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PLAN OF CONVERSION  
OF  
BLUE CROSS AND BLUE SHIELD OF KANSAS, INC.

Under Article 40 of Chapter 40  
of Kansas Statutes Annotated

Dated as of October 25, 2001

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PLAN OF CONVERSION  
OF  
BLUE CROSS AND BLUE SHIELD OF KANSAS, INC.

Under Article 40 of Chapter 40 of the Kansas Insurance Code

This Plan of Conversion has been unanimously approved and adopted by the Board of Directors of Blue Cross and Blue Shield of Kansas, Inc., a mutual insurance company organized under the laws of Kansas (the "Company"), at a meeting duly called and held at the offices of the Company on October 25, 2001. The Plan of Conversion provides for the conversion of the Company into a stock insurance company and the sale of newly-issued shares of Common Stock to Anthem Insurance Company, Inc., an Indiana mutual insurance company ("Anthem"), Anthem West, Inc., an Indiana company and a wholly-owned subsidiary of Anthem, or the public holding company to be formed in connection with a demutualization of Anthem to hold all of the shares of its common stock ("Purchaser"). In the Conversion, all policyholders' membership interests in the Company will be extinguished. Eligible Policyholders will receive (i) a special distribution, declared by the Board on the date hereof, that will be equal to the amount, if any, by which the Closing Book Value exceeds \$155,000,000, subject to any differences in rounding resulting from the distribution to Eligible Policyholders (the "Special Distribution") and (ii) subject to Section 6.3, \$190,000,000 (the "Purchase Price"). The Special Distribution will be paid in cash to the Eligible Policyholders as provided in the Plan of Conversion. The Purchase Price, or a portion thereof as shall be agreed to by the Company and Anthem, will be deposited into the Escrow Fund and distributed, after satisfaction of amounts described in Section 6.3, to the Eligible Policyholders as provided in the Plan of Conversion.

**ARTICLE I: PURPOSE OF CONVERSION**

The Board has unanimously approved and adopted the Plan of Conversion to enhance the Company's strategic and financial flexibility, and to make possible a distribution of the value of the Company to the Eligible Policyholders. The Board believes that the conversion into a stock corporation and the sale of the Company to Anthem, which makes possible this distribution, is in the best interests of the Policyholders.

If the Company is to continue to provide high quality insurance services at reasonable costs to its policyholders in a health insurance market that has become national in scope, it must spread its costs over a sufficiently large policyholder base. The Company, however, holds a certificate of authority to sell insurance only in Kansas. Even if it were to seek to sell coverage in other states, it could not use the valuable Blue Cross and Blue Shield names and service marks to do so, for those names and service marks are controlled by the Blue Cross and Blue Shield Association, whose licensees are provided exclusive areas within which they may use those names and marks. In addition to being unable to expand geographically, the Company finds that its potential customer base within the state shrinks every year, as national corporations purchase or supplant local businesses. The Company is also unable to diversify its risks geographically; an adverse local illness, or adverse local legislation, or a natural disaster could have substantial impacts on its financial soundness. The Conversion, in which the

Company becomes a part of a substantially larger, multi-state insurer, will benefit the Company policyholders in several ways:

- The Conversion will provide the Company with sufficient capital to compete with national commercial companies as well as access to a larger total capital pool with which to acquire other health plans or related businesses.
- The Conversion will enable the Company to take advantage of economies of scale by eliminating duplicative resources and streamlining its compliance efforts in an increasingly complex regulatory environment.
- By virtue of the Company's becoming part of the diversified geographical base of Anthem that results from the Conversion, the Company will have increased flexibility in responding to localized adverse risk events, avoiding the twin perils of decreased financial stability or excessive increases in rates to avoid financial instability. A corollary of having such a diversified base would also be the ability of the Company to participate better in insurance offerings to multi-state accounts.
- The Conversion will result in the Company being able to offer a greater variety of career paths to its employees, and the potential for greater and more varied challenges, which in turn should permit it to continue to attract and retain the kinds of employees needed to provide its policyholders with quality service.
- The Conversion will allow the Company to take advantage of best practices in health insurance from Anthem and its health insurance affiliates.

In addition to these policyholder benefits, the Conversion will also have the following advantages:

- The Conversion will allow the Company to maintain a significant level of local employment.
- The Conversion will provide for sustained local input into medical policy.

## **ARTICLE II: DEFINITIONS**

**2.1 Certain Terms.** Capitalized terms used and not otherwise defined herein are used as defined in the Alliance Agreement. As used in this Plan of Conversion, the following terms have the following meanings:

“Actuarial Contribution” means, with respect to a Qualifying Policy, the contribution of such Qualifying Policy to the Company’s surplus, as calculated according to the principles, assumptions and methodologies set forth in the Plan of Conversion and the Actuarial Contribution Memorandum.

“Actuarial Contribution Memorandum” means the memorandum, attached to the Plan of Conversion as **Exhibit A**, that sets forth the principles, assumptions and methodologies for the calculation of the Actuarial Contributions of Qualifying Policies.

“Actuarial Date” means December 31, 2000.

“Adoption Date” means October 25, 2001, the date on which the Plan of Conversion was initially approved by the Board.

“Alliance Agreement” means the Alliance Agreement, dated as of May 30, 2001, as amended, between the Company and Anthem.

“Anthem” has the meaning specified in the first paragraph hereof.

“Board” means the Board of Directors of the Company.

“Commissioner” means the Insurance Commissioner of the State of Kansas, or such governmental officer, body or authority as may succeed such Commissioner as the primary regulator of the Company’s insurance business under applicable law.

“Company” has the meaning specified in the first paragraph hereof.

“Company Trust” means any trust established by the Company for its own administrative convenience in its capacity as an insurer.

“Conversion” means the conversion of the Company from a mutual insurance company into a stock insurance company pursuant to Article 40 of the Kansas Insurance Code and the Plan of Conversion.

“Conversion Date” means the effective date of the Plan of Conversion, as determined in accordance with Section 6.2(a).

“Eligible Policyholder” means the Person who is, or, collectively, the Persons who are, a Policyholder on the Adoption Date.

“Eligible Policyholder’s Proportionate Share” means each Eligible Policyholder’s proportionate share, expressed as a percentage, in the consideration distributable to the Eligible Policyholders, as determined in accordance with Section 8.1(b).

“Escrow Company Funds Notice” has the meaning specified in Section 6.3.

“Escrow Fund” has the meaning specified in Section 6.3.

“Expected Costs and Expenses” has the meaning specified in Section 6.3.

“Final Disposition Escrow Company Funds Notice” has the meaning specified in Section 6.3.

“Final Recoverable Amount” has the meaning specified in Section 6.3.

“Fixed Share Percentage” has the meaning specified in Section 8.1(b)(i).

“Hearing” means the public hearing to consider comments on the Plan of Conversion as contemplated by Article 40 of the Kansas Insurance Code and as specified in Section 4.2.

“In Force” has the meaning specified in Section 7.3.

“Internal Revenue Code” means the Internal Revenue Code of 1986, as amended.

“Kansas Insurance Code” means the Insurance Code of Kansas, Chapter 40 of Kansas Statutes Annotated, as amended.

“Membership Interests” means all the rights and interests of Policyholders arising under the Kansas Insurance Code and the Amended and Restated Articles of Incorporation and Bylaws of the Company or otherwise by law arising through ownership or issuance of a Policy or Policies of the Company including, but not limited to:

- any voting rights of the Policyholders in the Company provided under the Policies;
- any assessment provisions provided for under the Policies; and
- any right to share in the surplus in the Company provided for under the Policies.

“Membership Interests” shall not include any other right or interest expressly conferred by a Policy.

“Neutral Auditor” has the meaning specified in Section 6.3.

“Person” means an individual, partnership, firm, association, corporation, joint-stock company, limited liability company, trust, government or governmental agency, state or political subdivision of a state, public or private corporation, board, association, estate, trustee, or fiduciary, or any similar entity. A Person who is the Owner of Policies in more than one legal capacity (e.g., a trustee under separate trusts) shall be deemed to be a separate Person in each such capacity.

“Plan of Conversion” means the Plan of Conversion (including all Exhibits hereto), as it may be amended from time to time in accordance with Section 9.3.

“Policy” has the meaning specified in Section 7.1.

“Policyholder” has the meaning specified in Section 7.2.

“Policyholder Committee” has the meaning specified in Section 6.3.

“Policyholder Distribution Notice” has the meaning specified in Section 6.3.

“Purchase Price” has the meaning specified in the first paragraph hereof.

“Purchaser” has the meaning specified in the first paragraph hereof.

“Qualifying Policy” means a Policy that is In Force on the Adoption Date and that is owned by an Eligible Policyholder on the Adoption Date.

“Special Distribution” has the meaning specified in the first paragraph hereof. The Special Distribution will not be less than the amount, if any, by which the Closing Book Value exceeds \$155,000,000, subject to any differences in rounding resulting from the distribution to Eligible Policyholders, without the approval of the Commissioner.

“Special Meeting” has the meaning specified in Section 5.1.

“Variable Share Percentage” has the meaning specified in Section 8.1(b)(ii).

**2.2 Terms Generally.** The words “hereby”, “herein”, “hereof”, “hereunder” and words of similar import refer to the Plan of Conversion as a whole (including any Exhibits hereto) and not merely to the specific section, paragraph or clause in which such word appears. All references herein to Sections and Exhibits shall be deemed references to Sections of, and Exhibits to, this Agreement unless the context shall otherwise require. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” The definitions given for terms in Section 2.1 and elsewhere in the Plan of Conversion shall apply equally to both the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms.

### **ARTICLE III: ADOPTION AND APPLICATION**

**3.1 Adoption by the Board.** This Plan of Conversion has been approved and adopted by a two-thirds majority of the Board at a meeting duly called and held at the offices of the Company on October 25, 2001. The resolution of the Board states the reasons the Conversion will benefit the Company and is in the best interests of its Policyholders.

**3.2 Application.** Promptly after adoption by the Board, the Company shall file an application with the Commissioner for her approval in accordance with Section 40-4004 of the Kansas Insurance Code.

### **ARTICLE IV: APPROVAL BY THE COMMISSIONER**

**4.1 Commissioner’s Approval.** The Plan of Conversion is subject to the approval of the Commissioner in accordance with Section 40-4004 of the Kansas Insurance Code.

**4.2 Public Hearing.** The Commissioner shall hold the Hearing as part of her examination of the Plan of Conversion in accordance with Section 40-4004 of the Kansas Insurance Code. The Company, its directors and officers and the Policyholders shall have the

right to appear and be heard at the Hearing. Notice of the Hearing shall be mailed by first class mail at the expense of the Company to Eligible Policyholders at least 20 days prior to such Hearing. The notice of the Hearing shall be accompanied or preceded by information relevant to such Hearing and shall be in a form satisfactory to the Commissioner.

## **ARTICLE V: APPROVAL BY POLICYHOLDERS**

### **5.1 Policyholder Vote.**

(a) Subject to the terms and conditions of the Alliance Agreement, the Company shall hold a special meeting of Policyholders (the “Special Meeting”). At the Special Meeting, each Eligible Policyholder shall be entitled to one vote on the proposal to approve the Plan of Conversion. An Eligible Policyholder may vote at the Special Meeting in person or by proxy.

(b) The Plan of Conversion is subject to the approval of at least two-thirds of the Eligible Policyholders voting thereon in person or by proxy at the Special Meeting, unless a majority of all Eligible Policyholders vote in person or by proxy at the Special Meeting, in which case a majority of those voting will constitute approval.

### **5.2 Notice of Special Meeting.**

(a) Subject to the terms and conditions of the Alliance Agreement, the Company shall mail notice of the Special Meeting to all Eligible Policyholders. The notice shall set forth the reasons for the vote and the place, the day, and the hour of the Special Meeting, and shall be accompanied by a form of written proxy complying with Section 40-4002(d) of the Kansas Insurance Code allowing the Eligible Policyholder to vote for or against the Plan of Conversion. Such notice and form of proxy shall be mailed by first class mail, to the address of each Eligible Policyholder as it appears on the records of the Company, at least 30 days prior to the Special Meeting, and shall be in a form satisfactory to the Commissioner. Such notice period for the Special Meeting may run concurrently with the notice period for the Hearing provided for in Section 4.2, and such notice of the Special Meeting may be given together with the notice of hearing provided for in Section 4.2.

(b) Subject to the terms and conditions of the Alliance Agreement, the notice mailed to Eligible Policyholders as provided in subsection (a) of this Section 5.2 shall be accompanied or preceded by information relevant to the Special Meeting, including a copy of the Plan of Conversion (with a summary of the Exhibits thereto) and any information the Commissioner deems necessary to Policyholder understanding, all of which shall be in a form approved by the Commissioner. With the approval of the Commissioner, the Company may also mail supplemental information relating to the Plan of Conversion to Eligible Policyholders either before or after the date of the Special Meeting.

## **ARTICLE VI: THE CONVERSION**

**6.1 Filing of Plan of Conversion.** As soon as practicable following the receipt of the approvals of the Commissioner as provided in the Plan of Conversion, and the satisfaction or waiver of all of the conditions contained in sections 8.01 (other than section 8.01(d)), 8.02 and

8.03 of the Alliance Agreement, the Company shall file the Plan of Conversion with the office of the Commissioner.

## **6.2 Effectiveness of Plan of Conversion.**

(a) Within 30 days of receipt of the filing of the approved Plan of Conversion in accordance with Section 6.1 and the Amended and Restated Articles of Incorporation of the Company, the Commissioner shall issue a new certificate of authority to the Company. The effective date of the Plan of Conversion (the “Conversion Date”) shall be the date of issuance of such certificate.

(b) The Plan of Conversion shall be deemed to have become effective at 11:59:59 p.m., Topeka time, on the Conversion Date.

(c) The forms of the Restated Articles of Incorporation and Bylaws of the Company as shall be in effect on the Conversion Date are set forth as **Exhibits B and C**, respectively.

(d) On the Conversion Date, all the Membership Interests shall be extinguished and Eligible Policyholders shall be entitled, as provided in Section 6.3, to receive, in exchange therefor, cash, to be held in the Escrow Fund or to be distributed directly to the Eligible Policyholders, as provided in the Plan of Conversion, the Alliance Agreement and the Escrow Agreement.

(e) On the Conversion Date, subject to the terms and conditions of the Alliance Agreement:

(i) the Company shall issue shares of Common Stock, representing all of the issued and outstanding shares of Common Stock, to Purchaser; and

(ii) Purchaser shall pay to the Company the Purchase Price, subject to the terms and conditions of the Alliance Agreement.

(f) As soon as reasonably practicable following resolution of the Final Closing Balance Sheet as provided in the Alliance Agreement, the Company shall (i) distribute to the Eligible Policyholders the Special Distribution and any portion of the Purchase Price that is not to be deposited into the Escrow Fund as provided in Section 6.3(a), together with interest thereon at a rate of 7% calculated from the Closing Date, and (ii) mail a notice to each Eligible Policyholder setting forth such Eligible Policyholder’s Proportionate Share of the Purchase Price and the Special Distribution.

## **6.3 Escrow Fund.**

(a) At the Closing, the Company shall deposit the Purchase Price received by it into a separately designated interest bearing deposit account established on or prior to the Conversion Date (the “Escrow Fund”) pursuant to the Escrow Agreement, provided that prior to the Conversion Date the Company and Purchaser may agree that the Company will deposit a

portion of the Purchase Price into the Escrow Fund and distribute the remaining portion to the Eligible Policyholders in accordance with Section 6.2(f). Purchaser, Anthem West or Anthem Holding Company, as the case may be, may deposit the Purchase Price or such portion thereof into the Escrow Fund on behalf of the Company. From time to time, promptly after receipt thereof, the Company shall deposit into the Escrow Fund all amounts that constitute Net Insurance Recoveries. Purchaser shall use commercially reasonable efforts to effect such recoveries. The form of the Escrow Agreement is set forth as **Exhibit D**. To the extent the terms of this Section 6.3 or the Escrow Agreement conflict with the terms of the Alliance Agreement, the terms of the Alliance Agreement shall apply.

(b) In accordance with the terms of the Escrow Agreement, the Escrow Fund will provide funding for the payment of (i) the net after-tax amount of all Contingent Litigation Matter Costs (including Indemnifiable Tax Costs arising from any Tax Escrow Dispute), (ii) Tax matters described in Section 2.08(b)(iv) of the Alliance Agreement (but only to the extent of the amount of any reserve established for each such matter pursuant to Section 2.08(b)(iv)), and (iii) such other amounts as may be specified in the Escrow Agreement or in the Alliance Agreement (all as certified by the Policyholder Committee and Purchaser as due for payment in accordance with the procedures set forth in the Escrow Agreement), and following the satisfaction of all such Contingent Litigation Matter Costs and such other costs and expenses, to provide security for the payment by the Company of amounts payable to Eligible Policyholders under the Plan of Conversion.

(c) Subject to the terms of the Escrow Agreement, amounts held in the Escrow Fund shall be invested by the Escrow Agent solely in obligations of, or obligations fully guaranteed as to timely payment of principal and interest by, the United States of America or an agency or instrumentality thereof with a maturity date of one year or less from the date of investment. All costs and expenses of maintaining the Escrow Fund, including the fees and expenses of the Escrow Agent, the costs and expenses of making distributions out of the Escrow Fund and the fees and expenses of the Policyholder Committee, shall be borne by the Escrow Fund. Immediately prior to any distribution to Eligible Policyholders from the Escrow Fund, the Company shall deposit in the Escrow Fund an amount equal to the amount of all benefits to be realized by the Company or its Affiliates as a result of any Tax deductions available to the Company that are attributable to the treatment of any portion of the distribution to Eligible Policyholders as “interest” for any Tax purpose.

(d) The rights of Eligible Policyholders to amounts held in the Escrow Fund shall not be represented by any form of certificate or instrument and shall not be transferable or assignable except by will, the laws of intestacy or by other operation of law.

(e) The Escrow Fund shall continue until the Contingent Litigation Matter has been finally disposed of by binding settlement, court order or otherwise, all Tax matters for which a reserve has been established pursuant to Section 2.08(b)(iv) of the Alliance Agreement or which are the subject of a Tax Escrow Dispute have had a Final Determination, all amounts that are reasonably recoverable from any insurer in respect of the Contingent Litigation Matter Costs are recovered, and all amounts in the Escrow Fund have been paid or distributed by the Escrow Agent in accordance with the Escrow Agreement and the Alliance Agreement. Upon delivery by the Company and the Policyholder Committee of a certificate certifying that all such amounts

have been paid, the Escrow Fund shall terminate and all remaining amounts held in the Escrow Fund shall be distributed to the Eligible Policyholders in accordance with the Plan of Conversion. No amounts need be distributed if the Policyholder Committee determines that it would be impractical to do so, taking into account the costs of distribution in relation to the amounts to be distributed. Any amounts that are not so distributed shall instead be distributed to a charitable foundation selected by the Policyholder Committee.

(f) On or before the Closing Date, but effective on the Closing Date, the Commissioner shall appoint a committee (the “Policyholder Committee”) to oversee the conduct of the Contingent Litigation Matter and to perform the other duties assigned by the provisions of the Alliance Agreement and/or the Escrow Agreement. The Policyholder Committee shall be comprised of five members, all of whom shall be selected by the Commissioner and shall be insureds of the Company, provided that at least two of the initial members of the Policyholder Committee shall be selected from a slate recommended by the Board of Directors of the Company prior to the Closing Date and the remaining members shall be reasonably acceptable to Purchaser. The Policyholder Committee shall be entitled to obtain and maintain, and prior to the Conversion Date the Company shall use commercially reasonable efforts to obtain and maintain, at the expense of the Escrow Fund, liability insurance for the members of the Policyholder Committee during the existence of the Policyholder Committee and for six years thereafter that provides at least the same coverage and amounts and contains terms and conditions that are no less advantageous as the liability insurance provided to the Board of Directors of Purchaser. The Policyholder Committee shall establish the fees payable to members for service on the Policyholder Committee. The Policyholder Committee shall retain sole responsibility for the defense of the Contingent Litigation Matter, including the selection of accountants, counsel and other advisors, and for the determination of all amounts payable out of the Escrow Fund with respect thereto and with respect to the other items specified in Section 2.07(a) of the Alliance Agreement. Purchaser shall not settle or compromise any Contingent Litigation Matter or consent to the entry of any judgment without the approval of the Policyholder Committee and shall give such assistance in any Actions relating to the Contingent Litigation Matter as may reasonably be requested by the Policyholder Committee, at the expense of the Escrow Fund. The Policyholder Committee shall not settle or compromise any Contingent Litigation Matter or consent to the entry of any judgment without the approval of Purchaser unless such settlement or judgment provides solely for monetary relief in an amount not greater than the amounts remaining in the Escrow Fund. Purchaser shall agree or consent to such a settlement, compromise, or judgment approved by the Policyholder Committee that provides solely for monetary relief in an amount not greater than the amounts remaining in the Escrow Fund, and shall not unreasonably withhold agreement or consent to any other settlement, compromise or judgment. The Policyholder Committee may engage accountants, legal counsel and other advisors at the expense of the Escrow Fund to assist the Policyholder Committee in its duties. The Policyholder Committee shall terminate upon the distribution of all amounts out of the Escrow Fund in accordance with Section 2.07 of the Alliance Agreement, the Escrow Agreement and the Plan of Conversion.

(g) From time to time as it incurs costs and expenses constituting Contingent Litigation Matter Costs or Indemnifiable Tax Costs, the Company may deliver to the Escrow Agent, with a copy to the Policyholder Committee, a written notice setting forth its calculation of the net after-tax amount of costs and expenses that constitute Contingent Litigation Matter Costs

or Indemnifiable Tax Costs that have been incurred or paid but not reimbursed to date out of the Escrow Fund and showing in reasonable detail the principal components of such calculation (an “Escrow Company Funds Notice”). The Company shall grant the Policyholder Committee reasonable access to the records and Returns of the Company and Purchaser for the sole purpose of verifying the reimbursement requested in the Escrow Company Funds Notice. If, following receipt of any such Escrow Company Funds Notice, either (i) the Escrow Agent receives from the Policyholder Committee a written certification to the Escrow Company Funds Notice, or (ii) within twenty (20) days of the date the Escrow Company Funds Notice is delivered to the Escrow Agent, the Escrow Agent has not received a notice of objection from the Policyholder Committee, the amount specified in the Escrow Company Funds Notice shall be released by the Escrow Agent and distributed to the Company. If the Policyholder Committee timely delivers a notice of objection disputing in good faith payment of all or any portion of the amount specified in the Escrow Company Funds Notice, then the Escrow Agent shall (x) release any undisputed amount from the Escrow Fund and distribute such amount to the Company, and (y) continue to hold any disputed amount in the Escrow Fund in escrow until resolution of such dispute as provided below. The Policyholder Committee may dispute the recovery and amount of any amounts that are reasonably recoverable in respect of the Contingent Litigation Matter in accordance with the provisions of Section 2.07(i) of the Alliance Agreement. Within ten (10) days after being notified in writing of the final resolution of any such dispute, the Escrow Agent shall distribute any amount resolved in favor of the Company together with interest thereon at the rate of 7% per annum calculated from the date of the Escrow Company Funds Notice.

(h) Within ninety (90) days following the date that the Contingent Litigation Matter has been finally disposed of by binding settlement, court order or otherwise, the Company shall deliver to the Escrow Agent, with a copy to the Policyholder Committee, an Escrow Company Funds Notice (the “Final Disposition Escrow Company Funds Notice”). The Company shall grant the Policyholder Committee reasonable access to the records of the Company and Purchaser for the sole purpose of verifying the reimbursement requested in the Final Disposition Escrow Company Funds Notice. If, following receipt of the Final Disposition Escrow Company Funds Notice, either (i) the Escrow Agent receives from the Policyholder Committee a written certification to the Final Disposition Escrow Company Funds Notice, or (ii) within twenty (20) days of the date the Final Disposition Escrow Company Funds Notice is delivered to the Escrow Agent, the Escrow Agent has not received a notice of objection from the Policyholder Committee, the Escrow Agent shall distribute to the Company the amount for which it sought reimbursement in the Final Disposition Escrow Company Funds Notice, and distribute the entire remaining amount held in the Escrow Fund, after retaining all amounts required by Section 2.07(h) of the Alliance Agreement to be retained, to the Eligible Policyholders in accordance with the Plan of Conversion. If the Policyholder Committee timely delivers a notice of objection disputing in good faith payment of all or any portion of the amount of reimbursement specified in the Final Disposition Escrow Company Funds Notice, then the Escrow Agent shall (x) release any undisputed reimbursement amount from the Escrow Fund and distribute such amount to the Company, (y) continue to hold any disputed amount in the Escrow Fund in escrow until resolution of such dispute as provided below, and (z) distribute the entire amount held in the Escrow Fund, after retaining all amounts required by Section 2.07(h) of the Alliance Agreement to be retained, to the Eligible Policyholders in accordance with the Plan of Conversion. Prior to the release of any amounts to be distributed from the Escrow Fund to the Eligible Policyholders pursuant to Section 2.07(h) of the Alliance Agreement, the Escrow Agent shall deliver to the

Company and the Policyholder Committee written notice (“Policyholder Distribution Notice”) of its intention to make such distribution indicating the amount thereof, how such amount has been calculated, and the amount and designated purpose of all amounts that will be retained in the Escrow Fund after such distribution is made. Within twenty (20) days after its receipt of the Policyholder Distribution Notice, the Company shall deliver to the Escrow Agent a certificate showing in reasonable detail the amount of out-of-pocket costs and expenses that are reasonably expected to be incurred in the future in connection with the assessment or collection of the Indemnifiable Tax Costs and effecting the Net Insurance Recoveries, or which are described in the last sentence of Section 2.07(c) of the Alliance Agreement. The Policyholder Committee shall be entitled to dispute such amounts pursuant to the procedures set forth in Section 2.07(i) of the Alliance Agreement (such amounts as finally resolved, and after giving credit for any reasonably expected after-tax earnings thereon during the period for which such amounts will be retained in the Escrow Fund as determined by the Escrow Agent, being referred to as the “Expected Costs and Expenses”). When making any distribution from the Escrow Fund to the Eligible Policyholders, the Escrow Agent shall retain in the Escrow Fund, and the amount of such distribution shall not include: (i) the amount, if any, attributable to all unresolved reimbursement disputes with respect to the Escrow Company Funds Notices delivered by the Company, (ii) the amount of any and all reserves which have been established with respect to Tax Escrow Disputes or pursuant to Section 2.08(b)(iv) of the Alliance Agreement with respect to Tax matters, for which, in either case, there has been no Final Determination, and (iii) the Expected Costs and Expenses. Within ten (10) days after being notified in writing of the final resolution of any reimbursement dispute, or the Final Determination of any Tax Escrow Dispute or Tax matter for which a reserve has been established pursuant to Section 2.08(b)(iv) of the Alliance Agreement, the Escrow Agent shall (i) distribute to the Company all amounts resolved in favor of the Company, together with interest on such amounts (except for amounts attributable to a Tax Escrow Dispute or a Tax matter for which a reserve has been established pursuant to Section 2.08(b)(iv) of the Alliance Agreement) at the rate of 7% per annum calculated from the date of the applicable Escrow Company Funds Notice out of which the issue first arose, and (ii) the Escrow Agent shall distribute all amounts resolved in favor of the Policyholder Committee to the Eligible Policyholders in accordance with the Plan of Conversion. Within ten (10) days after receipt of the final amounts that constitute the Net Insurance Recoveries (the “Final Recoverable Amount”), the Escrow Agent shall distribute the Final Recoverable Amount, plus the earnings in the Escrow Fund thereon, to the Eligible Policyholders in accordance with the Plan of Conversion. The Policyholder Committee may dispute the recovery and amount of any amounts that are reasonably recoverable in respect of the Contingent Litigation Matter in accordance with the provisions of Section 2.07(i) of the Alliance Agreement. The Policyholder Committee may also direct the Escrow Agent to defer a distribution to the Eligible Policyholders and to accumulate the amount eligible for such distribution in the Escrow Fund for a later aggregate distribution when the Policyholder Committee determines that it would be impractical to make current distributions, taking into account the costs of distribution in relation to the amounts to be distributed.

(i) If the Policyholder Committee disputes in good faith payment of all or any portion of the reimbursement requested in either a Escrow Company Funds Notice or a Final Disposition Escrow Company Funds Notice pursuant to Sections 2.07(g) or (h) of the Alliance Agreement and delivers a timely notice of objection to the Escrow Agent, with a copy to the Company, and if the Company and the Policyholder Committee shall not have resolved all of the

issues set forth in the notice of objection within fifteen (15) days after the Company's receipt of the notice of objection, then not more than five (5) days thereafter the Company and the Policyholder Committee shall submit the items remaining in dispute under the notice of objection to an accounting firm selected by the Commissioner and reasonably acceptable to the Company and the Policyholder Committee (the "Neutral Auditor"). The fees and expenses of the Neutral Auditor shall be borne equally by the Company and the Escrow Fund. The Neutral Auditor shall act as an arbitrator to determine, based solely on presentations by the Policyholder Committee and the Company, and not by independent review, only those issues still in dispute other than any Tax Escrow Dispute or dispute regarding the disposition of a reserve established pursuant to Section 2.08(b)(iv) of the Alliance Agreement, which shall be resolved in accordance with Section 7.05 of the Alliance Agreement. The Neutral Auditor's determination shall be made within thirty (30) days of the submission of the items remaining in dispute under the notice of objection, and shall be set forth in a written statement delivered to the Escrow Agent, with a copy to the Policyholder Committee and the Company, which shall be final, binding and conclusive.

(j) For so long as the Escrow Fund is in existence, the Commissioner of Insurance of the State of Kansas shall retain regulatory oversight over the Escrow Fund, including the investment and distribution of the assets held therein, to ensure that policyholder interests are protected and that the actions of the Policyholder Committee comply with the Escrow Agreement, the Plan of Conversion and applicable law.

**6.4 Conditions to Effectiveness of Plan.** The effectiveness of the Plan of Conversion is subject to satisfaction, or waiver by the benefiting party, of the conditions contained in sections 8.01 (other than section 8.01(d)), 8.02 and 8.03 of the Alliance Agreement, and to the satisfaction of the following additional conditions:

(a) the Company shall have received a favorable opinion of Debevoise & Plimpton, special counsel to the Company, or other nationally-recognized independent tax counsel to the Company, addressed to the Board and in form and substance satisfactory to the Company, substantially to the effect that the summary of the principal federal income tax consequences to Eligible Policyholders resulting from their receipt of consideration pursuant to Section 6.3 and the Alliance Agreement, set forth in the information provided to Eligible Policyholders pursuant to Sections 4.2 and 5.2, was, subject to the limitations set forth therein, correct and complete in all material respects as of the date of commencement of the mailing of such information to Eligible Policyholders and remains correct and complete in all material respects as of the Conversion Date, except for any changes in law, regulations or official interpretations occurring after the date of commencement of the mailing and before the Conversion Date, the effect of which the Company, in its discretion, has determined (taking into account any remedial action the Board may authorize or direct) to be not materially adverse to the interests of the Eligible Policyholders;

(b) the Company shall have received a no-action letter or exemptive order from the Securities and Exchange Commission, or an opinion from nationally recognized legal counsel, in form and substance satisfactory to the Company to the effect that the Escrow Fund is not required to be registered as an "investment company" under the Investment Company Act of 1940, as amended, and that any rights of Eligible Policyholders therein are not required to be

registered under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended;

(c) the Company shall have received an opinion, dated as of the date of the Policyholder Information Statement provided to Eligible Policyholders pursuant to Section 5.2., from Dresdner Kleinwort Wasserstein confirming the fairness, from a financial point of view, of the Purchase Price and the Special Distribution to the Eligible Policyholders.

(d) the Closing (as defined in the Alliance Agreement) shall have occurred simultaneously with the effectiveness of the Plan of Conversion.

## **ARTICLE VII: POLICIES**

### **7.1 Policies.**

(a) For the purposes of this Plan, the term “Policy” means each original insurance policy (including any stop-loss policy issued in connection with an administrative services agreement) that has been issued or assumed by the Company.

(b) The following policies and contracts shall be deemed not to be Policies for purposes of this Plan:

(i) any certificate or other evidence of insurance or coverage issued to an insured under a group insurance Policy;

(ii) any reinsurance assumed by the Company as a reinsurer on an indemnity basis (but assumption certificates may constitute Policies if they otherwise fall within the definition of Policies as provided in Section 7.1(a));

(iii) all administrative services agreements; and

(iv) any policy issued by the Company and ceded to another insurance company via assumption reinsurance.

### **7.2 Policyholders.**

(a) For purposes of this Plan, the term “Policyholder” means, as of any date, with respect to a Policy that is In Force on that date:

(i) in the case of an individual or non-group insurance Policy issued by the Company, the Person covered under such Policy as other than a dependent, as shown on the Company’s records; and

(ii) in the case of a group insurance Policy issued by the Company, the employer, firm, group or association to whom or in whose name a master Policy of group insurance or a stop-loss Policy shall have been issued and held, as shown on the Company’s records, which employer, firm, group or association shall be deemed to be one Policyholder

within the meaning of the Plan, provided that each employer unit which is a participant, as shown on the Company's records, under a group insurance Policy issued to a Company Trust, and not the trustee of any such Company Trust, nor any other Person with an interest in such Policy, shall be deemed to be a Policyholder.

(b) When a Person is covered under more than one Policy, he shall nevertheless be counted as a single Policyholder for purposes of voting at the Special Meeting and of calculating that Person's Fixed Share Percentage.

(c) In any situation not expressly covered by the foregoing provisions of this Section 7.2, the policyholder or contractholder, as reflected on the Company's records, and as determined in good faith by the Company, shall, subject to a contrary decision by the Commissioner pursuant to Section 7.2(e), conclusively be presumed to be the Policyholder for purposes of this Section 7.2 and, except for administrative errors, the Company shall not be required to examine or consider any other facts or circumstances.

(d) The mailing address of a Policyholder as of any date for purposes of the Plan shall be the Policyholder's last known address as shown on the Company's records as of such date.

(e) Any dispute as to the identity of the Policyholder or the right to vote or receive consideration shall be resolved in accordance with the provisions of this Section 7.2 and such other procedures as may be acceptable to the Commissioner.

### **7.3 In Force.**

(a) A Policy shall be deemed to be in force ("In Force") as of any date if, as shown on the Company's records, (i)(A) such Policy has been issued and is in effect or (B) such Policy has not been issued but (x) has an effective date on or before such date and (y) the Company's administrative office has received with respect to such Policy on or before such date either (xx) an application complete on its face or (yy) payment of full initial premium (or such lesser amount required by the Company's normal administrative procedures) and sufficient information to effect a contract of insurance according to the Company's normal administrative procedures for coverage to be effective, provided that any Policy referred to in this clause (B) is issued as applied for, and (ii) such Policy has not matured or otherwise or been surrendered or otherwise terminated; provided that a Policy shall be deemed to be In Force after lapse for nonpayment of premiums until expiration of any applicable grace period (or other similar period however designated in such Policy) or any extension of such grace period in accordance with the Company's normal administrative procedures.

(b) In the case of any reinstated Policy, the determination of such Policy's Variable Share, if any, pursuant to Article VIII shall be made based on the original issue date of such Policy and without regard to any lapse and reinstatement.

(c) The date of a Policy's maturity, surrender or termination shall be as shown on the Company's records.

## ARTICLE VIII: ALLOCATION OF CONSIDERATION TO POLICYHOLDERS

### 8.1 Allocation of Purchase Price and Special Distribution.

(a) Solely for purposes of calculating the amount of consideration paid to each Eligible Policyholder, each Eligible Policyholder's allocation of the Purchase Price and the Special Distribution, if any, to be paid to each Eligible Policyholder shall be determined in accordance with this Article VIII and the Actuarial Contribution Memorandum.

(b) As the Special Distribution and amounts distributable out of the Escrow Fund to Eligible Policyholders are distributed to Eligible Policyholders from time to time, each Eligible Policyholder shall be entitled to receive that Eligible Policyholder's Proportionate Share of that distribution. For purposes hereof, an Eligible Policyholder's Proportionate Share shall equal the sum of:

(i) One-third of the quotient of 1 divided by the total number of Eligible Policyholders (the "Fixed Share Percentage"), and

(ii) Two-thirds of the quotient of (x) the sum of the Actuarial Contributions of all of that Eligible Policyholder's Qualifying Policies, if any, divided by (y) the sum of the Actuarial Contributions of all Qualifying Policies (the "Variable Share Percentage").

**8.2 Determination of the Actuarial Contributions of an Eligible Policyholder's Qualifying Policies.** Each Eligible Policyholder's Variable Share Percentage shall be determined from such Eligible Policyholder's Qualifying Policies' Actuarial Contributions determined as follows:

(a) From determinations of (i) the historical contributions of Qualifying Policies to the Company's surplus and (ii) expected future contributions to surplus of those Qualifying Policies, the Company shall make a reasonable determination of the dollar amount of the Actuarial Contribution, whether positive and negative, for each Qualifying Policy, according to the Actuarial Contribution Memorandum.

(b) For the purpose of determining an Eligible Policyholder's Variable Share Percentage, Actuarial Contributions of all Qualifying Policies in a given line of business owned by such Eligible Policyholder are added algebraically, but such algebraic sum if negative will be adjusted by setting it to zero before it is added to the Actuarial Contributions of Qualifying Policies in other lines of business owned by such Eligible Policyholder. Such combinations within defined lines of business will be done according to the Actuarial Contribution Memorandum.

(c) For the purpose of determining an Eligible Policyholder's Variable Share Percentage, the Actuarial Contributions of Policies different from a Qualifying Policy but in the same or closely related lines of business and owned in the past by the Eligible Policyholder are taken into account if there is no break in coverage, as described in the Actuarial Contribution Memorandum.

(d) Each Actuarial Contribution shall be determined as of the Actuarial Date on the basis of the Company's records as of the date of the Special Meeting concerning the status of the Qualifying Policy as of the Adoption Date. In the case of a Qualifying Policy issued after the Actuarial Date, the Actuarial Contribution for the Qualifying Policy shall be equivalent to the present value as of the Actuarial Date of its expected future contribution to the surplus of the Company, as estimated by the Company in accordance with the Actuarial Contribution Memorandum.

**8.3 ERISA Plans.** The Company has applied to the Department of Labor for an exemption from Section 406(a) of the Employee Retirement Income Security Act of 1974 and Section 4975 of the Internal Revenue Code with respect to the receipt of consideration pursuant to the Plan of Conversion by employee benefit plans subject to the provisions of such sections. Notwithstanding any other provision of the Plan of Conversion, if such exemption is not received prior to the distribution of payments to Policyholders from the Escrow Fund as described in Section 6.3, the Company may either pay such consideration to such Eligible Policyholders or delay payment of such consideration to such Eligible Policyholders and may retain such consideration in the Escrow Fund or place such consideration in another escrow or similar arrangement subject to terms and conditions approved by the Commissioner. Any such escrow or arrangement shall provide for payment to Eligible Policyholders of such consideration plus interest earned thereon not later than the fifth anniversary of the Conversion Date and all costs and expenses of such escrow or arrangement shall be borne by the Company.

## **ARTICLE IX: ADDITIONAL PROVISIONS**

**9.1 Directors and Officers of the Company.** Upon effectiveness of the Plan of Conversion pursuant to Section 6.2(b), the directors and officers of the Company shall serve until their respective successors shall have been duly elected or appointed and qualified or until their earlier death, resignation or removal in accordance with the Amended and Restated Articles of Incorporation and Bylaws of the Company.

**9.2 Notices.** If the Company complies substantially and in good faith with the requirements of Article 40 of the Kansas Insurance Code or the terms of the Plan of Conversion with respect to the giving of any required notice to the Policyholders, its failure in any case to give such notice to any person or persons entitled thereto shall not impair the validity of the actions and proceedings taken under Article 40 of the Kansas Insurance Code or the Plan of Conversion or entitle such person to any injunctive or other equitable relief with respect thereto.

**9.3 Amendment or Withdrawal of Plan of Conversion.** At any time prior to the Conversion Date, the Company may, by vote of not less than two-thirds of the Board:

(a) withdraw the Plan of Conversion, if the Conversion is deemed to be no longer in the best interests of the Company or the Policyholders, or

(b) amend the Plan of Conversion, except that no amendment which materially changes the Plan of Conversion shall take effect unless such amendment is approved by the Commissioner. In the event of a material change to the Plan, the Commissioner (i) shall order a hearing to be conducted in accordance with the provisions of the Kansas administrative procedure

act before approving or disapproving such material change; and (ii) may require that such a change be approved by the Policyholders pursuant to Section 40-4002(d) of the Kansas Insurance Code.

**9.4 Corrections.** The Company, with the prior consent of the Commissioner, may make such modifications as are appropriate to correct errors, clarify existing items or make additions to correct manifest omissions in the Plan of Conversion.

**9.5 Costs and Expenses.** The actual amount of all expenses, including the expenses of retaining experts, reasonably incurred by the State of Kansas in discharge of the Commissioner's duties related to the Plan of Conversion shall be borne by the Company.

**9.6 Governing Law.** The terms of the Plan of Conversion shall be governed by and construed in accordance with the laws of the State of Kansas, without regard to such State's principles of conflicts of laws.

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IN WITNESS WHEREOF, Blue Cross and Blue Shield of Kansas, Inc., by authority of its Board of Directors, has caused the Plan of Conversion to be duly executed this 25th day of October, 2001.

BLUE CROSS AND BLUE SHIELD OF  
KANSAS, INC.

By \_\_\_\_\_  
President and  
Chief Executive Officer

Attest:

\_\_\_\_\_  
Vice President and  
Secretary