

AGREEMENT AND PLAN OF MERGER

This Agreement and Plan of Merger (this “**Agreement**”) is made effective _____ by and between National Home Insurance Company (A Risk Retention Group) (“**NHIC**”), a risk retention group domiciled in the state of Colorado, and ProBuilders Specialty Insurance Company, RRG, A Risk Retention Group (“**PBSIC**”), a risk retention group domiciled in the District of Columbia. The parties are referred to singularly as “**Party**” and jointly as “**Parties**.”

RECITALS

WHEREAS, the Parties intend NHIC to be merged with and into PBSIC (the “**Merger**”) so that the separate existence of NHIC will cease and PBSIC will be the surviving company (the “**Surviving Company**”); and

WHEREAS, the Parties intend for the merger to be carried out in accordance with the provisions of the District of Columbia Code (“**DC Code**”) and the Colorado Revised Statutes (“**Colorado Statutes**”);

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

TERMS AND CONDITIONS

1) Name of the Surviving Company

The Surviving Company shall continue and be named ProBuilders Specialty Insurance Company, RRG, A Risk Retention Group.

2) Merger

a) Effect of Merger on the Surviving Company. PBSIC’s Articles of Incorporation and Bylaws in effect immediately before the Closing Date will be the Articles of Incorporation and Bylaws of the Surviving Company. As of the Closing Date, the Surviving Company will possess all the rights, privileges, and immunities of each of the Parties, all assets belonging to NHIC will be transferred to and vested in the Surviving Company without further act or deed, and the Surviving Company will be responsible for all liabilities of each of the Parties.

b) Board of Directors of the Surviving Company. The members of the Board of Directors of the Surviving Company will be the following persons:

Hugh McCreery
Luann Petrellis

c) Effect of Merger on Share Capital. Each share of NHIC Class A and Class B common stock issued and outstanding immediately prior to the Closing Date (“**NHIC Shares**”) shall be converted to 0.237702 shares of PBSIC common stock, with rounding of any fractional shares to the nearest whole share.

d) Further Assurances. From time to time up to and including the Closing Date, the officers of NHIC will execute and deliver such deeds and other instruments and will cause to be taken such further

actions as will reasonably be necessary in order to vest or perfect in the Surviving Company title to and possession of all the property, interests, assets, rights, and privileges of NHIC.

- e) Closing. Subject to the satisfaction of the conditions herein, and the approval of the District of Columbia Department of Insurance, Securities and Banking (“*DISB*”) and Colorado Division of Insurance (“*CDI*”), the closing of the transactions contemplated in this Agreement will occur on December 1, 2023, or at another time mutually agreed to by the Parties and approved by DISB and CDI (“*Closing*”), it being the parties intent that the Closing shall be concurrent with execution of the Share Redemption/Repurchase Plan approved by PBSIC’s board of directors and shareholders. At Closing, and pursuant to the DC Code and Colorado Statutes, the Parties will submit the required Articles of Merger to DISB for approval effective as of the closing date (“*Closing Date*”) and file a Statement of Merger with the Colorado Secretary of State.
- f) Tax-Free Intent. The Parties intend that the transactions contemplated in this Agreement be treated as a tax-free event under Section 368(a)(1)(A) of the Internal Revenue Code and/or Section 351 of the Internal Revenue Code. The Parties will not take a position on any tax return or before any taxing authority that is inconsistent with this paragraph unless otherwise required by final and binding determination or resolution of a governmental body with appropriate jurisdiction, and each Party agrees to promptly notify the other Party of any assertion by a taxing authority of a position that is inconsistent with this paragraph.

3) Representations and Warranties of NHIC

Except for the express representations and warranties in this Agreement, NHIC expressly excludes all other warranties with respect to the transaction. NHIC represents and warrants as follows:

- a) NHIC is a company duly organized, validly existing, and in good standing under the laws of the state of Colorado.
- b) This Agreement is binding upon and enforceable against NHIC in accordance with its terms, except as such enforceability may be limited by any bankruptcy, insolvency, reorganization, moratorium, or other similar laws now or hereafter in effect relating to creditors’ rights and except as may be limited by principles of equity.
- c) There is no litigation or other judicial, or administrative proceedings pending or, to the knowledge of NHIC that would have a material adverse effect on the ability of NHIC to consummate the Merger and this Agreement.
- d) NHIC has obtained such consents and other approvals necessary to authorize NHIC to enter into this Agreement and close the Merger contemplated by this Agreement.
- e) The execution, delivery, or performance of this Agreement will not:
 - i) violate any law, judgment, or order to which NHIC is subject, or
 - ii) breach any agreement to which NHIC is bound.
- f) The NHIC Shares are free and clear of any and all liens, claims and encumbrances.
- g) The NHIC Shares represent one hundred percent (100%) of the issued and outstanding shares of NHIC.

- h) NHIC has made available and delivered to PBSIC all information, statements and records of NHIC, including without limitation financing statements, shareholder records, regulatory filings, and corporate documents, requested by PBSIC, and that the information, statements, and records are not misleading, were prepared in good faith, and fairly presented the current operational and financial condition of NHIC.
- i) No representation, warranty, or statement made by NHIC in this Agreement contains or will contain any untrue statement or will omit any fact necessary to make the statements contained herein misleading.

4) Representations and Warranties of PBSIC

Except for the express representations and warranties in this Agreement, PBSIC expressly excludes all other warranties with respect to the transaction. PBSIC represents and warrants as follows:

- a) PBSIC is a company duly organized, validly existing, and in good standing under the laws of the District of Columbia.
- b) This Agreement is binding upon and enforceable against PBSIC in accordance with its terms, except as such enforceability may be limited by any bankruptcy, insolvency, reorganization, moratorium, or other similar laws now or hereafter in effect relating to creditors' rights and except as may be limited by principles of equity.
- c) There is no litigation or other judicial, administrative, or quasi-judicial proceedings pending or, to the knowledge of PBSIC that would have a material adverse effect on the ability of PBSIC to consummate the Merger and this Agreement.
- d) PBSIC has obtained such consents and other approvals necessary to authorize PBSIC to enter into this Agreement and closing the Merger contemplated by this Agreement.
- e) The execution, delivery, or performance of this Agreement will not:
 - i) violate any law, judgment, or order to which PBSIC is subject, or
 - ii) breach any agreement to which PBSIC is bound.
- f) PBSIC has made available and delivered to NHIC all information, statements, and records of PBSIC, including without limitation financing statements, shareholder records, corporate documents, regulatory filings, and business prospects, requested by NHIC, and that the information, statements, and records are not misleading, or prepared in good faith, and fairly present the current operational and financial condition of PBSIC.
- g) No representation, warranty, or statement made by PBSIC in this Agreement contains or will contain any untrue statement or will omit any fact necessary to make the statements contained herein misleading. PBSIC has disclosed to NHIC all facts that are material to the financial condition, operation, status, or prospects of PBSIC.

5) Conditions

The obligations of either Party to effect the Merger is subject to the satisfaction or waiver of each of the following conditions:

- a) The representations, warranties, and covenants made by each Party in Paragraph 4 above are true and correct as of the Closing Date;
- b) There is no material adverse change in the business or financial condition of NHIC from the date of this Agreement through the Closing Date;
- c) This Agreement is approved by the board of directors and shareholders of PBSIC entitled to vote on the matter in accordance with the law of the District of Columbia and PBSIC's constitutional documents;
- d) This Agreement is approved by the board of directors and shareholders of NHIC entitled to vote on the matter in accordance with the law of the District of Columbia and NHIC's constitutional documents.

6) Termination

- a) Failure to Obtain Shareholder Approval. This Agreement will automatically terminate in the event that it is brought to a vote and not adopted by either (i) the board of directors or shareholders of NHIC entitled to vote on the matter, or (ii) the board of directors or shareholders of PBSIC entitled to vote on the matter.
- b) Failure to Obtain Regulatory Approval. This Agreement will automatically terminate in the event that any requisite regulatory approval and or acknowledgement is not obtained prior to or on the Closing Date.
- c) Other Termination. This Agreement may be terminated and the merger abandoned at any time before the Closing Date: (i) by mutual written agreement of the Parties; (ii) by either Party if any condition provided in this Agreement has not been satisfied or waived on or before the Closing Date; or (iii) by either Party if there has been a material breach of this Agreement by the other Party.
- d) Effect of Termination. Upon termination, this Agreement will become wholly void and have no effect, without liability or obligation on the part of either Party.

7) Miscellaneous Provisions

- a) Waivers. No waiver will be binding unless it is in writing and signed by the Party making the waiver. A Party's waiver will not be a waiver of any other provision or a waiver of a subsequent breach of the same provision.
- b) Amendment. This Agreement may be amended at any time before the Closing Date with the written approval of the Parties.
- c) Governing Law. This Agreement will be governed by and construed in accordance with the laws of the District of Columbia, exclusive of any principles that would cause the laws of another jurisdiction to apply.

- d) Arbitration. Any controversy or claim arising out of this Agreement will be settled by arbitration before a single arbitrator in the District of Columbia. If the parties agree on the arbitrator, the arbitration will be held before the arbitrator selected by the Parties. If the Parties do not agree on an arbitrator, each Party will designate an arbitrator and the arbitration will be held before a third arbitrator selected by the designated arbitrators. Each arbitrator will be an attorney knowledgeable in the area of law governing the business of insurance. The resolution of any controversy or claim as determined by the arbitrator will be binding on the Parties. A Party may seek from a court in order to compel arbitration, or any other interim relief or provisional remedies pending an arbitrator's resolution of any controversy or claim. Any such action or proceeding will be litigated in courts located in the District of Columbia.
- e) Binding Effect. Except as provided otherwise herein, this Agreement shall be binding upon and shall inure to the benefits of the Parties and their respective legal representatives, successors and permitted assigns.
- f) Severability. If a provision of this Agreement is determined to be unenforceable in any respect, the enforceability of the provision in any other respect and of the remaining provisions of this Agreement will not be impaired.
- g) Headlines. The section and other headings contained in this Agreement are for reference purposes only and shall not affect the meaning of this Agreement.
- h) Expenses. All fees and expenses incurred by each Party in connection with this Agreement and the transaction contemplated by this Agreement shall be borne by that Party.
- i) Survival. All provisions of this Agreement that would reasonably be expected to survive the termination of this Agreement will do so.
- j) Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes any prior agreement or understanding among the Parties concerning its subject matter.
- k) Assignment. This Agreement may not be transferred, assigned, pledged or hypothecated by either Party without the prior written consent of the other.
- l) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which shall constitute one agreement. Furthermore, this Agreement may be executed by a party's signature transmitted by facsimile or by electronic mail, and copies of this Agreement executed and delivered by means of faxed or electronic mail shall have the same force and effect as copies hereof executed and delivered with original signatures. All Parties hereto may rely upon faxed or electronic mail as if such signatures were originals.

[Signature page follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first written above.

NATIONAL HOME INSURANCE COMPANY (A RISK RETENTION GROUP)

Name:
Title:

PROBUILDERS SPECIALTY INSURANCE COMPANY, RRG, A RISK RETENTION GROUP

Name:
Title: