

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

Docket No. 03-E-0106

**In the Matter of the Liquidation of
The Home Insurance Company**

Docket No. 03-E-0112

**In the Matter of the Liquidation of
US International Reinsurance Company**

**AFFIDAVIT OF PETER A. BENGELSDORF,
SPECIAL DEPUTY LIQUIDATOR, IN SUPPORT OF
MOTION FOR APPROVAL OF AGREEMENTS**

I, Peter A. Bengelsdorf, hereby depose and say:

1. I was appointed as Special Deputy Liquidator of The Home Insurance Company ("The Home") and US International Reinsurance Company ("USI Re") by Paula T. Rogers, Commissioner of Insurance, as Liquidator of The Home, effective June 11, 2003. I submit this affidavit in support of the Liquidator's Motion for Approval of (1) Short Term Transition Services Agreement and (2) Asset Transfer Agreement with Risk Enterprises Management (the "Motion").

2. The Liquidator has determined to create stand-alone liquidation operation for The Home and USI Re (collectively, the "Companies") in liquidation to achieve cost efficiency. As part of my duties as Special Deputy Liquidator, I have been charged with assembling a liquidation staff and preparing facilities, including computer systems, to conduct the liquidations.

3. Risk Enterprise Management Limited ("REM") had administered the run-off of the Companies since 1995 pursuant to a Services Agreement with the Companies dated June 12, 1995, as amended. The Liquidator disavowed the Services Agreement by notice dated June 19, 2003.

4. REM has possession of many of the records and information of The Home and USI Re, including data contained on computer systems that have been operated and maintained by REM. The computer systems holding the Companies' financial, reinsurance, policy, claims and other operational information include intermingled data concerning both the Companies and other of REM's clients. REM has developed system enhancements and applications to handle and provide access to the Companies' data. Further, certain of the computer software and applications are owned by REM. Any "download" of the Companies' data from REM systems must be accomplished by the migration of that data to new software and hardware capable of accessing that data.

5. It will greatly assist in promptly establishing a cost-effective stand-alone liquidation operation, to acquire title to and interests in the computer software and applications, and other non-information processing related assets, owned by REM that have heretofore been used to administer the run-off of the Companies. In order to help her in valuing those assets the Liquidator engaged Cap Gemini Ernst & Young U.S. LLC ("CGE&Y"), consulting arm of Ernst & Young.

6. The transfer of the records and information of the Companies, in particular the data on the computer systems, to the new stand-alone facilities and computer systems is a complicated undertaking, and one that needs to be accomplished quickly and in an organized fashion. The Liquidator needs to have immediate access to the existing

computer systems and the data on those systems and to minimize any disruption in access to organize and run the liquidations. Access to the information and systems is important for a number of functions, including: (a) the processing of information concerning claims and other matters that continues to flow to the companies, (b) keeping records of the file transfers to guaranty associations, (c) billing and collecting reinsurance, (d) keeping records of proofs of claims as they are mailed and returned, (e) providing coverage and claims payment information to guaranty associations so they can handle claims, (f) processing vendor invoices, and (g) arranging for the transfer of the foregoing information to computer systems being established for the liquidations. The transfer of records and computer data would be more quickly and efficiently made with the assistance of the company that has been maintaining those records and operating the computer systems.

7. For these reasons, the Liquidator has negotiated two agreements with REM: (a) an Asset Transfer Agreement to acquire rights to software and applications, as well as other non-information processing related assets, to permit the stand-alone liquidation operation to readily maintain, access and process the Companies' financial, reinsurance, policy, claims and other operational information, and (b) a short-term Transition Services Agreement to provide a smooth transfer of records and computer data access and processing and quickly establish a functioning, stand-alone liquidation operation. Copies of the Asset Transfer Agreement and the Transition Services Agreement are attached to the Motion.

8. The Asset Transfer Agreement provides for REM to transfer to the Liquidator all right, title and interest in a number of technology assets, including among

other things the Assumed Reinsurance System, the modifications and enhancements to the Ceded Reinsurance System and Claims System made by REM, software rights to all systems used by REM for the business of the Companies, all data and databases developed for or used for the business of the Companies, and any and all other REM proprietary systems, links and applications used for the Companies (including financial, accounts payable, accounts receivable, and budget systems).

9. The Liquidator agrees to pay \$7.5 million for the assets. The Asset Transfer Agreement will only become effective when approved by the Court. The payment will be made within two business days of that approval, and title will be transferred to the Liquidator at that time. The payment is fair and reasonable based on the evaluation by CGE&Y. CGE&Y has estimated the total value of the assets to be acquired pursuant to the proposed Asset Transfer Agreement, excluding REM proprietary intellectual property and non-business related software, to fall between a range of \$6.8 to 9.17 million. A copy of CGE&Y evaluation letter is attached as Exhibit 1.

10. In order to facilitate and expedite the transition to an independent liquidation operation able to fully use the computer systems and information, the Liquidator entered into the short-term Transition Services Agreement. That Agreement provides that REM will perform a number of essential tasks, including providing support for follow-up mailings of notices to potential claimants, delivering an operational proof of claim system, assisting the Liquidator separating and transferring the Companies' data to the Liquidator's systems and accessing the data, upgrading personal computers and servers to be used by the liquidation operation, assisting the Liquidator in installing

computers and creating a separate data center and in transferring mainframe and related systems, and training liquidation staff to operate the systems.

11. The Liquidator will compensate REM for these services by paying fees consisting of (i) the employee compensation and benefits of REM personnel during the term of the Agreement multiplied by the portion of their time spent performing services for the Liquidator, (ii) an allocation of REM's costs relating to the provision of the Services, and (iii) the sum of \$295,000 for REM's extraordinary transition costs. The cost of the Agreement to the liquidation thus will depend on the amount of services called for by the Liquidator. The Liquidator also agrees to indemnify REM against claims and expenses arising from the services performed for the Liquidator. The Transition Services Agreement's term begins on the liquidation date, June 11, 2003, and ends 45 days after Court approval of the Agreement; however, the Agreement only becomes effective when approved by the Court. (Until that time, the Liquidator will pay REM on the basis of a letter dated June 20, 2003 providing for interim payments after disavowal of the prior Services Agreement.)

12. I believe that the Asset Transfer Agreement and the Transition Services Agreement will facilitate and expedite the establishment of an independent liquidation operation for a price that is fair and reasonable.

Signed under the penalties of perjury this 18th day of July, 2003.

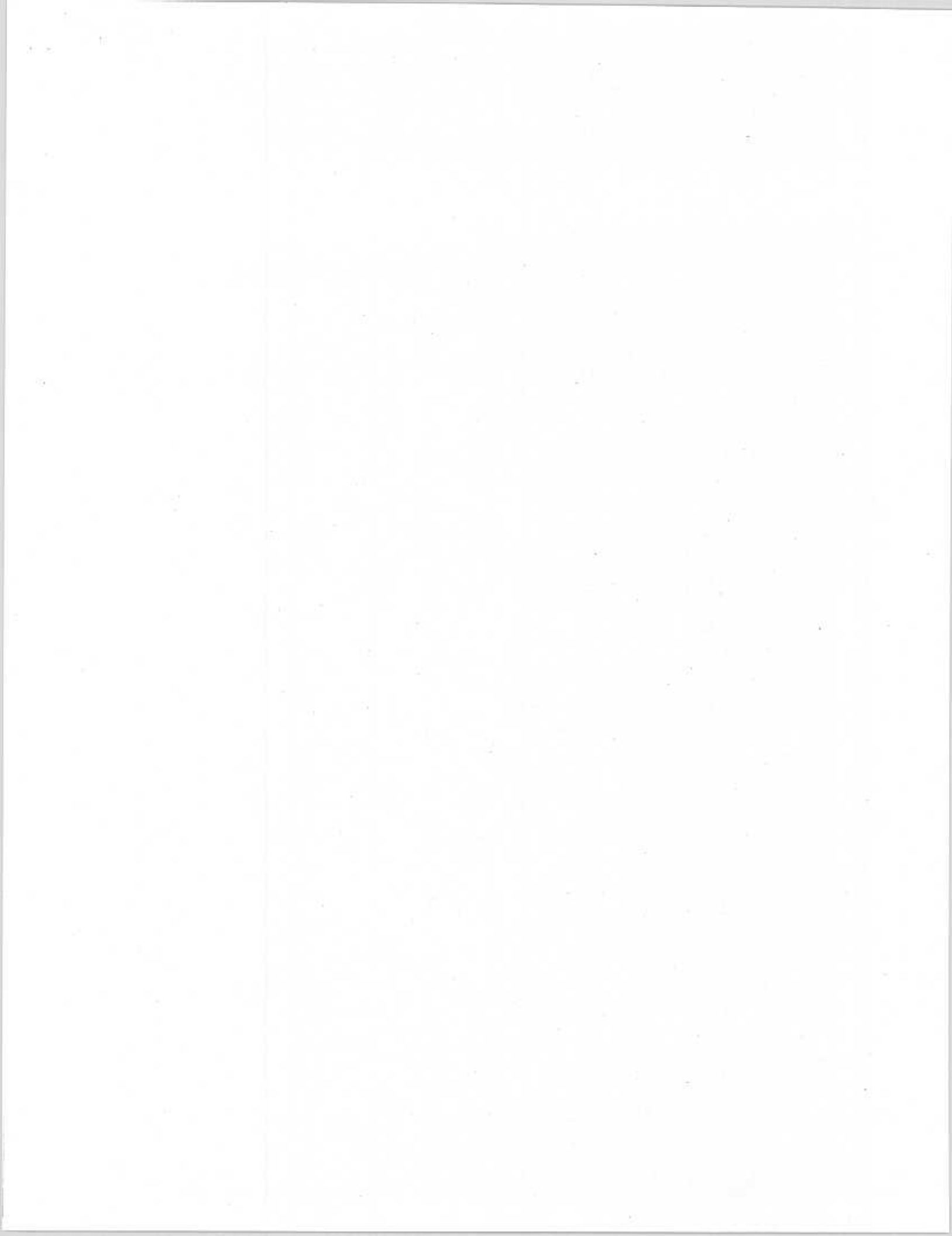
//Peter Bengelsdorf\
Peter A. Bengelsdorf
Special Deputy Liquidator

STATE OF NEW YORK
COUNTY OF NEW YORK

Subscribed and sworn to, before me, this 18th day of July, 2003

//Nelly Gomez\
Notary Public/Justice of the Peace

NELLY M. GOMEZ
Notary Public, State of New York
No. ~~150~~ 5005271
Qualified in Brook County
Certificate Filed in N.Y. County
Commission Expires December 7, 2006





July 18, 2003

Paula T. Rogers, New Hampshire Insurance Commissioner, solely in her capacity as Liquidator (the "Liquidator") for The Home Insurance Company In Liquidation ("The Home") and US International Reinsurance Company In Liquidation ("USI-RE"; The Home and USI-RE are collectively referred to as "the Companies")
 59 Maiden Lane
 New York, NY 10038

Dear Commissioner Rogers,

Cap Gemini Ernst & Young U.S. LLC ("CGE&Y") was retained by the Liquidator to perform an assessment of the assets being transferred from Risk Enterprise Management Limited ("REM") to the Liquidator as detailed in, and governed by the terms of our Letter of Understanding, dated July 17, 2003 (the "LOU"). The "transferred assets" are outlined in the Asset Transfer Agreement between the Liquidator and REM attached hereto as Appendix A. This serves as the Deliverable defined in the LOU. It is comprised of CGE&Y's findings of a reasonable range of value for these assets.

The process undertaken by CGEY consisted of reviewing the assets outlined in the Asset Transfer Agreement and determining which items have residual value or no value. Those with value were further analyzed to produce an acceptable range. Based on CGEY's review of the transferred assets, the following are deemed to have asset value and therefore included in the overall range:

- Assumed Reinsurance System. This is a valued asset developed by REM. The valuation for this asset was derived by estimating the replacement cost for a new Assumed Reinsurance System package. This includes the purchase, customization, installation, and converting of the data.
- Links/Interfaces developed by REM that support Home reinsurance processing. This includes, but is not limited to, the Interfaces and data feeds that exist between the Pyramid Claims System, Assumed Reinsurance System, Great Plains Financial System and all systems residing on the Zurich Mainframe and AS400. The valuation for this asset was derived through interviews with REM and Liquidator employees and estimating metrics from other CGEY interface engagements.
- Institutional Knowledge required by REM to develop, implement, and enhance the links and interfaces. The valuation for this asset was derived through interviews with REM and Liquidator employees and estimating metrics from other CGEY interface engagements.
- All data and databases required for Home Insurance. The valuation for this asset was derived through interviews with REM and Liquidator employees and estimating metrics from other CGEY interface engagements.



For several applications, Home already owns the rights to the license and is considered a Home asset. Therefore, these applications were assigned zero value in terms of the assets being transferred by REM. These applications include:

- Pyramid Claims System. The Home license includes the base software and all enhancements to source code to support Home functionality.
- Applications residing on the Zurich mainframe or AS400. Although REM pays Zurich the fees for this service, Home pays REM its share of the expense that is then paid to Zurich. An assumption exists, that Home will be able to directly pay Zurich an amount equal to or close to the amount REM is currently paying on behalf of Home
- Great Plains Financial System. Home owns a separate license for this software.

The range of asset values excludes proprietary REM intellectual property such as claim handling best practices, manuals, procedures, techniques, and know-how. Additionally all non-business related software including, but not limited to, operational maintenance software, security, networks, and operating systems is not included in the range of asset value.

As a result, CGEY has provided a range of asset value as follows:

Assumed Reinsurance System Replacement	Low Range	High Range
Base cost for 100 licenses (75 full, 25 read only, 80% retail discount), 1 year support and maintenance, training, customization, 100-120 canned reports/queries, data conversion	\$4.4M	\$5.57M

Interfaces/Links, Additional Data and Databases, and Institutional Knowledge	Low Range	High Range
Interfaces, links and/or data feeds, and databases required for Home Insurance and the institutional knowledge required for their development	\$2.4M	\$3.6M

The total value for the assets transferred from REM is estimated to fall between a range of **\$6.8M and \$9.17M**. The \$7.5M being considered by the Liquidator would fall within this estimated range.

The Liquidator acknowledges that the range of asset value outlined in this assessment is a joint effort of CGE&Y and the Liquidator. The Liquidator understands and agrees that CGE&Y's services are advisory in nature, and the Liquidator shall have full responsibility for the use of, and the results obtained from, CGE&Y's services.



Please feel free to contact Scott Becchi (scott.becchi@cgey.com) - (W) 571-382-6688 or (C) 703-930-3344 if you have any questions regarding this document or any related matters.

Very truly yours,

//Scott Becchi\\

Scott Becchi
Vice President
Cap Gemini Ernst & Young U.S. LLC



Appendix A: Copy of Asset Transfer Agreement Between Liquidator and REM

ASSET TRANSFER AGREEMENT

This ASSET TRANSFER AGREEMENT ("Agreement") is made as of the 16th day of July, 2003, by and between the Commissioner of Insurance of the State of New Hampshire, solely in her capacity as Liquidator ("Liquidator") of The Home Insurance Company, a stock insurance company in liquidation in New Hampshire, and U.S. International Reinsurance Company, a stock reinsurance company in liquidation in New Hampshire, and Risk Enterprise Management Limited, a Delaware corporation ("REM"). The Liquidator and REM shall be referred to individually as "Party" and collectively as "Parties."

WHEREAS, pursuant to an Order of Liquidation entered June 11, 2003, by the Superior Court of Merrimack County, New Hampshire ("New Hampshire Court"), which was superseded by an Order of Liquidation entered June 13, 2003, The Home Insurance Company ("The Home") was placed in liquidation, and pursuant to an Order of Liquidation entered June 13, 2003, by the New Hampshire Court, U.S. International Reinsurance Company ("USI Re" and, together with The Home, the "Companies") was placed in liquidation; and pursuant to the Orders of Liquidation the Commissioner of Insurance of the State of New Hampshire was appointed Liquidator of the Companies (the two June 13, 2003 orders shall be referred to collectively as the "Orders of Liquidation");

WHEREAS, the Liquidator intends to create an effective, stand alone liquidation operation for the Companies in liquidation;

WHEREAS, REM owns or possesses rights to certain assets, including hardware, software, and applications that will substantially assist the operation of the Companies in liquidation;

WHEREAS, the Liquidator desires to purchase those assets from REM to facilitate the orderly liquidation of the Companies, and REM is willing and able to sell such assets to the Liquidator, in accordance with this Agreement;

NOW, THEREFORE, in consideration of the mutual promises and agreements as set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Liquidator and REM, hereby agree as follows:

Section 1. Transfer of Assets.

REM agrees to transfer to the Liquidator its rights, title, or interests in all of its assets used to provide services to the Companies in 2002 and 2003 ("Assets") as follows:

- (a) As respects REM's Intellectual Property and Technology: the non-exclusive, non-transferable, perpetual license to use, subject to the obligations of Confidentiality under Section 2(b), any REM-developed software, including object and source code, all data and databases used by or for the Companies during 2003 and 2002, whether located on REM's, the Liquidator's, or, as applicable, third party vendor's Hardware, solely for purpose of liquidating the Companies. Such license rights shall include existing passwords, keys, source codes, disks and files, manuals and procedures. Such license rights shall include rights to:



(i) The Assumed Reinsurance System and all modifications and enhancements to the Ceded Reinsurance System made by REM;

(ii) All modifications and enhancements made by REM to the Pyramid Claims System, including modules and custom documentation and the add-on applications for:

- (1) management reporting consisting of the Standard Reports VB application and Crystal reports and Claim Index/Inquiry;
- (2) additional claim handling processes including Check Extract Processing, TPA Account Information Setup, Transfer Claims, Restore Claims, Financial Adjustments;
- (3) Accounting functions including Bank Check and Recovery Reconciliations and Financial Adjustments.

(iii) All system software, other than 1. (a) (i) and (ii) developed and owned by REM and used for the Companies in 2003 and 2002;

(iv) All Data and Databases developed or used for the business of the Companies;

(v) Any and all other REM proprietary systems, links, data, and applications used for the Companies in 2003 and 2002, including but not limited to financial, accounts payable, accounts receivable, and budget systems.

- (b) As respects REM proprietary Intellectual Property other than software, data, and databases; the non-exclusive, non-transferable, perpetual right to use solely for purpose of liquidating the Companies the REM-developed Best Practices & leakage management processes, manuals, procedures, techniques, and know-how.
- (c) As respects REM personal property, ownership of the security system for the offices at 59 Maiden Lane, New York, New York and 286 Commercial Street, Manchester, New Hampshire;
- (d) Liquidator may (i) install the Assets in its own facilities; (ii) use, execute, and store the Assets on its computer(s) for purposes of liquidating the Companies; (iii) use and alter the source code of any of the Assets; and (iv) make copies of the Assets in machine-readable, object code form, for nonproductive backup purposes and for use by a third party servicer engaged by Liquidator, provided that such servicer executes a Confidentiality Agreement with Liquidator, containing terms substantially as provided under Section 2 (b) herein, and agreeing that servicer shall use the Assets only for purposes of serving the needs of Liquidator to liquidate the Companies and not for any other purpose. The Liquidator shall provide a copy of each such Confidentiality Agreement to REM.
- (e) All Assets shall be conveyed to the Liquidator "AS IS" without any warranty whatsoever except as provided in the next sentence. REM represents and warrants that it has the authority and ability to transfer the Assets specified in Section 1(a), (b), and (c) above to the Liquidator, free of any and all claims, security interests, liens, and other encumbrances, that the transfer does not violate the terms of any contract, license or other agreement, and that no approval, consent, or waiver is required by any other person or entity (except as required by Section 5 below).



(f) Rights, title, or interests to the Assets shall pass to the Liquidator when the payment called for in Section 3(a) is made by the Liquidator.

Section 2. Duties of the Parties.

- (a) REM and the Liquidator shall in good faith cooperate with one another to transfer the Assets, whether located on REM's or a third party's hardware, to the Liquidator's independent operation for the liquidation of the Companies. REM shall also use its best efforts to assist the Liquidator to acquire, at the expense of the Companies, third party vendor software or maintenance agreements which the Liquidator may require for the liquidation of the Companies.
- (b) **Confidentiality.** The Parties acknowledge that in the course of dealings between each other, they each have and will acquire from the other information about business activities and operations, technical information and trade secrets, all of which are highly confidential and proprietary ("Confidential Information"). Confidential Information shall not include (i) information which now is or hereafter becomes publicly known through no wrongful act of a Party, (ii) information received by a Party from a third party without similar restriction and without breach of this Agreement; (iii) information independently developed by a Party; (iv) information approved for release by written authorization of the other Party; and (v) information which, after notice to a Party providing a reasonable opportunity to contest disclosure, must be disclosed pursuant to the requirements of a governmental agency or a binding order of a court of competent jurisdiction. A Party's Confidential Information shall be safeguarded by the other Party with at least as great a degree of care as that Party uses to safeguard its own most confidential materials or data relating to its own business.

Section 3. Payment.

(a) In consideration of the transfer to the Liquidator of the aforesaid rights, title, or interests in the Assets, the Liquidator agrees to pay to REM \$7.5 million (\$7,500,000) by wire transfer within two business days of receipt of notice that the New Hampshire Court has approved this Agreement as provided in Section 5.

(b) The payment called for by the terms of this Agreement are Administration Costs pursuant to New Hampshire RSA 402C: 44, I.

(c) Notwithstanding anything to the contrary in this Agreement, all payments required to be made by the Liquidator under this Agreement, of any kind and for any reason, shall be made only from and are limited to the assets of the Companies in liquidation. The Liquidator shall have no other obligation to make payments and no obligation to seek funding from any other



source. Without limiting the generality of the foregoing, the State of New Hampshire shall have no obligation hereunder.

Section 4. Governing Law; Jurisdiction and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of New Hampshire (regardless of the laws that might otherwise govern under applicable principles of conflicts law) as to all matters, including, without limitation, matters of validity, construction, effect, performance and remedies. Any legal action commenced by either Party on any such matters shall be brought exclusively in the New Hampshire Court, and each Party irrevocably consents to the in personam jurisdiction of, and venue in, such court for purposes of any such action.

Section 5. Effective Date and Court Approval. This Agreement shall not become effective until approved by the New Hampshire Court, the date of which shall be the Effective Date. This Agreement is the result of negotiations between the parties undertaken with the understanding that it is to be submitted by the Liquidator for approval by the New Hampshire Court in its entirety, and is not subject to substantial modification by the Liquidator or the New Hampshire Court without the consent of REM.

Section 6. General Provisions.

(a) **Entire Agreement.** This Agreement constitutes the entire agreement among the Parties with respect to the subject matter hereof and supersedes all other prior negotiations, commitments, agreements and understandings, both written and oral, between the Parties or any of them with respect to the subject matter hereof.

(b) **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same instrument.

(c) **Interpretation.** The descriptive headings herein are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement.

(d) **Specific Performance.** Each of the Parties hereto acknowledges and agrees that in the event of a breach of this Agreement, each non-breaching party would be irreparably and immediately harmed and could not be made whole by monetary damages. It is accordingly agreed that the Parties hereto (i) will waive, in any action for specific performance, the defense of adequacy of a remedy at law and (ii) shall be entitled, in addition to any other remedy to which they may be entitled at law or in equity, not otherwise expressly waived herein, to compel specific performance of this Agreement in any action instituted in the New Hampshire Court.

(e) **Authority.** Subject to the Court approval required by Section 5 above, each Party represents to the other that it is authorized to enter into this Agreement and that its execution of this Agreement does not and will not violate the terms of any statute, regulation, judgment, decree or ruling or any contract with any third party.



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

THE COMMISSIONER OF INSURANCE OF THE STATE OF NEW HAMPSHIRE SOLELY IN HER CAPACITY AS LIQUIDATOR OF THE HOME INSURANCE COMPANY AND U.S. INTERNATIONAL REINSURANCE COMPANY

By: _____
Paula T. Rogers

RISK ENTERPRISE MANAGEMENT LIMITED

By: _____
Name:
Title: