

**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**

**LIQUIDATOR'S MOTION FOR APPROVAL OF  
SETTLEMENT AGREEMENT WITH MARMON**

Roger A. Sevigny, Insurance Commissioner for the State of New Hampshire, as Liquidator ("Liquidator") of The Home Insurance Company ("Home"), moves that the Court enter an order in the form submitted herewith approving a Settlement Agreement and Mutual Release ("Settlement Agreement") between Marmon Holdings, Inc., both on its own behalf and in its representative capacity for and on behalf of The Marmon Group, Inc. and the acquired companies identified by the following named insureds: Cerro Corporation, Cerro-Marmon Corporation, Hammond Corporation, Golconda Corporation, and L.A. Darling Company (collectively referred to as the "Claimants") and the Liquidator. As reasons therefor, the Liquidator states as follows:

1. Home issued 16 insurance policies to various of the Claimants for certain policy periods between July 1, 1962 and April 1, 1977. Upon Home's placement in liquidation, the Claimants filed proofs of claim in the Home liquidation regarding claims under the policies, including but not limited to claims for coverage for environmental clean up costs and asbestos bodily injuries. (Certain proofs of claim filed by a company affiliated with Marmon Holdings, Inc. are specifically excluded by the terms of the Settlement Agreement, Settlement Agreement, 3<sup>rd</sup> Whereas Clause, and the rights of certain additional name insureds under the policies, who are no longer controlled by Marmon Holdings, Inc., remain unaffected by the Settlement

Agreement. Settlement Agreement, ¶ 1.) Affidavit of Peter A. Bengelsdorf, Special Deputy Liquidator, in Support of Motion for Approval of Settlement Agreement with Marmon (“Bengelsdorf Aff.”) ¶ 3.

2. The Liquidator and the Claimants have negotiated a Settlement Agreement reflecting a resolution of the proofs of claim and all matters between them under the policies. A redacted copy of the Settlement Agreement is attached hereto as Exhibit A. The Settlement Agreement is subject to approval by the Court. Settlement Agreement ¶ 2. Bengelsdorf Aff. ¶ 4.

3. The Settlement Agreement provides that the Liquidator will recommend allowance of the proofs of claim in the aggregate amount of \$9,750,000 as a Class II priority claim under RSA 402-C:44. Settlement Agreement ¶ 3(A). Allowance of the recommended amount as a Class II claim will fully and finally resolve all the proofs of claim and all claims Claimants have under the policies. *Id.* ¶ 3(B). Distributions based on that allowance will be made at the same intervals and at the same percentages as distributions to other Class II creditors of Home. *Id.* ¶ 3(C). Bengelsdorf Aff. ¶ 5.

4. The Settlement Agreement is intended to resolve the proofs of claim, and all claims under the policies. See Settlement Agreement ¶¶ 3(B), 7. To that end, the Settlement Agreement provides for mutual releases of all claims between Home and the Claimants arising from or related to the proofs of claim or the policies. *Id.* ¶¶ 5, 6. The Liquidator also agrees not to pursue certain claims respecting the Claimants against other insurers that agree not to pursue such claims against Home. *Id.* ¶ 8. Bengelsdorf Aff. ¶ 6.

5. The Liquidator is not aware of any third party claimants asserting claims under the policies. However, in resolving all matters relating to the proofs of claim and the policies, the Settlement Agreement contemplates denial of any third party claimants’ claims under the

policies in the Home liquidation without prejudice to their claims against the Claimants.

Accordingly, the Claimants acknowledge in the Settlement Agreement that it is intended to resolve all matters between the Claimants and the Liquidator/Home relating to the proofs of claim and the policies, including asserted rights of third party claimants. Settlement Agreement ¶ 7. The Claimants agree to address, at their sole cost, the claims of claimants asserting claims against the Claimants as if the Claimants had no insurance coverage from Home under the policies. Id. The Claimants agree to indemnify the Liquidator and Home against claims arising from the policies up to the amounts actually distributed to the Claimants. Id. Bengelsdorf Aff. ¶ 7.

6. The denial of any third party claimants' proofs of claim without prejudice to their claims against the Claimants will not harm the third party claimants, who will continue to have their full claims against the Claimants. As noted above, the Claimants have agreed to address these claims as if they had no insurance coverage from Home under the policies. Settlement Agreement ¶ 7. Third party claimants' proofs of claim against the insolvent Home, if not denied with this agreement, would release the Claimants from those claims up to the limits of the policies but only entitle the third party claimants (assuming their claims are allowed) to a presently undetermined percentage distribution at the future date when a distribution is made. See RSA 402-C:40, I; Gonya v. Commissioner, New Hampshire Insurance Dept., 153 N.H. 521, 535 (2006) (noting the "inherent uncertainty of any creditor's recovery in a liquidation"). It is not expected that the allowed claims of any third party claimants (or other Class II creditors) will be paid in full. Under the Settlement Agreement, the Claimants will continue to be fully responsible for any third party claimants' claims against them. See Settlement Agreement ¶ 7. Bengelsdorf Aff. ¶ 8.

7. The Settlement Agreement reflects a compromise of the claims asserted in the proofs of claim. It is the result of negotiations involving Home's Claims Department, under the supervision of the Special Deputy Liquidator, which has extensive experience in assessing the exposure presented by environmental clean up claims and asbestos bodily injury liability claims under Home's insurance policies. The agreed settlement amount is based on careful evaluation and negotiation of coverage obligations under Home's policies respecting the underlying liabilities of the Claimants. The Liquidator accordingly recommends approval of the Settlement Agreement and allowance of the \$9,750,000 settlement amount as a Class II claim in accordance with RSA 402-C:45 and RSA 402-C:44. Bengelsdorf Aff. ¶ 9.

8. The Court has previously approved similar settlement agreements. See, e.g., Order Approving Settlement Agreement with MidAmerican (August 19, 2008); Order Approving Settlement Agreement with Georgia-Pacific (April 3, 2008); Order Approving Settlement Agreement with Tampa Electric (October 15, 2007); Order Approving Commutation Agreement with Northwestern National Insurance Company and Settlement Agreement and Assignment of Distribution with AK Steel Corporation (March 10, 2006). The Liquidator's negotiation and the Court's approval of such agreements are authorized by the broad authority of the Liquidator to "compound, compromise or in any other manner negotiate the amount for which claims will be recommended to the court," RSA 402-C:45, I, and the authority of the Court to "approve, disapprove or modify any report on claims by the liquidator." RSA 402-C:45, II. It is also an appropriate exercise of the Liquidator's authority ("[s]ubject to the court's control") to "do such other acts . . . as are necessary or expedient for the accomplishment of or in aid of the purpose of liquidation." RSA 402-C:25, XXII.

9. In his Motion for Approval of Commutation with Northwestern National Insurance Company and Settlement Agreement and Assignment of Distribution with AK Steel Corporation ¶¶ 19-23 (February 16, 2006), the Liquidator provided his analysis of New Hampshire law, including RSA 402-C:40 III, as it applies to this type of comprehensive policy coverage compromise and settlement in an insurer liquidation context. That analysis also applies to the proposed Settlement Agreement with the Claimants.

10. The Liquidator submits that the Settlement Agreement is fair and reasonable and in the best interests of the policyholders and creditors of Home. See Bengelsdorf Aff. ¶ 10.

WHEREFORE, the Liquidator respectfully requests that this Court:

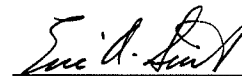
- A. Grant this Motion;
- B. Enter an Order in the form submitted herewith approving the Settlement Agreement, approving the Liquidator's claim recommendation, and allowing the Claimants' claim as a Class II claim in the amount of \$9,750,000; and
- C. Grant such other and further relief as justice may require.

Respectfully submitted,

ROGER A. SEVIGNY, INSURANCE  
COMMISSIONER OF THE STATE OF  
NEW HAMPSHIRE SOLELY AS  
LIQUIDATOR OF THE HOME  
INSURANCE COMPANY,

By his attorneys,  
KELLY A. AYOTTE  
ATTORNEY GENERAL

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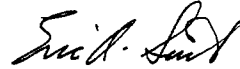
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October 7, 2008

**Certificate of Service**

I hereby certify that a copy of the foregoing Liquidator's Motion for Approval of Settlement Agreement with Marmon, the Affidavit of Peter A. Bengelsdorf, and the Proposed Order, were sent, this 7th day of October, 2008, by first class mail, postage prepaid to all persons on the attached service list.



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Eric A. Smith

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

In the Matter of the Liquidation of  
The Home Insurance Company  
Docket No. 03-E-0106

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**REDACTED****SETTLEMENT AGREEMENT AND MUTUAL RELEASE**

This Settlement Agreement and Mutual Release (the "Settlement Agreement") is made this 3<sup>rd</sup> day of October 2008, by and between Marmon Holdings, Inc., both on its own behalf and in its representative capacity for and on behalf of The Marmon Group, Inc. and the acquired companies identified by the following named insureds: Cerro Corporation, Cerro-Marmon Corporation, Hammond Corporation, Golconda Corporation, and L.A. Darling Company, but excluding the "Excluded Persons" as hereafter defined (hereinafter collectively referred to as "Claimants") on the one hand, and Roger A. Sevigny, Commissioner of Insurance of the State of New Hampshire, solely in his capacity as Liquidator ("Liquidator") of the The Home Insurance Company ("Home"), on the other hand (Marmon Holdings, Inc. and the Liquidator are hereinafter referred to collectively as the "Parties").

**WHEREAS**, Home issued the following general liability and excess liability insurance policies under which Claimants identified in the subtitles are the named insureds:

1. Cerro Corporation/Cerro-Marmon Corporation

<u>Policy Number</u>	<u>Policy Period</u>
HEC 9544777	01/01/66 - 01/01/69
HEC 9557931	07/14/67 - 01/01/69
HEC 9664425	01/01/69 - 01/01/72
HEC 4344274	01/01/72 - 01/01/75
HEC 4973371	01/01/75 - 01/01/77
GA 996264	01/01/76 - 9/1/76

2. Golconda Corporation

<u>Policy Number</u>	<u>Policy Period</u>
HEC 4763461	12/01/73 - 01/01/77
GA 9258295	01/01/76 - 01/01/77

3. Hammond Corporation

<u>Policy Number</u>	<u>Policy Period</u>
GA 4705353	04/01/75 - 04/01/76
GA 9250600	04/01/76 - 04/01/77
L-9425760	04/01/75 - 04/01/77

4. L.A. Darling Company/The Marmon Group, Inc.

<u>Policy Number</u>	<u>Policy Period</u>
CGL 68259	07/01/62 - 07/01/63
CGL 9996524	07/01/63 - 01/01/65
CGA 9996209	03/01/65 - 03/01/66
HEC 9556000	12/01/67 - 01/18/71
HEC 4763007	09/01/73 - 09/01/76

which together with all other general liability and excess liability insurance policies that Home may have issued to Claimants are defined as the "Policies."

**WHEREAS**, Home is being liquidated pursuant to the June 11, 2003 Order of the Superior Court of the State of New Hampshire, Merrimack County (the "Liquidation Court"), pursuant to which the Liquidator was appointed as the Liquidator of Home;

**WHEREAS**, Claimants seek payment from Home respecting claims, including but not limited to claims for liabilities relating to environmental clean up costs and asbestos bodily

injuries, and Claimants have submitted proofs of claim in the Home liquidation estate that have been assigned the following proof of claim numbers:

INSU274296	INSU702837	INSU702838	INSU702839	INSU702840	INSU702841	INSU702842
INSU704111	INSU704112	INSU704113	INSU704114	INSU704115	INSU704116	INSU704117
INSU702763	INSU702765	INSU702766	INSU702767	INSU702768	INSU702769	INSU702770
INSU702735	INSU702736	INSU702737	INSU702738	INSU702739	INSU702740	INSU702741
INSU269072	INSU40912	INSU58173	INSU156292	INSU151874	INSU269160	INSU711987
INSU711988	INSU11989	INSU711990				

and which together with any other proof of claim hereinbefore or hereinafter filed by Claimants in the Home liquidation estate are defined as the "Proofs of Claim" (specifically excluded herein are proofs of claim numbered INSU701775, INSU701776, INSU701777, INSU701778 and INSU701779, ["Excluded Proofs"] filed on behalf of The Kerite Company ["Kerite"], said company being affiliated with Marmon Holdings, Inc. per the representation of Claimants.) Furthermore, the Parties specifically agree that no inference as to the validity or viability of said Excluded Proofs; the legal relationship between Claimants and Kerite; or otherwise, is to be drawn in support of or in defense of said Excluded Proofs by virtue of this Settlement Agreement or any of its terms or conditions.

**WHEREAS**, the Parties are desirous of resolving all claims and matters that were asserted, or could have been or could be asserted, between Claimants and the Liquidator concerning the Proofs of Claim and all rights and obligations *inter se* with respect to the Policies; and

**WHEREAS**, the Parties agree that this Settlement Agreement is subject to and conditioned upon its approval by the Liquidation Court and allowance of the Recommended Amount (as defined below) into the Home liquidation estate and in the event the Liquidation

Court does not approve the Settlement Agreement and allow the Recommended Amount, this Settlement Agreement shall be null and void and without any force or effect.

**NOW, THEREFORE**, in consideration of all the respective transactions contemplated by this Settlement Agreement, and the mutual covenants and representations herein contained, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Excluded Persons. Those persons and entities listed on Exhibit A attached hereto and/or each of their respective subsidiaries, divisions, predecessors and successors are additional named insureds on the Policies (collectively, the "Excluded Persons"). Marmon Holdings, Inc., acknowledges and warrants that, as of the date of this Settlement Agreement, the Excluded Persons listed in Exhibit A are either affiliated, unowned or unaffiliated companies, which are not controlled by the Marmon Holdings, Inc. and it has no authority to act on their behalf and therefore cannot settle or otherwise compromise the rights and claims of the Excluded Persons with the Liquidator. To the extent that any of the Excluded Persons have any rights under the Policies, each of their rights shall remain unaffected by this Settlement Agreement.

2. Effectiveness. This Settlement Agreement is conditioned and shall only become effective upon approval by the Liquidation Court (the "Effective Date"). The Liquidator shall move for approval of this Settlement Agreement following execution by the Parties.

3. Recommendation, Allowance and Classification of Claim.

A. Subject to all the terms of this Settlement Agreement, and with the agreement of Claimants, which by execution hereof by Marmon Holdings, Inc. is hereby granted, the Liquidator shall recommend pursuant to RSA § 402-C:45 that the Proofs of Claim be allowed in the aggregate amount of \$9,750,000 (the "Recommended Amount"), as a Class II priority claim

under RSA § 402-C:44. The Liquidator shall seek allowance of the Recommended Amount as a Class II claim by the Liquidation Court in the Liquidator's motion for approval of this Settlement Agreement.

B. Allowance of the Recommended Amount as a Class II claim by the Liquidation Court shall fully and finally resolve the Proofs of Claim and any and all claims of whatever nature that Claimants have under the Policies. In the event that the Liquidation Court does not allow the Recommended Amount as a Class II claim, this Settlement Agreement shall be null and void and shall have no force and effect and Claimants and the Liquidator will be returned to *status quo ante*, as if no such agreement was ever reached, with this Settlement Agreement then being inadmissible for any purpose in any dispute between Claimants and the Liquidator.

C. If and when the Liquidation Court allows the Recommended Amount as a Class II claim, Claimants will become Class II creditors in the Home liquidation estate pursuant to N.H. RSA § 402-C:44, and Claimants shall, subject to the Settlement Agreement, receive distributions on the allowed amount at the same intervals and at the same percentages as other Class II creditors of Home. Claimants agree that such distributions shall be effected exclusively to Marmon Holdings, Inc. for and on their collective behalf without any further right, entitlement or recourse on their part, jointly or severally, against the Liquidator once so effected.

4.

**REDACTED**

**REDACTED**

5. Release by Claimants. Subject to the terms of this Settlement Agreement and the Liquidation Court's approval of the Recommended Amount as a Class II claim, including, but not limited to, the right to receive distributions as set forth in section 3.C. above, Claimants for themselves and (in their capacity as such) on behalf of their officers, directors, employees, agents, attorneys, predecessors, and their successors and assigns (including any trustee or other statutory successor), hereby irrevocably and unconditionally release and discharge the Liquidator and Home and each of their officers, directors, employees, agents, attorneys, affiliates,

predecessors, successors and assigns, from any and all actions, causes of action, liabilities, adjustments, obligations, offsets, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, premiums, losses, salvage, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims and/or demands arising from or related to the Proofs of Claim or the Policies, in law, admiralty or equity, which Claimants, their predecessors, successors and assigns, ever had, now have or hereafter may have against the Liquidator or Home or their officers, directors, employees, agents, attorneys, affiliates, predecessors, successors and assigns, all whether known or unknown, suspected or unsuspected, fixed or contingent, in law, admiralty or equity, arising from or related to the Proofs of Claim or the Policies. Notwithstanding the provisions of this Paragraph 5, the Parties acknowledge and agree that Claimants' release obligations shall not extend to any past, present or future claims made by the Excluded Persons for the Excluded Persons' rights under the Policies (hereinafter referred to as (Excluded Claims").

6. Release by Liquidator. Subject to the terms of this Settlement Agreement and the Liquidation Court's approval of the Recommended Amount as a Class II claim, the Liquidator, in his capacity as such, and on behalf of Home and (in their capacity as such) each of its officers, directors, employees, agents, attorneys, affiliates, predecessors, and its successors and assigns (including any liquidator or statutory successor), hereby irrevocably and unconditionally releases and discharges Claimants and (in their capacity as such) their officers, directors, employees, agents, attorneys, predecessors, successors and assigns, from any and all actions, causes of action, liabilities, adjustments, obligations, offsets, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, premiums, losses, salvage, including but not limited to, retrospective premiums, deductibles, self-insured retentions, loss conversion factors, claim service fees, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses,



damages, judgments, extents, executions, claims and/or demands arising from or related to the Proofs of Claim or the Policies, in law, admiralty or equity, which the Liquidator, Home, or their affiliates, predecessors, successors and assigns, ever had, now has or hereafter may have against Claimants and its officers, directors, employees, agents, attorneys, predecessors, successors and assigns, all whether known or unknown, suspected or unsuspected, fixed or contingent, in law, admiralty or equity, arising from or related to the Proofs of Claim or the Policies. All such charges and/or liabilities under the Policies shall be deemed satisfied and closed with respect to Claimants, although the Parties acknowledge and agree that notwithstanding the provisions of this Paragraph 6, the Liquidator's release obligations shall not extend to any past, present or future claims against the Excluded Persons by the Liquidator and/or Home with respect to or arising out of the Policies. The Liquidator and Home further agree that they will not seek to recover from any third party (other than Home's Reinsurers) any amount distributed to Claimants or any costs incurred as a result of Claimants' claims.

7. Resolution of Matters and Indemnification. Claimants acknowledge that this Settlement Agreement is intended to resolve all matters arising out of or relating to any rights they ever had, now have or hereafter may have in the Policies and the Proofs of Claim, including any asserted rights of any persons or entities against Claimants under the Policies, except for Excluded Claims (hereinafter collectively referred to as "Released Claims"). Claimants agree to address, at their sole cost and expense, any Released Claims by persons or entities against Claimants under the Policies as if there had been no liquidation proceeding for Home and as if Claimants had no insurance coverage from Home by virtue of the Policies. In consideration of the Recommended Amount being allowed by the Liquidation Court as a Class II claim, Claimants agree to indemnify and hold the Liquidator and Home harmless from and against any and all claims, losses, liabilities, debts, damages, costs or expenses arising from or related to

~~Released Claims under the Policies. The future obligations of Claimants under this paragraph~~  
shall extend to and include (by way of example and not limitation) any claims made under the Policies against the Liquidator or Home respecting Claimants (including claims for defense and indemnity), by other insurers of Claimants, and by any persons or entities asserting "direct action" claims arising out of or related to Released Claims under the Policies. The claims referred to in this Paragraph 7 are hereinafter referred to as "Indemnified Claim(s)". The Liquidator shall promptly notify Claimants of any such claim, and take no action that would prejudice the outcome of any Indemnified Claim. In the event that an Indemnified Claim arises, Claimants agree to use all reasonable efforts to have themselves substituted for the Liquidator or Home as the real party in interest. Claimants shall have the right to select counsel to defend the Indemnified Claims, subject to Liquidator's approval, which approval shall not be unreasonably withheld. Claimants shall have the right to settle the Indemnified Claim, provided that such settlement does not adopt or signify acquiescence by the Home in any insurance policy interpretations or insurance coverage theories. The Parties agree to cooperate in the defense of such claims. The costs incurred under this indemnity obligation for Indemnified Claims (including attorney fees and costs), however, shall in no event exceed the amount actually distributed to Claimants. Claimants shall cooperate with the Liquidator (including but not limited to the provision of affidavits or testimony) to eliminate claims against the Liquidator or Home by any individual or entity arising out of or relating to the Indemnified Claims under the Policies.

8. Mutual Release of Settling Carriers. Claimants agree to use reasonable commercial efforts to cause any settlement agreement relating to the underlying matters covered by the Proofs of Claim with any other insurance company to include a waiver by that other insurance company of any claim, including contribution, apportionment, indemnification,

subrogation, equitable subrogation, allocation or recoupment, against Home regarding these matters. The Liquidator agrees to waive, relinquish and release any claim, including contribution, apportionment, indemnification, subrogation, equitable subrogation, allocation or recoupment, as to the matters covered by the Proofs of Claim against any other insurance company which executes a settlement with Claimants that includes a provision that is materially the same as this paragraph. Further, in the event that Claimants or any other persons or entities obtain or collect funds from any insurer of Claimants or any other person or entity, other than Home, the Liquidator also agrees that Home is not entitled to any part of such funds that may be obtained or collected by Claimants or any other person or entity arising out of the matters settled under this Settlement Agreement.

9. No Assignments. As of the date of this Settlement Agreement, Claimants have neither assigned nor otherwise transferred any of their rights in and to this Settlement Agreement or any rights or obligations thereunder and will not hereafter do so without the written consent of the Liquidator, which consent shall not be unreasonably withheld.

10. Further Assurances. The Parties shall take all further actions as may be necessary to carry out the intent and purpose of this Settlement Agreement and to consummate the transactions contemplated herein. Claimants acknowledge and warrant as of the date of this Settlement Agreement that Rockwood & Company is an additional insured on the Policies, but is not controlled by Claimants. Nonetheless, Claimants agree that the inclusion of Rockwood & Company on Exhibit A does not preclude Rockwood & Company's inclusion within the scope of "Released Claims" of this Settlement Agreement with respect to any claims made by or by any person or entity against Rockwood & Company's direct and/or indirect interests in Marmon Industries, Inc.; L. A. Darling Company; Oklahoma Steel Castings Company; Webb Wheel Products, Inc. or Huron Steel Company.

11. Governing Law and Venue. This Settlement Agreement shall be governed by and construed in accordance with the laws of the State of New Hampshire without regard to the conflicts of law provisions thereof. The Parties agree that the exclusive venue for any dispute between the Parties arising out of the Proofs of Claim, the Policies or this Settlement Agreement shall be the Liquidation Court, and the Parties hereby consent to subject themselves to the jurisdiction of the Liquidation Court for such purposes.

12. Due Diligence. The Parties acknowledge and agree that, in negotiating and executing this Settlement Agreement they have relied upon their own judgment and upon the recommendations of their own legal counsel, that they have read this Settlement Agreement and have had the opportunity to consider its terms and effects and that they have executed this Settlement Agreement voluntarily and with full understanding of its terms and effects. This Settlement Agreement is the product of negotiations between the Parties. The general rule that ambiguities are to be construed against the drafter shall not apply to this Agreement.

13. No Third Party Rights. This Settlement Agreement is entered into solely for the benefit of the Liquidator, Home and Claimants and is not intended to, and does not give or create any rights to or in any person or entity other than the Parties.

14. Counterparts. This Settlement Agreement may be executed in multiple counterparts, each of which, when so delivered, shall be an original, but such counterparts shall together constitute one and the same instrument. The Parties agree that a signature sent by facsimile or electronic mail to the other Party shall have the same force and effect as an original signature.

15. Power and Authority to Execute. Subject to the approval of the Liquidation Court required by Paragraph 2, each Party hereto represents and warrants that it has the full power and authority to execute, deliver and perform this Settlement Agreement both on its own behalf and

on behalf of those persons and entities in relation to which it is acting in a representative capacity; that all requisite and necessary approvals have been obtained to consummate the transactions contemplated by this Settlement Agreement, that there are no other agreements or transactions to which it is a party that would render this Settlement Agreement or any part thereof, void, voidable or unenforceable; that each individual signing on behalf of a Party or on behalf of those persons or entities in relation to which it is acting in a representative capacity has been duly authorized to execute this Settlement Agreement; and that no claims being released under the terms of this Settlement Agreement have been, as of the Effective Date, assigned, sold, or otherwise transferred to any other entity.

16. Successor-in-Interest Bound. This Settlement Agreement shall be binding upon, and shall inure to the benefit of the Parties and Claimants and their respective officers, directors, employees, affiliates, attorneys, liquidators, receivers, administrators, agents, representatives, successors and assigns.

17. Entire Agreement. This Settlement Agreement constitutes the entire agreement and understanding between the Parties with respect to the subject matter thereof. This Settlement Agreement supersedes all prior agreement and understandings, whether written or oral, concerning such matters.

18. Survival of Warranties and Representations. The warranties and representations made herein shall survive the execution of this Settlement Agreement.

19. Validity of Settlement Agreement. Subject to approval of this Settlement Agreement by the Liquidation Court as required by Paragraph 2, each Party represents and warrants that this Settlement Agreement is a legal, valid and binding obligation, enforceable in accordance with its terms.

20. No Waiver. No waiver of any right under this Settlement Agreement shall be deemed effective unless contained in a writing signed by the Party or an authorized representative of the party charged with such waiver, and no waiver of any breach or failure to perform shall be deemed to be a waiver of any future breach or failure to perform or of any other provision of this Settlement Agreement. This Settlement Agreement may not be amended except in a document signed by the Party or an officer or other authorized official of the Party to be charged.

21. Confidentiality. In recognition of Claimants' assertions of attorney-client, and other pertinent, privileges combined with the sensitive nature of ongoing settlement discussions and pending litigation between Claimants and others not party to this Settlement Agreement, the Parties agree that the terms and provisions of Paragraph 4 of this Settlement Agreement, shall be and remain confidential and shall not be disclosed to any person or entity, except as permitted as follows:

- (a) to the Liquidation Court in a motion seeking approval of this Settlement Agreement or in any action by any Party hereto to enforce the terms of this Settlement Agreement; provided that in either instance the parties shall use their best efforts to maintain Paragraph 4 under seal;
- (b) under valid order of any court of competent jurisdiction; provided, however, that such an order shall not be sought by any Party to this Agreement;
- (c) to counsel, accountants, consultants, and auditors of the Parties;
- (d) to the reinsurers, reinsurance intermediaries, regulators or auditors of the Home; or
- (e) by mutual written agreement of the Parties.

If this Agreement with unredacted Paragraph 4 is disclosed pursuant to subparagraph (b) above, the Party disclosing such information shall give thirty (30) days prior written notice thereof to the other Party. If this Agreement with unredacted Paragraph 4 is disclosed pursuant to

subparagraphs (c), (d), or (e) above, the Parties disclosing such information shall advise the recipient of the provisions of this paragraph.

22. Notice. All notices to be given under this Settlement Agreement shall be given by facsimile and first class U.S. mail directed to:

If to Claimants, to:

Mr. Robert W. Webb  
Senior Vice President and General Counsel  
The Marmon Group LLC  
181 West Madison Street, 26<sup>th</sup> Floor  
Chicago, IL 60602-4510  
Fax: 312- 845-8763

With a copy to:

Mr. William T. Sweeney  
Director of Risk Management  
The Marmon Group LLC  
181 West Madison Street, 26<sup>th</sup> Floor  
Chicago, IL 60602-4510  
Fax: 312-845-8785

If to the Liquidator, to:

Thomas W. Kober, Chief Claims Officer  
The Home Insurance Company in Liquidation  
59 Maiden Lane, New York, NY 10038  
Fax: 212-299-3824

With a copy to:

J. Christopher Marshall  
Civil Bureau  
New Hampshire Department of Justice  
33 Capitol Street  
Concord, New Hampshire 03301-6397  
Fax: 603-271-2110

and

J. David Leslie, Esq.  
Rackemann, Sawyer & Brewster, P.C.  
160 Federal Street  
Boston, MA 02110-1700  
Fax: 617-542-7437

23. Severability. If any provision of this Settlement Agreement is invalid, unenforceable or illegal under the law of any applicable jurisdiction, the validity and enforceability of such provision in any other jurisdiction shall not be affected thereby and, upon the agreement of the Parties, the remaining provisions of this Settlement Agreement shall remain valid and enforceable. However, in the event of such invalidity, unenforceability or illegality, the Parties shall negotiate in good faith to amend this Settlement Agreement through the insertion of additional provisions which are valid, enforceable and legal and which reflect, to the extent possible, the purposes contained in the invalid, unenforceable or illegal provision.

**WHEREFORE**, Claimants and the Liquidator have caused this Settlement Agreement to be executed on their respective behalves as of the date below by and through the signatures of their duly authorized representatives.

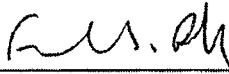
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MARMON HOLDINGS, INC. BOTH ON  
ITS OWN BEHALF AND IN ITS  
REPRESENTATIVE CAPACITY FOR  
AND ON BEHALF OF THE MARMON  
GROUP, INC., CERRO  
CORPORATION, CERRO-MARMON  
CORPORATION, HAMMOND  
CORPORATION, GOLCONDA  
CORPORATION, AND L.A. DARLING  
COMPANY

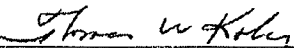
By: 

Name: Frank S. Ptak

Title: President, Chief  
Executive Officer

Date: 10-03-2008

ROGER A. SEVIGNY, COMMISSIONER  
OF INSURANCE OF THE STATE OF  
NEW HAMPSHIRE, SOLELY IN HIS  
CAPACITY AS LIQUIDATOR OF  
THE HOME INSURANCE COMPANY

By: 

Name: Thomas W. Kober

Title: Chief Claims Officer

Date: 10-3-08

**Exhibit A**

- Rockwood & Co. (except Marmon Industries, Inc. and its subsidiaries and divisions)
- Herbert Schoenbrod as Trustee of the F.L. P Trusts
- Chicago Trusts numbers 1 thru 6 and Simon Zunamon, as Trustee
- The P-G Trusts and Meyer Goldman, as Trustee
- Leadership Housing Systems, Inc.
- Leadership Housing, Inc.
- The Housing Group
- Tarpon Lake Corporation