At about the same time, the Liquidator was informed that the guaranty associations selected TriPlus to become the administrator of the Penn Treaty Block, subject to the negotiation and execution of an administrative services agreement.

18. In May 2019, following further due diligence and discussions, TriPlus was selected to be the buyer of PTNA's infrastructure assets.

19. TriPlus is headquartered near Boston, Massachusetts and has offices in Omaha, Nebraska, Portland, Maine, and Chicago, Illinois.

**SUMMARY OF THE SUBSTANTIVE TERMS OF  
THE ASSET PURCHASE AGREEMENT**

20. PTNA and TriPlus have entered into an Asset Purchase Agreement. (A copy of the Asset Purchase Agreement is attached as Exhibit A.) Closing of the sale is subject to a number of conditions including this Court's approval of the transaction.

21. In summary, pursuant to the Asset Purchase Agreement, PTNA agrees to sell, transfer, and assign to TriPlus, and TriPlus agrees to purchase, acquire, and assume from PTNA, all of the "Purchased Assets" of PTNA, as this term is defined in the Asset Purchase Agreement. (Id. at Article II.)

22. Among the assets to be sold are the technology and operations platform used to administer the Penn Treaty Block and certain prepaid expenses associated with that platform.

23. Excluded assets include PTNA's real property, cash and securities and certain other assets associated with the ongoing work to close the estate. PTNA is currently in the process of negotiating an agreement for the sale of the real property to a third party.

24. In exchange for the “Purchased Assets,” TriPlus is required to pay PTNA a fixed amount equal to \$1,200,000. In addition, TriPlus is required to pay PTNA a “Variable Payment Amount,” as that term is defined in the Asset Purchase Agreement, generally equal to 15% of the annual base salaries of PTNA employees hired by TriPlus, subject to a \$1,200,000 cap. (Id. at Article I (Definition of “Variable Payment Amount”) and § 2.05.) Therefore, total consideration could equal \$2,400,000.

25. TriPlus is required to offer employment to at least 90 of PTNA’s employees. (Id. at § 6.04(a).) It is anticipated that TriPlus will make offers to more than 120 of the current employees. These employees will continue to administer the Penn Treaty Block and will assist with converting the administration of the business over to TriPlus’ administration platform.

26. The Asset Purchase Agreement contains representations and warranties, covenants and indemnifications provisions customary for a transaction of this nature.

27. A portion of the purchase price (\$60,000) is to be placed in escrow for twelve (12) months following the closing to secure PTNA’s indemnification obligations.

28. PTNA has retained certain assets and access rights with respect to certain data and system to ensure its ability to wind-down the estate and intends to enter into a shared services agreement with TriPlus in connection with the sale.

29. The purchase price for the business being assumed under the Asset Purchase Agreement was arrived at through arms-length negotiation between PTNA and TriPlus.

**THE ASSET PURCHASE AGREEMENT IS IN  
PTNA'S BEST INTERESTS**

30. Both Article V of the Insurance Department Act of 1921, 40 P.S. § 221.1, *et seq.*, and this Court's liquidation Order, confer broad powers on the Liquidator to dispose of the assets of PTNA in order to maximize the value of the receivership estate for eventual distribution to its policyholders and creditors.

31. The Liquidator believes that she has taken the necessary steps to determine whether the proposed sale of PTNA's infrastructure assets pursuant to the Asset Purchase Agreement constitutes fair value to PTNA.

32. The Liquidator conducted a robust sale process and carefully evaluated competing bids. Following the selection of TriPlus, the Liquidator conducted arms-length negotiations over the terms of the sale. Based upon the evaluation of the transaction by the Liquidator's staff and advisors and other alternatives for monetizing the infrastructure assets, and the fact that TriPlus was selected by the guaranty associations to be the successor administrator of the Penn

Treaty Block, it is believed that the Asset Purchase Agreement is fair and reasonable to PTNA, its policyholders, and creditors. There are several specific advantages to PTNA arising from the consummation of the transactions contemplated by the Agreement:

(a) The time and expense required for continuing to service and support the Penn Treaty Block on behalf of the guaranty associations could consume valuable resources and assets of PTNA – resources and assets that could otherwise be used to benefit PTNA, its policyholders and creditors. With the Court’s approval of the Asset Purchase Agreement, and the transfer of the administration of the Penn Treaty Block to TriPlus, the Liquidator will be able to eliminate this administrative burden and expense and substantially reduce staff levels.

(b) The sale will provide an economic benefit to PTNA by monetizing otherwise illiquid assets.

(c) PTNA will receive fair and reasonable compensation under the circumstances for the infrastructure assets.

(d) At least 90 employees of PTNA will be offered continued employment in the Allentown region with a going concern entity.

WHEREFORE, the Liquidator respectfully requests that this Court grant her Application, approve the Asset Purchase Agreement attached as Exhibit A and the

transactions contemplated thereby, and enter an Order in the proposed form attached hereto.

Dated: July 31, 2019

Respectfully submitted,

/s/ James R. Potts

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James R. Potts

Michael J. Broadbent

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*Attorneys for Jessica K. Altman, Insurance  
Commissioner of Pennsylvania, in her  
capacity as Statutory Liquidator of PTNA*

**VERIFICATION**

I, Robert L. Robinson, hereby state that I am the Chief Liquidation Officer for Penn Treaty Network America Insurance Company, and I am authorized to make this Verification on the Statutory Liquidator's behalf. I hereby verify that the facts set forth in the foregoing pleading are true and correct to the best of my knowledge, information, and belief.

I understand that this Verification is made subject to the penalties of 18 P.S. § 4904 relating to unsworn falsification to authorities.

Date: July 31, 2019

Robert L Robinson

**CERTIFICATE OF SERVICE**

I certify that, on July 31, 2019, I caused courtesy copies of the foregoing document to be served on the counsel listed below. I further certify that the foregoing document was posted to the PTNA receivership website and served in accordance with the Court's order governing service on parties appearing on the Master Service List.

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*/s/Michael J. Broadbent*

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**ORDER**

AND NOW, this \_\_\_ day of \_\_\_\_\_, 2019, upon consideration of the Application for Approval of the Sale of the Infrastructure of Penn Treaty Network America Insurance Company (in Liquidation) (“PTNA”) to TriPlus Services Inc. (“TriPlus”) (the “Application”), filed by Jessica K. Altman, as Statutory Liquidator of PTNA, it is hereby ORDERED as follows:

1. The Application is GRANTED.
2. The Liquidator is authorized to cause PTNA to sell its infrastructure assets to TriPlus as described more fully in, and in accordance with, the terms of the Asset Purchase Agreement between PTNA and TriPlus attached as Exhibit A to the Application.
3. The Asset Purchase Agreement is approved.

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MARY HANNAH LEAVITT, President Judge