

**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**

**MOTION FOR APPROVAL OF REINSURANCE  
COMMUTATION AGREEMENT WITH ARGONAUT**

Roger A. Sevigny, Commissioner of Insurance for the State of New Hampshire, as Liquidator ("Liquidator") of The Home Insurance Company ("Home"), hereby moves that the Court enter an order in the form submitted herewith approving a Reinsurance Commutation Agreement, Settlement and Release (the "Commutation Agreement") between the Liquidator and Argonaut Insurance Company, on its own behalf and as assignee of all rights, title and interest of Argonaut-Midwest Insurance Company, Select Markets Insurance Company (formerly Argonaut Northwest Insurance Company) and Argonaut-Southwest Insurance Company (collectively, "Argonaut"). As reasons for this motion, the Liquidator respectfully states:

1. This motion seeks approval of the Commutation Agreement between the Liquidator and Argonaut. A redacted copy of the Commutation Agreement (with economic terms except allowed amounts on claims against Home removed) is attached as Exhibit 1. A complete copy of the Commutation Agreement is attached to the Confidential Affidavit of Peter A. Bengelsdorf, Special Deputy Liquidator, in Support of Approval of Reinsurance Commutation Agreement with Argonaut ("Bengelsdorf Confidential Affidavit") submitted herewith under seal.

2. As a part of its business, Home entered into reinsurance agreements with numerous reinsurers under which Home ceded and the reinsurers assumed a portion of Home's

obligations under policies of insurance written by Home. Collection of reinsurance is the principal asset-marshalling task of the Home liquidation. Bengelsdorf Confidential Affidavit ¶ 3.

3. Home and Argonaut entered into numerous reinsurance agreements under which Home ceded liabilities to Argonaut and Argonaut ceded liabilities to Home, either directly or through participation in various pools. The agreements include both treaty and facultative casualty reinsurance agreements for periods from the late 1960s to the mid 1970s. The Commutation Agreement includes all reinsurance agreements between the parties except for those concerning (a) certain reinsurance pools (principally the Agency Managers/ROM Pool and the Excess Casualty Reinsurance Association Pool), and (b) Home's United Kingdom Branch's participation in the American Foreign Insurance Association ("AFIA"). Commutation Agreement § 1 (definition of "Settled Agreements" and "Pool/Agency/Syndicate Business") and fourth unnumbered Whereas clause (definition of "Home U.K. Branch Business"). Bengelsdorf Confidential Aff. ¶ 4.

4. The Commutation Agreement provides for the commutation of the reinsurance agreements (with the exceptions noted above) and the full and final settlement of all past, present and future obligations and liabilities under those agreements for an agreed sum that will be satisfied in part by certain agreed offsets.<sup>1</sup> Commutation Agreement ¶ 3. In particular, that sum will be reduced by Argonaut claims with respect to AFIA that have been previously determined and allowed by the Court in the amount of \$48,467.00; Argonaut claims with respect to the CMC Pool that the parties have agreed to value at \$28,525.00; and a provisional credit reflecting Argonaut's assertion of remaining Argonaut claims with respect to AFIA. Commutation Agreement § 3 and sixth to eighth unnumbered Whereas clauses (definitions of "AFIA Agreed

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<sup>1</sup> The Argonaut companies are treated as a group for setoff purposes in accordance with In the Matter of the Liquidation of Home Ins. Co., 157 N.H. 543 (2008).

Amount,” “CMC Agreed Amount,” and “Determined Claim Amount”) (the “Remaining Offset Amount”). The Commutation Agreement provides that Argonaut will pay the Liquidator the resulting net sum. Commutation Agreement § 3 (definition of “Net Settlement Sum”).

Bengelsdorf Confidential Affidavit ¶ 5.

5. As noted above, the net commutation amount reflects a provisional credit to Argonaut in recognition of its asserted claims against Home arising from AFIA business. Argonaut will need to prove those claims through the usual process applicable to AFIA claims, which ultimately requires Court approval. Argonaut claims with respect to AFIA business within the provisional credit that are admitted into the Home estate will not give rise to any distribution rights to Argonaut but will be deemed applied against the provisional credit. Commutation Agreement ¶ 4. Argonaut will pay interest on those amounts for the period between the Effective Date and their allowance. *Id.* If such claims up to the provisional credit have not been allowed by December 31, 2014, Argonaut will pay the difference between the allowed claim amount and the provisional credit, plus interest, to the Liquidator. *Id.* Bengelsdorf Confidential Affidavit ¶ 6.

6. The Commutation Agreement provides that Argonaut will pay the net commutation sum to the Liquidator by check or wire transfer within ten business days following the Court’s approval of the Commutation Agreement. Commutation Agreement ¶ 3. The other provisions of the Commutation Agreement, including mutual releases (Commutation Agreement ¶¶ 7-8), are set forth in the Commutation Agreement. Bengelsdorf Confidential Affidavit ¶ 8.

7. The Commutation Agreement and certain supporting materials have been provided to members of the National Conference of Insurance Guaranty Funds’ Subcommittee on The Home Insurance Company in Liquidation (“NCIGF Subcommittee”), who have entered

confidentiality agreements. The NCIGF Subcommittee has advised the Liquidator that it has no objection to the Commutation Agreement. See Bengelsdorf Confidential Aff. ¶ 10.

8. The Bengelsdorf Confidential Affidavit summarizes the reasons that support the determination to enter the Commutation Agreement. Bengelsdorf Confidential Affidavit ¶¶ 4-10. For the reasons set forth in the Bengelsdorf Confidential Affidavit, the Liquidator submits that the Commutation Agreement is fair and reasonable and that it is in the best interests of the policyholders and other creditors of Home. The Commutation Agreement will convert future reinsurance obligations into immediate cash and avoid delay and uncertainty in the collection of reinsurance. See Bengelsdorf Confidential Aff. ¶ 11.

WHEREFORE, the Liquidator respectfully requests that this Court:


- A. Grant this Motion for Approval of Reinsurance Commutation Agreement with Argonaut;
- B. Enter an Order in the form submitted herewith approving the Commutation Agreement; and
- C. Grant such other and further relief as justice may require.

Respectfully submitted,

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

By his attorneys,  
MICHAEL A. DELANEY  
ATTORNEY GENERAL

J. Christopher Marshall  
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New Hampshire Department of Justice  
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January 27, 2010

**Certificate of Service**

I hereby certify that a copy of the foregoing Motion for Approval of Reinsurance Commutation Agreement with Argonaut and the Proposed Order Approving Reinsurance Commutation Agreement with Argonaut were sent, this 27th day of January, 2010, by first class mail, postage prepaid to all persons on the attached service list. The accompanying Confidential Affidavit was not so served.



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Eric A. Smith  
NH Bar ID No. 16952

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

**REINSURANCE COMMUTATION  
AGREEMENT, SETTLEMENT AND RELEASE**

**THIS REINSURANCE COMMUTATION AGREEMENT, SETTLEMENT AND RELEASE** (the "Agreement") is made and entered into by and between Roger A. Sevigny, New Hampshire Insurance Commissioner, solely in his capacity as Liquidator (the "Liquidator") of The Home Insurance Company ("Home"), and Argonaut Insurance Company, on its own behalf and as assignee of all rights, title and interest of Argonaut-Midwest Insurance Company, Select Markets Insurance Company (formerly Argonaut Northwest Insurance Company) and Argonaut-Southwest Insurance Company (individually and collectively, "Argonaut"). The Liquidator, Home and Argonaut are referred to collectively herein as the "Parties."

**WITNESSETH:**

**WHEREAS**, Home and Argonaut entered into various reinsurance agreements pursuant to which either Home ceded liabilities to Argonaut that Argonaut assumed or Argonaut ceded liabilities to Home that Home assumed, all in accordance with the terms and conditions therein contained (the "Reinsurance Agreements");

**WHEREAS**, certain of the Reinsurance Agreements are hereinafter collectively referred to as the "Settled Agreements" (as defined hereunder);

**WHEREAS**, Home is in liquidation pursuant to the June 13, 2003 Order of Liquidation issued by 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**, through the participation of its United Kingdom Branch as a member of the American Foreign Insurance Association ("Home U.K. Branch Business"), Home entered into certain non-novated reinsurance agreements with Argonaut pursuant to which Argonaut ceded to Home, and Home assumed from Argonaut, a certain share of Argonaut's liabilities as more fully reflected in the percentages of participation and periods for each respective reinsurance agreement as set forth therein (the "AFIA Agreements");

**WHEREAS**, through participation in the Carpenter Management Company pool (the "CMC Pool"), Home entered into certain reinsurance agreements with Argonaut pursuant to which Argonaut ceded to Home, and Home assumed from Argonaut, a certain share of Argonaut's liabilities as more fully reflected in the percentages of participation and periods for each respective reinsurance agreement as set forth therein (the "CMC Agreements");

**WHEREAS**, on June 8, 2004, Argonaut submitted to the Liquidator Proof of Claim Nos. INTL 700646, INTL 700647 and INTL 700648 into the Home estate, with respect to the AFIA Agreements (the "AFIA POCs"), in relation to which Home has, to date, issued Notices of Determination dated March 7, 2006, July 31, 2006 and August 20, 2007, respectively, which have been allowed by the Liquidation Court in the amount of \$48,467.00 (the "AFIA Agreed Amount");

**WHEREAS**, Argonaut submitted to the Liquidator Proof of Claim No. RCED 704046 into the Home estate with respect to the CMC Pool (the "CMC POC"), in relation to which the Parties have agreed that the value of the CMC POC shall be established at \$28,525.00 (the "CMC Agreed Amount");

**WHEREAS**, the AFIA Agreed Amount and the CMC Agreed Amount are collectively referred to herein as the "Determined Claim Amount";

**WHEREAS**, in addition to their past and present obligations under the Settled Agreements, Home and Argonaut recognize and understand that a portion of their respective obligations thereunder may become due in the future; that these future obligations and liabilities cannot be determined in an amount certain at this time; and that a commutation of these future and uncertain obligations and the Parties' past and present obligations will resolve all pending and outstanding issues with respect to the Settled Agreements between the Parties and will eliminate the uncertainty of contingent liabilities for presently unresolved and/or unasserted claims with respect to the Settled Agreements; and

**WHEREAS**, the Parties agree that it is mutually in their best interests to fully and finally settle and commute all of their respective past, present and future rights, obligations and liabilities (whether known or unknown) under the Settled Agreements with immediate effect and

enter into mutual releases relating thereto, all in accordance with the terms and conditions hereinafter contained, and to fully and forever release and discharge one another with respect to all outstanding obligations arising under or relating to the Settled Agreements.

**NOW THEREFORE**, intending to be legally bound, in consideration of the promises, covenants, conditions, representations, warranties, payments, agreements and other good and valuable consideration recited and set forth herein, the sufficiency of which is mutually acknowledged, the Parties agree as follows:

1. The Parties agree that in addition to the terms defined elsewhere in this Agreement, the terms set forth below shall be defined as follows:

- (a) "Settled Agreements" shall mean the Reinsurance Agreements other than those exclusively reinsuring (i) Pool/Agency/Syndicate Business (as hereinafter defined); or (ii) Home U.K. Branch Business.
- (b) "Pool/Agency/Syndicate Business" shall mean (i) any business underwritten on behalf of Home by an Independent Underwriting Agent (as hereinafter defined) either acting for Home alone or jointly with other underwriters as members of an Underwriting Pool (as hereinafter defined), including, without limitation, the Excess Casualty Reinsurance Association and the Agency Managers Pool; or (ii) any reinsurance specifically procured by an Independent Underwriting Agent from Argonaut to cover business underwritten on behalf of Home by that Independent Underwriting Agent either acting for Home alone or jointly with other underwriters as members of an Underwriting Pool. For purposes of this Agreement, the CMC Pool is not included within the definition of "Pool/Agency/Syndicate Business" and it is agreed by the Parties that the CMC Pool obligations, including the CMC POC, shall be fully and finally resolved by this Agreement, and shall be considered for purposes of this Agreement to be part of the Settled Agreements.

- (c) "Independent Underwriting Agent" shall mean any third party acting as an insurance agent for Home and in that capacity appointed by Home and given authority to underwrite insurance and/or reinsurance business on behalf of Home.
- (d) "Underwriting Pool" shall mean an arrangement whereby an Independent Underwriting Agent was appointed to act collectively on behalf of Home and at least one other insurance/reinsurance company or entity (jointly referred to as the "Pool Members") for the purpose of underwriting insurance/reinsurance business on behalf of the Pool Members.

2. This Agreement shall only become effective on the date that this Agreement is approved by appropriate order of the Liquidation Court (the "Effective Date"). This Agreement is conditioned upon approval by the Liquidation Court and in the event that the Liquidation Court does not approve this Agreement, it shall be deemed null and void *ab initio* and of no force or effect.

3. Subject to the terms and conditions hereinafter set forth, the Parties agree to fully and finally settle and commute any and all past, present and future liabilities between the Parties under the Settled Agreements in the amount of [REDACTED] (the "Agreed Sum"). The Liquidator agrees and acknowledges that in recognition of an asserted right of set-off pursuant to RSA 402-C:34 with respect to the AFIA Agreements, Argonaut shall, subject to the terms and conditions contained hereunder, be entitled to a credit against the Agreed Sum of (a) the Determined Claim Amount; and (b) [REDACTED] representing the remaining amount presently asserted by Argonaut in relation the AFIA POCs (the "Remaining Offset Amount"). As such, Argonaut agrees that within ten (10) business days after the Effective Date, it will pay Home the sum of [REDACTED] (the "Net Settlement Sum"), being the Agreed Sum less the total of the Determined Claim Amount and the Remaining Offset Amount. The Net Settlement Sum represents the net consideration agreed by the Parties for the Settled Agreements released herein. Argonaut agrees that time is of the essence in its performance in effecting payment of the Net Settlement Sum and agrees to effect such payment, free and clear of and without any deduction, by check or wire transfer of funds directed as follows:

Citizens Bank, Manchester, NH, USA

ABA No. [REDACTED]  
For the Account of The Home Insurance Company In Liquidation  
Account No. [REDACTED]  
Attention: Efraim Abramsohn

4. With respect to the Remaining Offset Amount, Argonaut agrees that the first [REDACTED] of claims of Argonaut with respect to Home U.K. Branch Business that are admitted into the Home estate shall not give rise to any distribution but shall be deemed to have satisfied the Remaining Offset Amount; provided that (i) those claims that are admitted into the Home estate up to the Remaining Offset Amount shall, immediately upon written approval thereof by order of the Liquidation Court (the "Initial Approval Dates"), entitle Argonaut to reduce the balance of the Remaining Offset Amount; (ii) those claims of Argonaut up to the Remaining Offset Amount that are admitted into the Home estate shall bear interest at the rate of [REDACTED] per annum accruing from the Effective Date through the Initial Approval Dates, which interest shall promptly be remitted by Argonaut to Home and shall be calculated using simple interest calculations (the "Initial Interest"); and (iii) in the event that Argonaut is unsuccessful in having claims up to the full extent of the Remaining Offset Amount admitted into the Home estate by December 31, 2014 (the "Final Approval Date"), it shall (a) promptly do all things reasonably necessary to remit payment to Home of the balance of the Remaining Offset Amount (the "Offset Release Date"), which balance should equal the difference between the Remaining Offset Amount and the amount(s) previously admitted into the Home estate, failing which Argonaut shall, in addition, promptly effect remittance to Home of any shortfall (collectively, the "Offset Release"); and (b) promptly remit to Home interest on the difference between the Remaining Offset Amount and the amount(s) previously admitted into the Home estate at the rate of [REDACTED] per annum accruing from the Effective Date, such interest calculated using simple interest calculations (the "Final Interest").

5. If Argonaut fails to pay any portion of the Net Settlement Sum provided for in paragraph 3, within ten (10) business days after the Effective Date, Argonaut shall pay (1) interest on any unpaid amounts at the rate of [REDACTED] (compounded annually) per year from the Effective Date; and (2) any and all reasonable costs, including reasonable attorneys' fees, incurred by Home in recovering the Net Settlement Sum in full (the "Collection Costs"). The acceptance by Home of the Net Settlement Sum together with all interest and Collection Costs

due in respect of late payment as determined and calculated as aforesaid shall (subject to the terms of this Agreement) constitute a full and final settlement and release by Home hereunder (except as concerns the Remaining Offset Balance) as if payment of the Net Settlement Sum had been made in full within ten (10) business days after the Effective Date.

6. Subject to (a) approval of this Agreement by the Liquidation Court as provided for in paragraph 1; and (b) the terms and conditions of this Agreement, and with the agreement of Argonaut, which by execution hereof is hereby granted, the Parties agree that any past, present or future obligation of the Home estate with respect to the CMC POC shall be forever fully and finally extinguished and deemed resolved with prejudice.

7. Subject to the terms and conditions of this Agreement and to the timely payment in full by Argonaut of the Net Settlement Sum, the Liquidator on behalf of Home, its officers, directors, employees, agents, attorneys, subsidiaries, affiliates, shareholders, parents, and their respective predecessors, successors and assigns, irrevocably and unconditionally releases and discharges Argonaut, its officers, directors, employees, agents, attorneys, subsidiaries, affiliates, shareholders, parents, and their respective predecessors, successors and assigns to the extent permitted by applicable law from any and all liabilities, adjustments, obligations, rights, extensions, offsets, actions, causes of action, suits, debts, dues, sums of money, accounts, reckonings, premiums, returned premiums, unearned premiums, losses, salvage, specialties, commissions, variances, expenses, acts, omissions, bonds, bills, covenants, contracts, controversies, agreements, promises, trespasses, damages, judgments, extents, executions, claims and demands whatsoever, all whether known or unknown to one or both parties, suspected or unsuspected, fixed or contingent, in law admiralty or equity, which the Liquidator or Home ever had, now has, or hereafter may have against Argonaut by reason of any matter whatsoever arising out of or in connection with or in relation to the Settled Agreements. Additionally, the Liquidator fully understands and expressly waives Home's rights and benefits with respect to the Settled Agreements under any provision of law (whether such provision is statutory, regulatory or common law) which substantially provides that:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing

the release, which if known by him must have materially affected his settlement with the debtor.

8. Subject to approval by the Liquidation Court and in consideration of the release of Argonaut pursuant to Paragraph 7 above, Argonaut on behalf of itself, its officers, directors, employees, agents, attorneys, subsidiaries, affiliates, shareholders, parents, and their respective predecessors, successors and assigns, irrevocably and unconditionally releases and discharges the Liquidator and Home and their respective officers, directors, employees, agents, attorneys, subsidiaries, affiliates, shareholders, parents, and their respective predecessors, successors and assigns to the extent permitted by applicable law from any and all liabilities, adjustments, obligations, rights, executions, offsets, actions, causes of action, suits, debts, dues, sums of money, accounts, reckonings, premiums, returned premiums, unearned premiums, losses, salvage, specialties, commissions, variances, expenses, acts, omissions, bonds, bills, covenants, contracts, controversies, agreements, promises, trespasses, damages, judgments, extents, executions, claims and demands whatsoever, all whether known or unknown to one or both parties, suspected or unsuspected, fixed or contingent, in law, admiralty or equity, which Argonaut ever had, now has, or hereafter may have against the Liquidator and/or Home by reason of any matter whatsoever arising out of or in connection with or in relation to the Settled Agreements and/or the CMC POC. Additionally, Argonaut fully understands and expressly waives its rights and benefits with respect to the Settled Agreements and/or the CMC POC under any provision of law (whether such provision is statutory, regulatory or common law) which substantially provides that:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

9. This Agreement shall, subject to its approval by the Liquidation Court as provided for in paragraph 1, inure to the benefit of and bind the Parties and their respective predecessors, parents, affiliates, subsidiaries, successors and assigns (including their rehabilitators, liquidators or other statutory successors) to the maximum extent permitted by applicable law. The Parties each represent and warrant that they have not previously assigned or otherwise transferred to any other entity any of the rights, entitlements or interests in or to the Settled Agreements.



10. This Agreement embodies the final, complete and entire agreement between the Parties. The Parties acknowledge that they have entered into this Agreement in reliance on their own independent investigation and analysis of the matters forming the subject of this Agreement and their rights and obligations with respect thereto. No other representations, understandings or agreements have been made or relied upon in the making of this Agreement other than those specifically set forth or referred to herein. Furthermore, the Parties hereby agree that this Agreement is final and binding and cannot be voided or opened by either Party for any reason, including but not limited to the discovery of facts, circumstances, or legal decisions, subsequent or otherwise, different from or in addition to those now known or believe to be true regarding the subject matter of this Agreement.

11. If any provision of this Agreement is invalid, unenforceable or illegal under the law of any applicable jurisdiction, such provision shall be deemed severable from the balance of this Agreement, and the validity and enforceability of the remaining provisions of this Agreement, and the validity and enforceability of such provision in any other jurisdiction shall not be affected thereby. In the event of such invalidity, enforceability or illegality, the Parties shall negotiate in good faith to amend this Agreement through the insertion of additional provisions which are valid, enforceable and legal and which reflect, to the extent possible, the economic and other purposes contained in the invalid, unenforceable or illegal provision.

12. Subject to the provisions of paragraph 1, the Parties hereby agree that this Agreement shall take precedence over and supersede the Settled Agreements and that notwithstanding anything to the contrary contained therein, this Agreement shall operate as a full and final settlement, commutation and release of the respective rights, obligations and liabilities of the Parties under the Settled Agreements. In addition, the Parties and their respective successors and assigns absolutely and unconditionally covenant and agree that upon consummation of the transactions contemplated by this Agreement, neither will demand, claim or file suit or initiate arbitration proceedings against the other with respect to any matters relating to or arising out of the Settled Agreements. In addition, each Party covenants and agrees not to continue any proceedings (including but not limited to arbitration) against another Party for matters arising under or relating to the Settled Agreements. The Parties shall cooperate upon the payment of the Net Settlement Sum in taking all appropriate steps necessary to terminate any

such arbitration or proceeding currently pending with respect to the Settled Agreements. Furthermore, it is understood and agreed by the Parties that, with respect to the Settled Agreements, no further payments by or between the Parties shall be made or due and owing with respect to the matters released by this Agreement, and that each Party accepts the Agreed Sum as full and final settlement of any and all amounts claimed heretofore or hereafter to be due by or between the Parties arising under or relating to the Settled Agreements.

13. The failure of any party hereto to enforce at any time any of the provisions of this Agreement shall in no way be construed to be a waiver of such provisions, nor in any way to affect the validity of this Agreement, or any part hereof, or the rights of such party to thereafter enforce each and every such provision.

14. The Parties, without further consideration, agree to execute and deliver such other documents and take such other action as may be necessary to effect and implement this Agreement solely at each Party's cost.

15. The Parties agree and acknowledge that this Agreement is being entered into solely as a commercial accommodation, without regard to the respective positions of the Parties regarding their rights and obligations under and in terms of the Settled Agreements. As such, the Parties agree that this Agreement shall never at any time for any purpose be considered as an admission of liability or responsibility on the part of any party hereto regarding any aspect of the Settled Agreements, other than with respect to the terms and conditions herein contained.

16. (a) Argonaut represents and warrants that it is a legally constituted entity in good standing; that it is not insolvent; that it is duly authorized to enter into this Agreement and the transactions contemplated herein; that the person signing this Agreement is fully authorized to execute this Agreement on its behalf; that all requisite and necessary approvals have been obtained to consummate the transactions contemplated by this Agreement; that no other agreement, undertaking, contract or matter is known to exist that might render this Agreement void, voidable or unenforceable; and that it has read this Agreement, that it understands its contents and that it is being executed freely and voluntarily with an intent for it to be bound by its terms; and (b) the Liquidator represents and warrants that he has the exclusive power and authority to enforce the Home's rights and obligations under the Settled Agreements and that,

subject to the Liquidation Court's approval, he is duly authorized to enter this Agreement and the transactions contemplated herein; that no other agreement, undertaking, contract or matter is known to exist that might render this Agreement void, voidable or unenforceable; that he has read this Agreement, understands its contents, and that the person signing this Agreement is fully authorized to execute this Agreement freely and voluntarily on his behalf with an intent for Home to be bound by its terms.

17. No supplement, amendment, variation, modification, waiver or termination of this Agreement shall be effective unless in writing and signed by the Parties.

18. The Parties, including but not limited to their attorneys, agents, representatives and affiliates, will not disclose the terms of this Agreement to anyone other than is necessary to effectuate the terms of this Agreement; except that the Parties may disclose the terms of this Agreement to and through their attorneys, accountants, reinsurers, retrocessionaires and auditors for a legitimate business purpose where a specific need for such disclosure arises in the judgment of such attorneys, accountants, reinsurer and auditors, or in response to lawful process. Notwithstanding the foregoing, nothing in this provision shall restrict the ability of the Parties to disclose the terms of this Agreement to regulatory entities or in connection with reports and statements that they may be required from time to time to file or submit to government agencies, or in support of a motion for approval by the Liquidation Court.

19. The Parties represent, acknowledge and agree that the consideration for this Agreement, provided in exchange for the Parties' mutual promises made herein, is fair and reasonable. The Parties shall provide each other with an appropriate affidavit to this effect if such an affidavit becomes necessary to uphold or enforce the legitimacy of this Agreement.

20. This 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. This Agreement shall be of no force and effect until executed by the Parties and approved by order of the Liquidation Court.

11/04/2009 17:20 FAX 5306143

REM

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21. This 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 Liquidation Court shall be the exclusive venue for any dispute between the Parties arising out of this Agreement and the Parties agree to submit to the jurisdiction of the Liquidation Court for such purposes.

22. All references to currencies contained herein shall be to U.S. Dollars.

IN WITNESS WHEREOF, the Parties have executed this Agreement by their respective authorized officers.

Roger A. Sevigay, New Hampshire Commissioner of Insurance,  
solely in his capacity as Liquidator of The Home Insurance Company

By: Peter A. Bengelsdorf Date: November 4, 2009  
Name: Peter A. Bengelsdorf  
Title: Special Deputy Liquidator of The Home Insurance Company

Argonaut Insurance Company

By: Rhonba K. Jams Date: November 5, 2009  
Name: RHONBA K. JAMS  
Title: VICE PRESIDENT