

# F98000005615

KATZ, KUTTER, HAIGLER, ALDERMAN, BRYANT & YON

PROFESSIONAL ASSOCIATION

ATTORNEYS AND COUNSELORS AT LAW

www.katzlaw.com

Orlando Office

Suite 900  
111 North Orange Avenue  
ORLANDO, FL 32801  
(407) 841-7100  
fax (407) 648-0660

Tallahassee Office

12<sup>th</sup> Floor  
106 East College Avenue  
TALLAHASSEE, FL 32301  
(850) 224-9634  
fax (850) 222-0103

Miami Office

Suite 409  
2999 NE 191<sup>st</sup> Street  
AVENTURA, FL 33180  
(305) 932-0996  
fax (305) 932-0972

Reply to: Tallahassee Office

E-mail: [travis@katzlaw.com](mailto:travis@katzlaw.com)

December 29, 1999

By Hand Delivery

Division of Corporations  
Department of State  
409 E. Gaines Street  
Tallahassee, Florida 32399

EFFECTIVE DATE

12/31/99

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-12/30/99--01001--004  
\*\*\*\*153.75 \*\*\*\*153.75

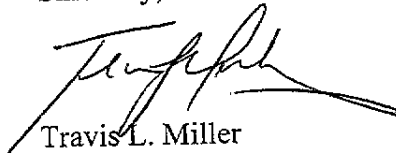
Re: Articles of Merger

Dear Division of Corporations:

Enclosed please find articles of merger pertaining to the merger of Annuity International Marketing Corporation, Amvestors Acquisition Subsidiary, Inc., and Annuity Warehouse, Inc., with and into Senior Benefit Services of Kansas, Inc. We request a certified copy of the articles of merger upon the processing of that document. A check is enclosed for the filing fees and certified copy.

Please feel free to call with any questions.

Sincerely,

  
Travis L. Miller

TLM/jkr  
enclosures

cc: Chris S. Conroy

CF = 140<sup>00</sup>  
cert 13.75

merger

RECEIVED  
99 DEC 29 PM 3:36  
DEPARTMENT OF STATE  
DIVISION OF CORPORATIONS  
TALLAHASSEE, FLORIDA

S. PAYNE DEC 30 1999

ARTICLES OF MERGER  
Merger Sheet

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MERGING:

ANNUITY INTERNATIONAL MARKETING CORPORATION, a FL corp., G67232

ANNUITY WAREHOUSE, INC., a FL corp., H77567

AMVESTORS ACQUISITION SUBSIDIARY, INC., a nonqualified Delaware corp.

INTO

SENIOR BENEFIT SERVICES OF KANSAS, INC., a Kansas entity,  
F98000005615

File date: December 29, 1999 , effective December 31, 1999

Corporate Specialist: Susan Payne

**ARTICLES OF MERGER  
OF  
ANNUITY INTERNATIONAL MARKETING CORPORATION,  
(a Florida corporation)  
AMVESTORS ACQUISITION SUBSIDIARY, INC.,  
(a Delaware corporation)  
and  
ANNUITY WAREHOUSE, INC.,  
(a Florida corporation)  
INTO  
SENIOR BENEFIT SERVICES OF KANSAS, INC.,  
(a Kansas corporation)**

FILED  
99 DEC 29 PM 3:50  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

EFFECTIVE DATE  
12/31/99

The following articles of merger are submitted in accordance with the Florida Business Corporation Act, pursuant to section 607.1105, F.S.:

**FIRST:** The name and jurisdiction of the surviving corporation is:

<u>Name</u>	<u>Jurisdiction</u>
Senior Benefit Services of Kansas, Inc.	Kansas

**SECOND:** The name and jurisdiction of each merging corporation is:

<u>Name</u>	<u>Jurisdiction</u>
Annuity International Marketing Corporation	Florida
AmVestors Acquisition Subsidiary, Inc.	Delaware
Annuity Warehouse, Inc.	Florida

**THIRD:** A copy of the Agreement of Merger is attached.

**FOURTH:** The effective date of the merger shall be 11:59 p.m. on December 31, 1999.

**FIFTH:** The Agreement of Merger was adopted by the sole shareholder of the surviving corporation on December 28, 1999.

**SIXTH:** The Agreement of Merger was adopted by the board of directors of the merging corporation on December 28, 1999.

**IN WITNESS WHEREOF**, we have hereunto set our hands of this 28th day of December, 1999.

**ANNUITY INTERNATIONAL MARKETING CORPORATION**

By: Dale Brueggeman  
Name: Dale Brueggeman  
Title: Vice President

Attested:

By: [Signature]  
Name: Michael H. Miller  
Title: Exec. VP & Sec.

**AMVESTORS ACQUISITION SUBSIDIARY, INC.**

By: [Signature]  
Name: Mark V. Heitz  
Title: President & CEO

Attested:

By: [Signature]  
Name: Michael H. Miller  
Title: Exec. VP & Sec.

**ANNUITY WAREHOUSE, INC**

By: [Signature]  
Name: Al Atha, III  
Title: Executive VP

Attested:

By: [Signature]  
Name: Michael H. Miller  
Title: Exec. VP & Sec.

**SENIOR BENEFIT SERVICES OF KANSAS, INC.**

By: [Signature]  
Name: Michael H. Miller  
Title: Exec. VP & Sec.

Attested:

By: [Signature]  
Name: Al Atha, III  
Title: Exec. VP

# **AGREEMENT OF MERGER**

By and Among

**SENIOR BENEFIT SERVICES OF KANSAS, INC.,**

**AMVESTORS ACQUISITION SUBSIDIARY, INC.,**

**ANNUITY INTERNATIONAL MARKETING CORPORATION,**

And

**ANNUITY WAREHOUSE, INC.**

## **AGREEMENT OF MERGER**

THIS AGREEMENT OF MERGER (this "Agreement") is made effective as of the 28th day of December, 1999, by and among SENIOR BENEFIT SERVICES OF KANSAS, INC., a Kansas corporation ("Acquiror"), AMVESTORS ACQUISITION SUBSIDIARY, INC., a Delaware corporation ("AAS"), ANNUITY INTERNATIONAL MARKETING CORPORATION, a Florida corporation and wholly-owned subsidiary of AAS ("AIMCOR"), ANNUITY WAREHOUSE, INC., a Florida corporation and wholly-owned subsidiary of AAS ("AW").

### **RECITALS**

WHEREAS, the Boards of Directors of Acquiror, AAS, AIMCOR, and AW deem it advisable and in the best interests of their respective shareholders to merge certain subsidiaries in order to simplify the overall holding company organizational structure, realize efficiencies in operations, financial reporting, and recordkeeping and realize certain positive state income tax consequences; and

WHEREAS, AmVestors Financial Corporation, as the sole shareholder of Acquiror and AAS, and AmVestors Acquisition Subsidiary, Inc., as the sole shareholder of AIMCOR and AW, have approved the merger and the transactions contemplated herein.

### **AGREEMENT**

NOW, THEREFORE, in consideration of the foregoing and respective representations, warranties and covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follow:

#### **ARTICLE I.** **THE MERGER**

**1.1. Structure of the Merger.** Subject to the terms and conditions of this Agreement and in reliance on the representations, warranties and covenants of Acquiror, AAS, AIMCOR, and AW herein contained and other good and valuable consideration, the parties agree to the Merger as set forth herein. At the effective time of the Merger (the "Effective Time") as provided in Section 4.1, AAS, AIMCOR, and AW will merge with and into Acquiror (the "Merger") pursuant to the provisions of, and with the effect provided in, Section 17-6702 of the Kansas General Corporation Code, Section 607.1105 of Florida Business Corporation Act, and Title 8, Section 252(c) of the Delaware General Corporation Law, whereupon the separate existence of AAS, AIMCOR, and AW shall cease, and Acquiror shall be the surviving corporation

(the "Surviving Corporation"). Financial Benefit Life Insurance Company ("FBL"), a Kansas life insurance corporation and wholly owned subsidiary of AAS, shall be a wholly owned subsidiary of Acquiror by operation of this Merger. At the Effective Time, the articles of incorporation and by-laws of Acquiror in effect immediately prior to the Effective Time shall be the articles of incorporation and by-laws of the Surviving Corporation, the directors of Acquiror immediately prior to the Effective Time shall be the directors of the Surviving Corporation, and the officers of Acquiror immediately prior to the Effective Time shall be the officers of the Surviving Corporation.

#### 1.2. Effect of the Merger.

(a) By virtue of the Merger, automatically and without any action on the part of the holders thereof, the shares of AAS common stock, par value \$0.01 per share, AIMCOR common stock, par value \$1.00 per share, and AW common stock, par value \$1.00 per share (collectively, the "Common Stock"), issued and outstanding at the Effective Time shall, at the Effective Time, be cancelled and cease to be issued and outstanding shares of Common Stock.

(b) At the Effective Time, pursuant to and as permitted by applicable Kansas, Florida, and Delaware corporate law, all of the rights, privileges, powers, franchises, property and assets of Acquiror and AAS, AIMCOR, and AW and all debts and liabilities due or to become due to Acquiror and AAS, AIMCOR, and AW, including every interest or asset of conceivable value or benefit, shall be deemed fully and finally and without any right of reversion or impairment vested in the Surviving Corporation without further act or deed, and without any assignment or transfer having occurred, and the Surviving Corporation shall have and hold the same in its own right as fully as the same was possessed and held by Acquiror and AAS, AIMCOR, and AW. All debts, liabilities, and obligations due or to become due of, and all claims or demands for any cause existing against, Acquiror and AAS, AIMCOR, and AW shall be and become the debts, liabilities, obligations of, and the claims and demands against, the Surviving Corporation in the same manner as if the Surviving Corporation had itself incurred or become liable for them; all rights or creditors of Acquiror and AAS, AIMCOR, and AW and all liens upon the property of Acquiror and AAS, AIMCOR, and AW shall be preserved unimpaired, and any action or proceeding pending by or against Acquiror and AAS, AIMCOR, and AW shall not be deemed to have been abated or have been discontinued, but may be prosecuted to judgment with the right of appeal or review as in other cases as if the Merger had not taken place and the Surviving Corporation may be substituted for Acquiror and AAS, AIMCOR, and AW, as the case may be.

(c) At the Effective Time, the operations, overall business plans, and corporate purposes of AIMCOR, AW, and FBL shall remain consistent with such operations, overall business plans, and corporate purposes as before the consummation of this Merger.

**ARTICLE II.**  
**REPRESENTATIONS AND WARRANTIES OF THE AAS, AIMCOR, AND AW**

AAS, AIMCOR, and AW acknowledge that the transactions contemplated under this Agreement are relied upon with the following representations and warranties provided by AAS, AIMCOR, and AW in this Article II. AAS, AIMCOR, and AW hereby represent and warrant to Acquiror as follows:

2.1. Corporate Organization, etc. AAS, AIMCOR, and AW are corporations duly organized, validly existing and in good standing under the laws of the State of Delaware, the State of Florida, and the State of Florida, respectively, with all requisite corporate power and authority to carry on their respective business as it is now being conducted and to own, operate and lease their respective properties and assets.

2.2. Capital Stock; Options.

(a) The authorized capital stock of AAS consists of 1,000 shares of Common Stock, par value \$0.01 per share, and the only shares of capital stock of AAS issued and outstanding are the 100 shares of Common Stock held by AmVestors Financial Corporation, a Kansas corporation, of record and beneficially. AAS has no treasury stock. All the Shares are validly issued, fully paid and nonassessable and are owned by AmVestors Financial Corporation, free and clear of all Encumbrances.

(b) The authorized capital stock of AIMCOR consists of 7,500 shares of Common Stock, par value \$1.00 per share, and the only shares of capital stock of AIMCOR issued and outstanding are the 7,500 shares of Common Stock held by AAS, of record and beneficially. AIMCOR has no treasury stock. All the Shares are validly issued, fully paid and nonassessable and are owned by AAS, free and clear of all Encumbrances.

(c) The authorized capital stock of AW consists of 1,000 shares of Common Stock, par value \$1.00 per share, and the only shares of capital stock of AW issued and outstanding are the 300 shares of Common Stock held by AAS, of record and beneficially. AW has no treasury stock. All the Shares are validly issued, fully paid and nonassessable and are owned by AAS, free and clear of all Encumbrances.

(d) There are no issued and outstanding options, warrants, rights, securities, contracts, commitments, understandings or arrangements by which AAS, AIMCOR, or AW is bound with respect to the shares aforementioned in subsections 2.2(a), 2.2(b), and 2.2(c), or to issue any additional shares of its capital stock or equity equivalents.

2.3. Subsidiaries and Affiliates. AAS has three subsidiaries, AIMCOR, AW, and FBL. AIMCOR, AW, and FBL have no subsidiaries.



2.4. Authorization, etc. AAS, AIMCOR, and AW each have full power and authority to enter into this Agreement and to carry out the transactions contemplated hereby.

2.5. No Violation. Neither AAS, AIMCOR, nor AW is subject to or obligated under any article or certificate of incorporation or bylaw or, any Law, agreement, instrument, license, franchise or permit, which would be breached or violated by AAS's, AIMCOR's, and AW's execution, delivery and performance of this Agreement. AAS, AIMCOR, and AW have complied with all applicable Laws in connection with the execution, delivery and performance of this Agreement and the transactions contemplated hereby.

2.6. Governmental Authorities. Neither AAS, AIMCOR, nor AW is required to submit any notice, report or other filing with, and no consent, approval or authorization is required, by any governmental or regulatory authority in connection with their execution, delivery, consummation or performance of this Agreement or the consummation of the transactions contemplated hereby, except as otherwise expressly provided herein.

2.7. Financial Statements. The Balance Sheets are complete and accurate and fairly present the financial position of AAS, AIMCOR, and AW as of the dates thereof, and the Income Statements fairly and accurately present the results of operations for the periods referred to therein.

2.8. Title and Related Matters. AAS, AIMCOR, and AW have good and marketable title to all their respective properties and assets reflected in the Balance Sheet or acquired after the date thereof (except properties sold or otherwise disposed of since the date thereof in the ordinary course of business and consistent with past practices), free and clear of all Encumbrances, except as reflected on the Balance Sheet. AAS, AIMCOR, and AW, as the case may be, owns or leases, directly or indirectly, all the assets and properties, and is a party to all licenses and other agreements, presently used or necessary to carry on the business or operations of AAS, AIMCOR, and AW, respectively, as presently conducted.

2.9. Licenses. AAS, AIMCOR, and AW have all federal, state, local and foreign licenses, permits or other approvals required for the operation of their respective businesses as now being conducted, except as would not have a material adverse effect on AAS's, AIMCOR's, and AW's business or prospects, respectively.

2.10. Compliance with Law.

(a) To the best of their knowledge, neither (i) AAS, AIMCOR nor AW has previously failed or is currently failing to comply with any applicable Laws relating to the business of AAS, AIMCOR or AW or the operation of their respective businesses and assets and (ii) AAS, AIMCOR nor AW has previously failed and is not currently failing to comply with any applicable Laws relating to the business of AAS, AIMCOR or AW or the operation of their respective businesses and assets where such failure or failures would individually or in the aggregate have an adverse effect on the financial condition, business, operations of AAS taken as a whole. In particular, but without limiting the generality of the foregoing, to the best of their knowledge,

each of AAS, AIMCOR, and AW is in compliance with all applicable Laws relating to deceptive trade practices, unauthorized practice of law, unfair competition, unfair claims settlement practices, rebating, anti-competitive practices, price fixing, health and safety, environmental, employment and discrimination matters. There are no proceedings of record and no proceedings are pending or threatened, nor has AAS, AIMCOR or AW received any written notice regarding any violation of any Law.

2.10. Intellectual Property. AAS, AIMCOR and AW has good and marketable title to each copyright, trademark, trade name, service mark, trade dress, patent, franchise, trade secret, product designation, formula, process, know-how, right of publicity, design and other similar rights used in, or necessary for, the operation of their respective businesses as currently conducted. All of said intellectual property rights are free and clear of all royalty obligations, security interests, liens and encumbrances. AAS, AIMCOR or AW, as the case may be, has the exclusive right to use all intellectual property rights used in, or necessary for, the operation of their respective businesses as currently conducted. AAS, AIMCOR, and AW have taken all action necessary to protect against and defend against, and has no knowledge of, any conflicting use of any such intellectual property rights. Neither AAS, AIMCOR nor AW has or intends to utilize any intellectual property rights. Neither AAS, AIMCOR nor AW is a party in any capacity to any franchise, license, royalty or other agreement respecting or restricting any intellectual property rights, and the intellectual property rights used by AAS, AIMCOR or AW in the conduct of their respective businesses do not conflict with the intellectual property rights of any third party. No service provided by AAS, AIMCOR or AW violates any license or infringes any intellectual property rights of any third party, and there are no pending claims or demands by any third party to the contrary.

2.11. Warranties. There are no claims existing or threatened under or pursuant to any warranty, whether expressed or implied, on products or services sold by AAS, AIMCOR or AW.

2.12. Disclosure. No representation or warranty made by AAS, AIMCOR or AW in this Agreement or in any agreement, instrument, document, certificate, statement or letter furnished to Acquiror, by or on behalf of AAS, AIMCOR or AW in connection with any of the transactions contemplated by this Agreement contains any untrue statement of fact or omits to state a fact necessary in order to make the statements herein or therein not misleading in light of the circumstances in which they are made.

### **ARTICLE III.**

#### **REPRESENTATIONS AND WARRANTIES OF ACQUIROR**

Acquiror hereby represents and warrants to AAS, AIMCOR and AW as follows:

3.1. Authorization, etc. Acquiror has, prior to the Effective Time, full corporate power and authority to enter into this Agreement and to carry out the transactions contemplated hereby.

3.2. No Violation. Acquiror is not subject to or obligated under any certificate of incorporation, bylaw, Law, or any agreement or instrument, or any license, franchise or permit, which would be breached or violated by the execution, delivery or performance of this Agreement unless appropriate consents or waivers to such actions have been previously obtained. Acquiror has complied with all Laws in connection with its execution, delivery and performance of this Agreement and the transactions contemplated hereby.

3.3. Governmental Authorities. Acquiror is not required to submit any notice, report or other filing with and no consent, approval or authorization is required by any governmental or regulatory authority in connection with Acquiror's execution or delivery of this Agreement or the consummation of the transactions contemplated hereby except for (i) the filing of the Certificate of Merger with the Secretary of State of Kansas, (ii) the filing of the Certificate of Merger with the Secretary of State of Delaware, (iii) the filing of the Articles of Merger with the Secretary of State of Florida, (iii) the filing of notice with the Florida Insurance Commission and the Kansas Insurance Department, and (iv) such notices, reports, other filings, consents, approvals or authorizations which have been made or obtained.

#### **ARTICLE IV. CLOSING**

4.1. Effective Time. The Merger shall become effective upon the filing and acceptance of the Certificates of Merger in proper form for filing with the Secretaries of State of Kansas, Delaware and Florida or as of such later time as specified in the Certificates of Merger, such time herein called the "Effective Time."

4.2. Closing. Unless this Agreement shall have been terminated or the Merger abandoned pursuant to the provisions of Article V hereof, a closing (the "Closing") shall be held on or before December 31, 1999 or on such other date mutually agreed upon by the parties (the "Closing Date") at the offices of Acquiror or such place or places as mutually agreed upon by the parties.

4.3. Deliveries at Closing.

(a) At the Closing, AAS, AIMCOR, and AW shall deliver to Acquiror all the Common Stock by delivering the Certificates and the other agreements, certifications and other documents required to be executed and delivered hereunder at the Closing shall be duly and validly executed and delivered.

(b) From time to time after the Closing, at Acquiror's request and without further consideration from Acquiror, AAS, AIMCOR and AW shall execute and deliver such other instruments of conveyance and transfer and take such other action as Acquiror reasonably may require to consummate the transactions contemplated by this Agreement.

**ARTICLE V.**  
**TERMINATION AND ABANDONMENT**

**5.1. Methods of Termination.** This Agreement may be terminated and the Merger abandoned at any time prior to the Effective Time:

(a) by mutual written consent of Acquiror and AAS, AIMCOR, and AW; or

(b) by either AAS, AIMCOR, AW or Acquiror, if there shall be any law or regulation that makes consummation of the Merger illegal or otherwise prohibited, or if a judgment, injunction, order or decree enjoining Acquiror, AAS, AIMCOR or AW from consummating the Merger is entered and such judgment, injunction, order or decree shall become final and nonappealable.

**ARTICLE VI.**  
**MISCELLANEOUS PROVISIONS**

**6.1. Amendment and Modification.** Subject to applicable law, this Agreement may be amended, modified and supplemented only by written agreement of the parties hereto.

**6.2. Waiver of Compliance; Consents.** Any failure of AAS, AIMCOR, or AW on the one hand, or Acquiror on the other hand, to comply with any obligation, covenant, agreement or condition herein may be waived in writing by Acquiror or by AAS, AIMCOR, or AW, respectively, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

**6.3. Notices.** Any notice, request, consent or communication (collectively a "Notice") under this Agreement shall be effective only if it is in writing and (i) personally delivered, (ii) sent by a nationally recognized overnight delivery service, with delivery confirmed, or (iii) telexed or telecopied, with receipt confirmed, addressed as follows:

If to AAS, AIMCOR or AW:

Mark V. Heitz, President  
AmVestors Acquisition Subsidiary, Inc.  
555 S. Kansas Avenue  
Topeka, Kansas 66603  
Telecopier: (785) 295-4345  
Telephone: (785) 232-6945

If to Acquiror:

Michael H. Miller, Executive Vice President & Secretary  
Senior Benefit Services of Kansas, Inc.  
555 S. Kansas Avenue  
Topeka, Kansas 66603  
Telecopier: (785) 295-4345  
Telephone: (785) 232-6945

or such other persons or addresses as shall be furnished in writing by any party to the other party. A Notice shall be deemed to have been given as of the date when (i) personally delivered, (ii) when receipt of a Notice sent by an overnight delivery service is confirmed by such overnight delivery service, or (iii) when receipt of the telex or telecopy is confirmed, as the case may be, unless the sending party has actual knowledge that a Notice was not received by the intended recipient.

6.4. Binding Effect. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and permitted assigns.

6.5. Governing Law. **THIS AGREEMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF KANSAS (REGARDLESS OF THE LAWS THAT MIGHT OTHERWISE GOVERN UNDER APPLICABLE FLORIDA OR DELAWARE PRINCIPLES OF CONFLICTS OF LAW OF THE STATE OF KANSAS) AS TO ALL MATTERS INCLUDING, BUT NOT LIMITED TO, MATTERS OF VALIDITY, CONSTRUCTION, EFFECT, PERFORMANCE AND REMEDIES.**

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


6.7. Headings. The article and section headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

6.8. Entire Agreement. This Agreement embodies the entire agreement and understanding of the parties hereto in respect of the subject matter contained herein. There are no restrictions, promises, representations, warranties, covenants or undertakings other than those expressly set forth or referred to herein. This Agreement supersedes all prior agreements and understandings between the parties with respect to such subject matter.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the date first hereinabove set forth.

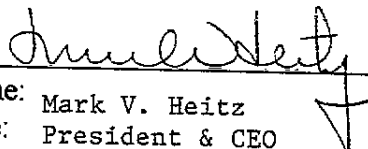
**ACQUIROR:**

SENIOR BENEFIT SERVICES  
OF KANSAS, INC.

By:   
Name: Michael H. Miller  
Title: Executive Vice President & Secretary

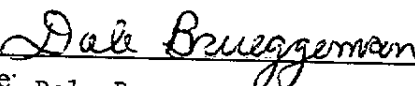
**AAS:**

AMVESTORS ACQUISITION  
SUBSIDIARY, INC.

By:   
Name: Mark V. Heitz  
Title: President & CEO

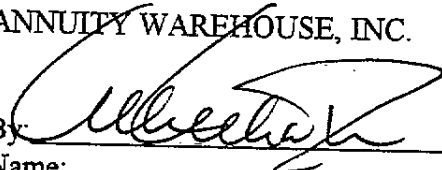
**AIMCOR:**

ANNUITY INTERNATIONAL MARKETING  
CORPORATION

By:   
Name: Dale Brueggeman  
Title: Vice President

**AW:**

ANNUITY WAREHOUSE, INC.

By:   
Name: Al Atha, III  
Title: Executive Vice President