

CAUSE NO. D-1-GN-23-001549

THE TEXAS DEPARTMENT OF INSURANCE, <i>Plaintiff,</i>	§ § § § § § § § §	IN THE DISTRICT COURT OF    TRAVIS COUNTY, TEXAS   345th JUDICIAL DISTRICT
v.		
FRIDAY HEALTH INSURANCE COMPANY, INC. <i>Defendant.</i>		

**APPLICATION FOR APPROVAL OF RECEIVERSHIP SERVICE PROVIDER  
(PHIA GROUP, LLC)**

COMES NOW, CANTILO & BENNETT, L.L.P., the Special Deputy Receiver of Friday Health Insurance Company, Inc. (“FHIC”), and files its *Application for Approval of Receivership Service Provider (Phia Group, LLC)* (the “Application”).

**I. BACKGROUND**

1.1. On March 23, 2023, the Court entered an *Agreed Order Appointing Liquidator, Permanent Injunction, and Notice of Automatic Stay* appointing the Texas Commissioner of Insurance as Liquidator of FHIC. Effective March 23, 2023, the Texas Commissioner of Insurance, as Liquidator, appointed CANTILO & BENNETT, L.L.P. as Special Deputy Receiver of FHIC.

**II. JURISDICTION**

2.1. This Court has jurisdiction over the subject matter of this Application and of the parties herein pursuant to TEX. INS. CODE § 443.005.

**III. STATUTORY AUTHORITY**

3.1 The SDR is authorized to file this Application pursuant to TEX. INS. CODE § 443.015, which provides for the approval of the SDR’s expenses and compensation by the Court. The subject matter of this Application has been referred to the Special Master appointed in this

proceeding in accordance with the Agreed Order of Reference to Master entered on March 23, 2023.

#### **IV. BASIS FOR APPLICATION**

4.1 TEX. INS. CODE § 443.015(c)(2) requires the Receiver to submit an application for the approval of any “anticipated expense in excess of \$25,000, or such another amount established by the Court.” In addition, TEX. INS. CODE § 443.015(d) permits the Receiver, at his discretion, to seek approval of any compensation, anticipated expenses, or incurred expenses not described by Subsection (c)(1).

4.2 The SDR files this Application to authorize the SDR to contract with Phia Group, LLC (“Phia”), as a Receivership Service Provider, under the terms and conditions described in the attached Exhibit A. Phia contracts to collect subrogation owed to health insurance companies in connection with claims paid by the insurer. Phia had been the subrogation recovery subcontractor for FHIC prior to receivership. In general, Phia will continue to seek such recoveries on behalf of FHIC under substantially similar terms to those governing its pre-receivership contract with FHIC, including payment as a percentage of recoveries obtained. The SDR requests the Court to approve such terms pursuant to TEX. INS. CODE § 443.015(c)(1) and (d), effective as of June 1, 2023. The compensation rates have been approved by the Receiver in accordance with TEX. INS. CODE § 443.154(a).

4.3 The SDR requests that the Court approve the Application and authorize the SDR to contract with Phia as set out in the attached Exhibit A.

#### **V. NOTICE**

5.1 The SDR has served this Application to all known parties in interest, including all affected guaranty associations, and all individuals and entities identified by the SDR in the

Certificate of Service by e-mail and, as noted, by mail or overnight delivery to certain government agencies.

## **VI. OFFER OF PROOF AND VERIFICATION**

6.1 This Application is verified by the affidavit and certification pursuant to TEX. INS. CODE § 443.017(b) by Susan E. Salch, Partner in CANTILO & BENNETT, L.L.P., Special Deputy Receiver of FHIC.

## **VII. NOTICE OF ELECTRONIC SERVICE REQUIREMENT**

7.1 All pleadings filed in response to this Application or in regard to this estate shall be served by e-mail on the undersigned counsel and all parties shown in the attached Certificate of Service.

## **PRAYER**

WHEREFORE, PREMISES CONSIDERED, CANTILO & BENNETT, L.L.P., solely in its capacity as Special Deputy Receiver of FHIC, prays that this Court grant this Application and grant the SDR such other and further relief to which it may justly entitled.

Respectfully submitted,

/s/ Greg Pierce  
Gregory A. Pierce  
State Bar No. 15994250  
P.O. Box 40  
Austin, Texas 78767  
Tel: (512) 474-2154  
[gpierce@gpiercelaw.com](mailto:gpierce@gpiercelaw.com)

-and-

Christopher Fuller  
State Bar No. 07515500  
FULLER LAW GROUP  
4612 Ridge Oak Drive  
Austin, Texas 78731

Telephone: (512) 470-9544  
[cfuller@fullerlaw.org](mailto:cfuller@fullerlaw.org)

**Attorneys for CANTILO & BENNETT, LLP,  
Special Deputy Receiver of  
Friday Health Insurance Company, Inc.**

## APPLICANT'S NOTICE OF SUBMISSION

Pursuant to the terms of the Agreed Order of Reference to Master entered by the District Court in this cause, the *Application for Approval of Receivership Service Provider (Phia Group, LLC)* is hereby set for written submission before the Special Master, Tom Collins, on **February 10, 2025**.

The Special Master has asked that the following rules be provided you:

1. Any objection must be filed with the Travis County District Clerk at least three (3) calendar days before the submission date.
2. A copy of any objection shall be served by e-mail by such date on:
  - (a) The Special Master's Docket Clerk, at [specialmasterclerk@tdi.texas.gov](mailto:specialmasterclerk@tdi.texas.gov);
  - (b) The undersigned counsel, Greg Pierce at [gpierce@gpiercelaw.com](mailto:gpierce@gpiercelaw.com); and
  - (c) All interested parties, including those listed on the SDR's Certificate of Service.
3. The objecting party shall coordinate with the SDR's counsel and the Docket Clerk [(512) 676-6915] to obtain an oral hearing setting for argument on the Application and Objection, and complete and attach an "Objecting Party's Notice of Oral Hearing" to the objection.
4. The written objection must specifically list all reasons for objection with supporting references to and discussion of statutory and case authorities. Reasons not stated in writing will not be considered orally.
5. **Please note that if an objection is not filed as described in the Notice of Submission, the Master may consider the Application without a hearing.**
6. **Failure to file timely a written objection before the Special Master constitutes a waiver of the right to object to the Special Master's recommendation to the District Court.**
7. Any Acknowledgment of Notice and Waiver to be filed by the Guaranty Association or other interested party should be filed at least three (3) calendar days before the submission or hearing date.

/s/ Greg Pierce  
Gregory A. Pierce

## CERTIFICATE OF SERVICE

I certify that a true and correct copy of the *Application for Approval of Receivership Service Provider (Phia Group, LLC)* was sent in accordance with TEX. INS. CODE § 443.007(d) on January 27, 2025 to:

*Via Email:* [specialmasterclerk@tdi.texas.gov](mailto:specialmasterclerk@tdi.texas.gov)

Tom Collins, Receivership Master  
c/o Special Master's Clerk  
RLO MC-FRD  
PO Box 12030  
Austin, TX 78711-2030

*Via Email:* [Shawn.Martin@tdi.texas.gov](mailto:Shawn.Martin@tdi.texas.gov)

Shawn Martin  
General Counsel Division  
Office of Financial Counsel  
TEXAS DEPARTMENT OF INSURANCE  
PO Box 12030  
Austin, TX 78711-2030

*Via Email:* [John.Walker@tdi.texas.gov](mailto:John.Walker@tdi.texas.gov)

John Walker  
TEXAS DEPARTMENT OF INSURANCE  
RLO MC-FRD  
PO Box 12030  
Austin, TX 78711-2030

*Via Email:* [Vane.Hugo@tdi.texas.gov](mailto:Vane.Hugo@tdi.texas.gov)

Vane Hugo  
TEXAS DEPARTMENT OF INSURANCE  
RLO MC-FRD  
PO Box 12030  
Austin, TX 78711-2030

*Via Email:* [David.Ashton@tdi.texas.gov](mailto:David.Ashton@tdi.texas.gov)

David Ashton  
General Counsel Division  
Office of Financial Counsel  
TEXAS DEPARTMENT OF INSURANCE  
PO Box 12030  
Austin, TX 78711-2030

*Via e-Service:* [Zachary.Rhines@oag.texas.gov](mailto:Zachary.Rhines@oag.texas.gov)

Zachary L. Rhines  
Assistant Attorney General  
General Litigation Division  
OFFICE OF THE TEXAS ATTORNEY GENERAL  
P.O. Box 12548, Mail Stop 01901  
Austin, TX 78711-2548  
*Counsel for Texas Department of Insurance*

*Via e-Service:* [jrixen@rixenlaw.com](mailto:jrixen@rixenlaw.com)

Jacqueline Rixen  
RIXENLAW  
P.O. Box 9879  
Austin, TX 78766  
*Counsel for the Texas Life and Health  
Insurance Guaranty Association*

*Via e-Service:* [dprice@sp-legal.com](mailto:dprice@sp-legal.com)

Dan Price  
SHANLEY PRICE  
5501A Balcones Drive, Suite 218  
Austin, TX 78731  
*Counsel for the Texas Life and Health  
Insurance Guaranty Association*

*Via e-Service:* [sstrickland@mwlaw.com](mailto:sstrickland@mwlaw.com)

Stanton Strickland  
MITCHELL, WILLIAMS, SELIG, GATES &  
WOODYARD, P.L.L.C.  
500 W. 5th Street, Ste. 1150  
Austin, TX 78701  
*Counsel for Friday Health Insurance, Inc.*

*Via First Class Mail*

INTERNAL REVENUE SERVICE  
Special Procedures Branch  
300 East 8<sup>th</sup> Street, Suite 352  
Mail Stop 5026AUS  
Austin, TX 78701

*Via Email:* [BPollock@mayerbrown.com](mailto:BPollock@mayerbrown.com)  
Bronwyn Pollock  
MAYER BROWN LLP  
333 Grand Ave., 47th Floor  
Los Angeles, CA 90071  
*Counsel for AXA France Vie*

*Via Email:* [RHarrell@mayerbrown.com](mailto:RHarrell@mayerbrown.com)  
*Via Email:* [JDanford@mayerbrown.com](mailto:JDanford@mayerbrown.com)  
Robert Harrell  
James Danford, Jr.  
MAYER BROWN LLP  
700 Louisiana St., Suite 3400  
Houston, TX 77002  
*Counsel for AXA France Vie*

*Via Email:* [VSidhu@mayerbrown.com](mailto:VSidhu@mayerbrown.com)  
*Via Email:* [JToes@mayerbrown.com](mailto:JToes@mayerbrown.com)  
Vikram Sidhu  
Juliana Toes  
MAYER BROWN LLP  
1221 Avenue of the Americas  
New York, NY 10020-10011  
*Counsel for AXA France Vie*

*Via Email:* [Brian.Hansen@hcahealthcare.com](mailto:Brian.Hansen@hcahealthcare.com)  
Brian Hansen  
HCA HEALTHCARE  
One Park Plaza, Building 1-2E  
Nashville, TN 37203

*Via Email:* [mpcooley@reedsmith.com](mailto:mpcooley@reedsmith.com)  
Michael P. Cooley  
REED SMITH LLP  
2850 N. Harwood Street, Suite 1500  
Dallas, TX 75201  
*Counsel for Molina Healthcare, Inc.*

*Via Email:* [dhollaway@houstonlaw.com](mailto:dhollaway@houstonlaw.com)  
T. Daniel Hollaway  
Hollaway PC – Attorneys at Law  
19 Briar Hollow Lane, Suite 245  
Houston, TX 77027  
*Counsel for Christus Health*

*Via Email:* [Kristen.Perry@faegredrinker.com](mailto:Kristen.Perry@faegredrinker.com)  
Kristen L. Perry  
FAEGRE DRINKER BIDDLE & REATH LLP  
1717 Main Street, Ste 5400  
Dallas, TX 75201  
*Counsel for Quest Diagnostics Clinical Laboratories, Inc.*

*Via Email:* [MTurner@plevinturner.com](mailto:MTurner@plevinturner.com)  
Miranda H. Turner  
PLEVIN & TURNER LLP  
1701 Pennsylvania Ave., N.W. Suite 200  
Washington, DC 20006

*Via Email:* [Amy\\_Condo@bcbsil.com](mailto:Amy_Condo@bcbsil.com)  
Amy Pinkerman Condo  
HEALTH CARE SERVICE CORPORATION  
300 E. Randolph Street  
Chicago, IL 60601  
*Counsel for Health Care Service Corporation  
Blue Cross and Blue Shield of Illinois,  
Montana, New Mexico, Oklahoma and Texas*

/s/ Greg Pierce  
Gregory A. Pierce

**SPECIAL DEPUTY RECEIVER'S VERIFICATION AND CERTIFICATION  
PURSUANT TO TEX. INS.CODE ANN. §443.017(b)**

**AFFIDAVIT OF SUSAN E. SALCH**

State of Texas

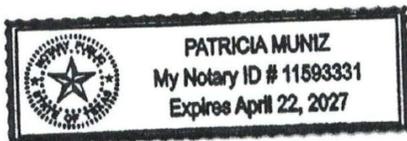
County of Travis

BEFORE ME, the undersigned authority appeared Susan E. Salch, who after being by me duly sworn, stated the following under oath:

1. "My name is Susan E. Salch. I am of sound mind, capable of making this affidavit, and am competent to testify to the matters contained in this affidavit.
2. I am a partner in CANTILO & BENNETT, L.L.P., the Special Deputy Receiver of Friday Health Insurance Company, Inc. (the "SDR" and "FHIC" respectively), I am duly authorized to make this Affidavit on behalf of the SDR.
3. I have reviewed the *Application for Approval of Receivership Service Provider (Phia Group, LLC)* and the facts stated therein are true and correct based on my personal knowledge, my review of estate records and my consultation with the staff and subcontractors.
4. I certify that the exhibits, books, accounts, records, papers, correspondence, and/or other records and documents attached hereto were produced pursuant to TEX. INS. CODE § 443.017, are either true and correct copies of records of FHIC and were received from the custody of FHIC or found among its effects, or were created by and filed with the Receiver's office in connection with the receivership of this delinquent company, and are held by the Special Deputy Receiver in its official capacity."

By: Susan E. Salch  
Susan E. Salch

**SUBSCRIBED AND SWORN TO BEFORE ME** on January 27, 2025, by Susan E. Salch, Special Deputy Receiver of Friday Health Insurance Company, Inc.



Patricia Muniz  
Notary Public

# **EXHIBIT A**

## PERFORMANCE OF RECOVERY SERVICES AGREEMENT

This Performance of Recovery Services Agreement (the “Agreement”) is entered into as of March 23, 2023 (the “Effective Date”) by and between The Phia Group, LLC (“The Phia Group”), a Massachusetts Limited Liability Company, and Cantilo & Bennett, L.L.P., solely in its capacity as Special Deputy Receiver for Friday Health Insurance Company, Inc. (the “SDR”). The Phia Group and the SDR may be referred to in the singular as “Party” or in the plural as “Parties.”

### 1. Purpose of Agreement

To define the terms by which The Phia Group will handle subrogation collection activities on behalf of the SDR.

### 2. Obligations of the Parties

#### A. The Phia Group

1. The Phia Group shall investigate all claims forwarded by or obtained from Friday Health Insurance Company, Inc. (“FHIC”), the SDR, and/or the Texas Life and Health Insurance Guaranty Association (“TLHIGA”) for potential subrogation and shall then pursue and protect the rights of subrogation.
2. If The Phia Group, upon applying its knowledge and processes in good faith, believes that a claim so analyzed more likely than not represents an opportunity to successfully pursue subrogation recovery on the SDR’s and/or TLHIGA’s behalf/behaves, it shall activate the matter for investigation (if in its estimation an investigation is necessary) followed by pursuit or, if it determines no investigation is necessary, immediate pursuit of recovery, on behalf of the SDR and/or TLHIGA. Such a matter, about which The Phia Group is involved in investigations and/or recovery efforts, shall be an “Active Case.”
3. At The Phia Group’s election, it may choose to pursue the recovery potential in any single case, or in multiple cases, by any lawful means chosen by The Phia Group, consistent with industry standards, unless prohibited by the SDR.
4. The Phia Group expressly reserves the right to reject any case transmitted. Within thirty (30) days of the rejection, The Phia Group shall notify the SDR and shall turn over all materials in its possession relating to the rejected claim. In the event that The Phia Group rejects any Active Case, the SDR and/or TLHIGA may pursue such recoveries with respect to any such Active Case(s) itself, through an affiliate, or using another vendor. The Phia Group is not entitled to any compensation or reimbursement on any rejected subrogation claim. Any such action by the SDR, TLHIGA, an affiliate, or a vendor shall not constitute a violation of the exclusivity provision of Section 7 of this Agreement.
5. The Phia Group will use best efforts consistent with industry standards in attempting to recover funds for the benefit of the SDR and/or TLHIGA.

6. The Phia Group will provide the SDR with a Client Account Manager who will be available to answer any questions from the SDR.
7. The SDR shall be given access to The Phia Group's proprietary reporting portal, The Phia System™ to access case status and recovery data. The Phia Group will provide the SDR with reports on the status of cases and recoveries on a monthly basis.
8. The Phia Group will protect all data by following non-disclosure rules and security measures (including those measures set forth in any previously-executed agreement between the Parties entitled Business Associate Agreement and/or Subcontractor Agreement) as well as the requirements of the Health Insurance Portability and Accountability Act.

#### B. The SDR

1. The SDR will transmit cases to The Phia Group for recovery evaluation. The SDR will use good faith and best efforts to isolate cases that appear to have recovery potential.
2. The SDR will provide The Phia Group with monthly data regarding claims processed and/or received by the SDR and/or TLHIGA. Such data will include information on the claim, the insured, the patient, and the provider, with specific data elements to be discussed between and agreed upon in writing by the SDR and The Phia Group as part of the implementation of The Phia Group's services.
3. If applicable, the SDR will provide The Phia Group with read-only access to the SDR's in-house or other applicable claims system in order to supplement and update standard weekly data and to review patient and/or member information. Where applicable, the SDR will provide The Phia Group with an adequate number of user licenses for their claims system to ensure that The Phia Group will be able to efficiently provide services based upon, and in accordance with, this Agreement.
4. The SDR acknowledges that The Phia Group may supplement this information by communicating with the insured/plan participant(s) and ask the insured/plan participant(s) to execute a form reaffirming their obligation to reimburse the SDR and/or TLHIGA where applicable, provided that any such request is permitted by applicable law. The SDR may request, in writing, that The Phia Group limit its direct communications with the insured / plan participant(s), provided that the SDR's request is not so unreasonable as to unduly hinder the Phia Group's ability to provide the services described herein.
5. The SDR will provide The Phia Group with contact(s) who will be available to answer any questions from The Phia Group.
6. The SDR will provide additional detailed plan documents and plan language, if requested by The Phia Group, that is necessary or appropriate for The Phia Group to review in order to provide services under this Agreement.
7. **Settlement Authority**

- i. **No Federal Preemption / Related Claims Paid Equal to or Greater than \$25,000:** Where binding limitation(s) on a right to recoup funds is/are imposed by law, and said imposition is not preempted by applicable Federal law, if the total amount of related claims paid by the SDR and/or TLHIGA is equal to or greater than \$25,000, the SDR authorizes The Phia Group to accept the lesser of reimbursement of two-thirds or more of that amount (two-thirds or more of the related claims paid by the SDR and/or TLHIGA) or the maximum amount allowable by law; and,
- ii. **No Federal Preemption / Related Claims Paid Less than \$25,000:** Where binding limitation(s) on a right to recoup funds is/are imposed by law, and said imposition is not preempted by applicable Federal law, if the total amount of related claims paid by the SDR and/or TLHIGA is less than \$25,000, the SDR authorizes The Phia Group to accept the lesser of reimbursement of one-half or more of that amount (one-half or more of the related claims paid by the SDR and/or TLHIGA) or the maximum amount allowable by law.
- iii. **Federal Preemption / Related Claims Paid Less than \$25,000:** In instances where such limitation(s) are preempted by Federal law, if the total amount of related claims paid by the SDR and/or TLHIGA is less than \$25,000, The Phia Group is authorized to accept the lesser of reimbursement of two-thirds or more of that amount (two-thirds or more of the related claims paid by the SDR and/or TLHIGA) or the maximum amount allowable by law.
- iv. In instances where The Phia Group contacts the SDR regarding a proposed reimbursement that is less than either 100% of the of the related claims paid by the SDR and/or TLHIGA or the pre-approved settlement amounts described herein, but in its professional judgment The Phia Group believes said reimbursement should – based upon industry standards and best practices – be accepted by the SDR and/or TLHIGA as reimbursement in full, The Phia Group shall notify in writing the SDR and/or any other entity the SDR instructs The Phia Group to notify in writing, regarding the proposed reimbursement. The SDR shall either in writing approve the proposed reimbursement, in writing decline the proposed reimbursement, or in writing notify The Phia Group that The Phia Group must either secure approval from another entity, or, that the SDR shall seek approval from another entity. In any case, if The Phia Group so notifies in writing the SDR of such a proposed reimbursement and no written response is received within ten (10) business days, The Phia Group shall re-issue said written notification. If no written response is received subsequent to that second notification, then after an additional 10 business days, The Phia Group shall be authorized to proceed in its best judgment. A written notification from the SDR that a final decision regarding such a proposed reimbursement is pending some additional steps or discourse constitutes a response, and thereby would not toll the aforementioned countdown.

### 3. The Phia Group's Fee for Services Performed

#### A. Base Fee

The Phia Group will retain Twenty-Five percent (25%) out of any sum recovered on behalf of the SDR and/or TLHIGA for services provided, regardless of the manner of recovery. This fee shall apply to all cases handled by The Phia Group on behalf of the SDR and/or THLIGA and overrides any pre-existing agreement in that regard. For all claims that exceed

\$50,000, The Phia Group will notify the SDR of its intent to settle any such claim for the lesser of two-thirds (2/3) of the lien amount or the maximum amount allowed by law, and the terms of the settlement, with no less than thirty (30) days' advance notice in instances where the matter is not arising from in-session litigation or alternative dispute resolution; the SDR reserves the right to veto any such settlement as set forth in Section 3C below. In the event that the SDR vetoes any settlement, The Phia Group may reject the claim. If The Phia Group accordingly rejects such a claim, and the SDR (or another entity) subsequently resolves the matter for an amount equal to or less than that which The Phia Group proposed accepting, The Phia Group is entitled to its fee calculated against the total recovery. If a matter is arising from active litigation or alternative dispute resolution such that 30 days' advance notice was not possible, The Phia Group will provide as much advance notice as possible.

#### B. Litigation Fee

1. If the SDR authorizes The Phia Group to proceed with legal action, the fee owed to The Phia Group (set forth above) will increase to one-third (33.33%) of the total funds recovered for and on behalf of the SDR and/or TLHIGA. Attorney's fees will be the responsibility of The Phia Group, and all other costs of litigation will be proportionately shared by the recovering parties.
2. If it becomes necessary to pursue litigation for purposes of protecting and enforcing the aforementioned rights to subrogation, The Phia Group is authorized to take necessary action to protect and enforce the aforementioned rights against immediate threats. Initial steps taken will not result in an increased fee. Subsequent to the aforementioned rights being secured in such urgent instances, if continued enforcement of the rights requires litigious action, The Phia Group will, with express permission from the SDR or an entity identified by the SDR as having such authority, obtain counsel. Prior to doing so, The Phia Group will contact the designated representative of the SDR and will provide a deadline by which a response must be provided by the SDR relevant to such matters. If no response is received by the deadline provided, The Phia Group will have the authority to either file suit on behalf of the SDR or TLHIGA, withdraw, or make reasonable efforts to settle the claim; pursuing whichever option is deemed by The Phia Group to be the most prudent and cost-effective.
3. Any authority with respect to litigation, including, but not limited to, filing a lawsuit on behalf of the SDR, shall be in accordance with processes and procedures mutually agreed upon by the Parties, including prior approval by the SDR, unless it is necessary for The Phia Group to take emergency action on behalf of the SDR without first securing the SDR's approval in order to protect the SDR's rights against immediate threats.
4. If the SDR authorizes The Phia Group, or a subcontractor, law firm or other entity retained by or working alongside The Phia Group, to proceed with subrogation recovery action and/or litigation, the fee owed will increase to one-third (33.33%) of the total funds recovered relating to and/or arising from subrogation matters on behalf of the SDR, TLHIGA, and/or other such additional parties including but not limited to plan participants. The costs of litigation will be proportionately shared by the recovering parties.

### C. SDR Litigation Veto

It will be the SDR's ultimate decision whether to litigate a particular case. In certain exigent circumstances, however, it may be necessary for The Phia Group to take initial action without the approval of the SDR in order to protect the SDR's and/or TLHIGA's rights, as outlined in Section 3B2 above. Such initial actions will be deemed authorized subject to the terms of Section 3B1 of this Agreement. The SDR will use good faith to decide whether to pursue such litigation and disburse reasonable related expenses upon settlement. The Phia Group is entitled to reimbursement for any specific court fees and/or filing fees if a case is put to suit or litigated in addition to its one-third (33.33%) fee set forth in Section 3B above.

#### 4. Effect of Case Acceptance or Rejection by The Phia Group

- A. The Phia Group accepts a matter upon receipt of the standard claims data from SDR and/or TLHIGA and/or when The Phia Group receives basic information identifying a potentially Active Case; said accepted matter becomes an Active Case upon The Phia Group engaging in investigation activities and/or pursuit of recovery on SDR's and/or TLHIGA's behalf.

The Phia Group is entitled to its fee, under Section 3, when it has accepted a case and there is a recovery in the case, even if that case is taken from The Phia Group prior to ultimate recovery of funds; provided, however, that if the case is taken from The Phia Group as a result of a material breach of this Agreement or of any material processes or procedures mutually agreed upon pursuant to this Agreement, The Phia Group shall not be entitled to its fee for such case.

If there is no recovery in a case, The Phia Group does not collect a fee; The Phia Group's fee is entirely contingency-based. The Phia Group accepts a case upon receipt of the claims data from the SDR and/or when the SDR provides the basic information identifying a case to The Phia Group.

Alternatively, The Phia Group may choose to reject a case upon receipt of the standard claims data, or when the basic information identifying a case is provided by the SDR. Additionally, The Phia Group may subsequently decide to reject a case post-acceptance as new information about the case is made available to The Phia Group. The Phia Group's rejection of a case at any stage shall revoke any previous acceptance of the case by The Phia Group, and The Phia Group shall not be entitled to collect a fee on any case that it rejects.

In the event that The Phia Group rejects any case transmitted by the SDR, the SDR and/or TLHIGA may pursue such recoveries with respect to any such cases. Any such action by the SDR and/or TLHIGA, an affiliate, or a vendor shall not constitute a violation of the exclusivity provision of Section 6 of this Agreement.

The SDR and/or TLHIGA have the right to request that The Phia Group close a particular case and halt recovery efforts. The SDR and/or TLHIGA may not then reopen

the case and resume recovery efforts for that particular case without providing The Phia Group payment of its fee based upon ultimate recovery, either by themselves or through another recovery firm, unless The Phia Group has acted in a dishonest, fraudulent, or criminal manner; The Phia Group terminates this Agreement; or the SDR terminates this Agreement as a result of a material breach by The Phia Group.

## 5. Duration

- A. This Agreement will remain in effect for an initial term from the Effective Date until December 31, 2024 (the “Initial Term”), and shall automatically renew for successive one-year terms every January 1 (each a “Renewal Term” and the Initial Term and all Renewal Terms, collectively, the “Term”) unless either Party provides written notice to the other Party of non-renewal at least thirty (30) days prior to the expiration of the then-current Term.
1. The Agreement cannot be terminated by either Party during the Initial Term unless such termination is “for cause.” Either Party may terminate this Agreement for any reason during a Renewal Term upon thirty (30) days written notice to the other Party.
  2. This Agreement may be terminated for cause by either Party. Cause shall be defined as fraud, gross negligence, criminal misconduct, and/or breach of the Agreement. In the event that either Party identifies the Cause necessary to terminate this Agreement, the Party seeking termination for Cause may terminate this Agreement for Cause by providing fifteen (15) days’ prior written notice to the Party against whom termination for Cause is sought, specifying the breach and/or its claim for rights to termination.
  3. This Agreement shall terminate upon the entry of an order dismissing the delinquency proceeding of FHIC unless the Parties expressly agree to the continuation or assignment of the Agreement.
- B. Effect of Termination
1. Upon the effective date of the termination of this Agreement the SDR will no longer have access to The Phia System™, and, if applicable, Client Wizard.
  2. Upon the effective date of the termination of this Agreement, all Active Cases will be handled in accordance with provisions of this Agreement. This provision will survive the termination of this Agreement.
- C. Upon the effective date of the termination of this Agreement for any reason, except the entry of an order dismissing the delinquency proceeding of FHIC, The Phia Group may request in writing, that the SDR return or destroy any Confidential Information and subrogation and recovery services documents or materials and the SDR shall certify in writing to The Phia Group within thirty (30) days after such termination that the SDR has complied with the foregoing.
- D. Except where specifically provided, termination of this Agreement shall be without prejudice to any other rights that either Party may have at law or in equity and nothing herein shall relieve any Party from liability for breaches of this Agreement prior to its termination.
- E. When this Agreement is terminated for any reason, those provisions that either expressly or by their nature survive termination, will survive termination.

## 6. Exclusivity

Except as otherwise set forth herein, the SDR warrants that The Phia Group will handle subrogation exclusively for the SDR for the duration of this agreement, except as to claims rejected by The Phia Group.

#### 7. Governing Law

This Agreement shall be governed by the laws of the State of Texas, without regard to its conflict of law provisions, and will be construed equally as to all persons or entities. The rule of construction that any ambiguities are construed against the drafter of a document will not be used to interpret this Agreement.

#### 8. Severability

All provisions of this Agreement are severable, and the unenforceability or invalidity of any of the provisions shall not affect the validity or enforceability of the remaining provisions. The remaining provisions will be construed in such a manner as to carry out the full intention of the Parties. Section titles or references used in this Agreement shall not have substantive meaning or content and are not a part of this Agreement.

#### 9. Exclusive Venue/Jurisdiction

Exclusive venue and jurisdiction for all disputes under this Agreement shall be the 345<sup>th</sup> Judicial District Court of Travis County, Texas (the "Receivership Court"). All parties agree to submit to the personal jurisdiction of the Receivership Court.

#### 10. Receivership Court Approval

This Agreement is subject to the approval of the Receivership Court. If the Receivership Court does not approve this Agreement, it will be null and void. This Agreement terminates when the receivership estate is closed by order of the Receivership Court, unless terminated earlier by agreement of the Parties or by court order.

#### 11. Force Majeure

Neither Party will be liable for any failure or delay in performance of its obligations hereunder by reason of any event or circumstance beyond its reasonable control, including, but not limited to: acts of god, war, riot, strike, labor disturbance, fire, explosion, telephone network failure(s), flood or shortage or failure of suppliers. If any delay in performance under this Section continues for more than sixty (60) consecutive days, the unaffected Party will have the right to terminate this Agreement with ten (10) days' prior written notice to the affected Party, unless the affected Party is able to remedy its circumstances within the 10-day notice period.

#### 12. Limitation of Liability

In no event shall either Party be liable to the other Party or any of its affiliates for any consequential, incidental, indirect, special, punitive or exemplary damages (including, without

limitation, lost profits, business or goodwill) suffered or incurred by such other Party or its affiliates in connection with this Agreement, even if advised of the possibility of such damages.

IN NO EVENT WILL THE TOTAL COLLECTIVE LIABILITY OF THE PHIA GROUP UNDER THIS AGREEMENT EXCEED THE AGGREGATE FEES PAID OR OWED BY CLIENT UNDER THIS AGREEMENT DURING THE SIX (6) MONTH PERIOD PRECEDING THE DATE ON WHICH THE CLAIM AROSE.

IN NO EVENT WILL THE TOTAL COLLECTIVE LIABILITY OF THE SDR UNDER THIS AGREEMENT EXCEED THE AGGREGATE COLLECTIONS PAID TO OR OWED TO CLIENT UNDER THIS AGREEMENT DURING THE SIX (6) MONTH PERIOD PRECEDING THE DATE ON WHICH THE CLAIM AROSE.

### 13. Not a Law Firm

The SDR understands and acknowledges that The Phia Group's performance of the recovery services does not constitute providing legal advice. Use of the subrogation and recovery services does not constitute retention of legal representation. No attorney-client relationship shall exist as between The Phia Group and the SDR under the scope of this Agreement. The Phia Group's subrogation and recovery services are provided based on the mutual understanding that The Phia Group is not a law firm and is not providing tax or legal advice. As with all issues involving interpretation or application of laws and regulations, all parties should rely on their own legal counsel for authoritative guidance. By executing this Agreement, Client acknowledges that The Phia Group does not function as legal counsel, attorney, or representative of Client or any other party.

### 15. Waiver

Failure to enforce the performance of any provision of this Agreement will not constitute a waiver of rights to enforce such provision or any other provision subsequently. No waiver of any provision of the Agreement will be effective unless in writing.

### 16. Amendment

This Agreement may be modified, amended, or supplemented only by a writing signed by the authorized representatives of both Parties to this Agreement. Such amendments, modifications or supplements will be deemed as much a part of this Agreement as if so incorporated herein.

### 17. Integration

The Parties acknowledge that they have read this Agreement in its entirety and understand and agree to be bound by its terms and conditions. This Agreement constitutes a complete and exclusive statement of the understanding between the Parties with respect to its subject matter. This Agreement supersedes and overrides any and all other prior communications and agreements between the Parties, whether written or oral. Any prior agreements, promises, negotiations or representations related to the subject matter not expressly set forth in this Agreement are of no force and effect. This Agreement is intended to work in concert with a Business Associate Agreement and/or Subcontractor Agreement entered into by the Parties to this Agreement.

### 18. Independent Contractors

The relationship between the Parties is that of independent contractors. Neither Party is intended to be an employee or employer of, nor joint venturer with, the other Party; and except as otherwise specifically contemplated herein, neither Party shall function as an agent of the other Party. Each Party hereto shall be responsible for its own activities and those of its employees and agents.

19. Authority

Each Party represents and warrants to the other that the signatory identified beneath its name below has authority to execute this Agreement on its behalf.

20. Counterparts

This Agreement may be executed in multiple counterparts, each of which is deemed an original, but all of which together constitute one and the same instrument.

The Parties, intending to be legally bound, have executed and delivered this Agreement as of the Effective Date set forth above. In Witness whereof, we set our hands and seals:

THE TEXAS DEPARTMENT OF INSURANCE, <i>Plaintiff,</i>	§ § § §	IN THE DISTRICT COURT OF
v.	§	TRAVIS COUNTY, TEXAS
FRIDAY HEALTH INSURANCE COMPANY, INC. <i>Defendant.</i>	§ § §	345th JUDICIAL DISTRICT

**ORDER GRANTING APPLICATION FOR APPROVAL OF RECEIVERSHIP SERVICE PROVIDER (PHIA GROUP, LLC)**

On this date, the Court heard the *Application for Approval of Receivership Service Provider (Phia Group, LLC)* (the “Application”) filed by CANTILO & BENNETT, L.L.P., Special Deputy Receiver of Friday Health Insurance Company, Inc. (the “SDR” and “FHIC” respectively). The Special Deputy Receiver appeared by and through its counsel.

Having considered the Application, the Court finds as follows:

1. The *Order of Reference to Master* (“Order of Reference”) provides that motions filed pursuant to TEX. INS. CODE § 443.015 are referred to the Special Master appointed in this proceeding;
  2. Notice of the Application was provided in accordance with TEX. INS. CODE §443.007 (d) and the *Order of Reference to Master*;
  3. No objections to the Application were filed;
  4. The Texas Life and Health Insurance Guaranty Association has filed its acknowledgement and waiver;
  5. The Court has jurisdiction over the Application and the parties affected hereunder;
- and

6. The SDR's Application should be granted in all respects.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED as follows:

1. The Application is GRANTED in all respects.
2. The terms of compensation of Phia Group, LLC under the terms and conditions described in Exhibit A to the Application are approved.
3. The anticipated expenses described in the Application are approved.
4. This order constitutes a final Order fully resolving all issues relating to the Application.

SIGNED: \_\_\_\_\_, 2025.

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JUDGE PRESIDING

### Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Greg Pierce on behalf of Greg Pierce

Bar No. 15994250

gpierce@gpiercelaw.com

Envelope ID: 96625795

Filing Code Description: Motion (No Fee)

Filing Description: APPLICATION FOR APPROVAL OF RECEIVERSHIP SERVICE PROVIDER (PHIA GROUP, LLC)

Status as of 1/27/2025 2:15 PM CST

#### Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Christopher Fuller	7515500	cfuller@fullerlaw.org	1/27/2025 11:38:25 AM	SENT
Thomas Hollaway	9866700	dhollaway@houstonlaw.com	1/27/2025 11:38:25 AM	SENT
Jacqueline Rixen	16962550	jrixen@rixenlaw.com	1/27/2025 11:38:25 AM	SENT
Kelly M.Olson		kelly.olson@faegredrinker.com	1/27/2025 11:38:25 AM	SENT
James Danford	24105775	jdanford@mayerbrown.com	1/27/2025 11:38:25 AM	SENT
Patricia Muniz		pmuniz@inquestresources.com	1/27/2025 11:38:25 AM	SENT
Brian Falligant		bfalligant@inquestresources.com	1/27/2025 11:38:25 AM	SENT
Carrie Frasier		cfrazier@sp-legal.com	1/27/2025 11:38:25 AM	SENT

#### Associated Case Party: TEXAS DEPARTMENT OF INSURANCE

Name	BarNumber	Email	TimestampSubmitted	Status
Shawn Martin	13122100	shawn.martin@tdi.texas.gov	1/27/2025 11:38:25 AM	SENT
Zachary L.Rhines		zachary.rhines@oag.texas.gov	1/27/2025 11:38:25 AM	SENT
Special Master Clerk		specialmasterclerk@tdi.texas.gov	1/27/2025 11:38:25 AM	SENT
Vane Hugo		Vane.Hugo@tdi.texas.gov	1/27/2025 11:38:25 AM	SENT
John Walker		John.Walker@tdi.texas.gov	1/27/2025 11:38:25 AM	SENT
David Ashton		David.Ashton@tdi.texas.gov	1/27/2025 11:38:25 AM	SENT

#### Associated Case Party: FRIDAY HEALTH INSURANCE COMPANY, INC

Name	BarNumber	Email	TimestampSubmitted	Status
Stanton Strickland	786392	Stanton.Strickland@USAA.com	1/27/2025 11:38:25 AM	SENT

### Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Greg Pierce on behalf of Greg Pierce

Bar No. 15994250

gpierce@gpiercelaw.com

Envelope ID: 96625795

Filing Code Description: Motion (No Fee)

Filing Description: APPLICATION FOR APPROVAL OF RECEIVERSHIP SERVICE PROVIDER (PHIA GROUP, LLC)

Status as of 1/27/2025 2:15 PM CST

Associated Case Party: TEXAS LIFE AND HEALTH INSURANCE

Name	BarNumber	Email	TimestampSubmitted	Status
Daniel Price	24041725	dprice@sp-legal.com	1/27/2025 11:38:25 AM	SENT

Associated Case Party: QUEST DIAGNOSTIC CLINICAL LABORATORIES, INC.

Name	BarNumber	Email	TimestampSubmitted	Status
Kristen Perry		Kristen.perry@faegredrinker.com	1/27/2025 11:38:25 AM	SENT