

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 TRONOX**

Roger A. Seigny, 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 Tronox Incorporated Tort Claims Trust and Tronox Inc. ("Tronox"), successors in interest to Kerr-McGee Corporation and Kerr-McGee Worldwide Corporation and their affiliates ("Kerr-McGee"), and the Liquidator. As reasons therefor, the Liquidator states as follows:

1. The Settlement Agreement was negotiated under the supervision of the Special Deputy Liquidator. Affidavit of Peter A. Bengelsdorf in Support of Motion for Approval of Settlement Agreement with Tronox ("Bengelsdorf Aff.") ¶ 2. A copy of the Settlement Agreement is attached hereto as Exhibit A. The Settlement Agreement is subject to approval by the Court. Settlement Agreement ¶ 1. Bengelsdorf Aff. ¶ 4.

2. Home issued eighteen insurance policies to Kerr-McGee for policy periods between January 1, 1973 and April 1, 1995. Settlement Agreement, first Whereas clause. After Home's placement in liquidation, Kerr-McGee filed six proofs of claim in the Home liquidation regarding various bodily injury and property damage claims under the policies. Settlement Agreement, third Whereas clause. Bengelsdorf Aff. ¶ 3.

3. The Settlement Agreement provides that the Liquidator will recommend allowance of the proofs of claim with respect to the settled claims in the aggregate amount of \$4,592,333 as a Class II priority claim of Tronox under RSA 402-C:44. Settlement Agreement ¶ 3(A). Allowance of the recommended amount as a Class II claim will fully and finally resolve the proofs of claim and all claims Tronox has under the policies with one exception. Id. ¶ 3(B). The Ledgerwood workers' compensation claim is expressly excluded from the Settlement Agreement. Id. ¶ 2. Distributions based on the allowance will be made at the same intervals and at the same percentages as distributions to other Class II creditors of Home, except that Tronox will not receive the initial distribution. Id. ¶ 3(C). This is because the proofs of claim are unexcused late filings within RSA 402-C:37, III. All distributions will be made to Tronox Incorporated Tort Claims Trust. Bengelsdorf Aff. ¶ 5.

4. The Settlement Agreement is intended to resolve the proofs of claim and all claims under the policies other than the Ledgerwood claim. See Settlement Agreement ¶¶ 3(B), 6. With that exception, the Settlement Agreement provides for mutual releases of all claims among the Liquidator, Home and Tronox arising from or related to the proofs of claim or the policies. Id. ¶¶ 4, 5. The Liquidator also agrees not to pursue claims respecting the underlying matters covered by the proofs of claim against other insurers of Tronox that agree not to pursue such claims against Home. Id. ¶ 7. Bengelsdorf Aff. ¶ 6.

5. The Liquidator is not aware of any third party claimants who have asserted claims under the policies.¹ 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 Tronox.

¹ Certain of Kerr-McGee's insurers have submitted contribution claims in respect of the policies. Settlement Agreement ¶ 6. Unlike third party claimants' claims, a contribution claim is independent of the insured's claims (although derived from the same underlying circumstances), and it will be determined under applicable law in the liquidation proceeding.

Accordingly, Tronox acknowledges in the Settlement Agreement that it is intended to resolve all matters between Tronox and the Liquidator/Home relating to the proofs of claim and the policies, including asserted rights of third party claimants. Settlement Agreement ¶ 6. Tronox agrees to address, at its sole cost, the claims of claimants asserting claims against Tronox as if Tronox had no insurance coverage from Home under the policies. *Id.* Tronox agrees to indemnify the Liquidator and Home against claims arising from the policies, but the obligation to pay shall be satisfied only by setoff against amounts to be distributed to Tronox. *Id.* Bengelsdorf Aff. ¶ 7.

6. The denial of any third party claimants' proofs of claim without prejudice to their claims against Tronox will not harm the third party claimants, who will continue to have their claims against Tronox, although those claims can only be paid in accordance with the provisions of the Trust document and Tronox's bankruptcy plan (which channels all tort claims to the Tronox Incorporated Tort Claims Trust).² As noted above, Tronox has agreed to address these claims as if it had no insurance coverage from Home under the policies. Settlement Agreement ¶ 6. Third party claimants' proofs of claim against the insolvent Home, if not denied with this agreement, would release Tronox from those claims up to the limits of the policies but only entitle the third party claimants (assuming their claims were allowed) to a presently undetermined percentage distribution inclusive of the pending 15% interim distribution in the future when a distribution is made. See RSA 402-C:40, I; Gonya v. Commissioner, New

² Tronox Incorporated made a bankruptcy filing in 2010, (*In re Tronox Incorporated, et al.*, Chapter 11 Case No. 09-10156 (ALG), Bankr. S.D. N.Y.), and it is the subject of a plan of reorganization that established the Tronox Incorporated Tort Claims Trust. See Findings of Fact and Conclusions of Law and Order Signed on 11/30/2010 Confirming the First Amended Joint Plan of Reorganization of Tronox Incorporated et al., *id.* at Doc. 2567 (the "Order"); Notice of Filing Amended Exhibits to the Plan Supplement for the First Amended Joint Plan of Reorganization of Tronox Incorporated *et al.* pursuant to Chapter 11 of the Bankruptcy Code (Execution Versions of the Tort Claims Trust Agreement and Distribution Procedures), *id.* at Doc. 2768. Under the plan, bodily injury and non-governmental property damage claims against Tronox were assumed by the Trust, which is to resolve and pay such claims. The order approving the plan channels all tort claims to the Trust. Order, ¶ 184.

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, Tronox will continue to be responsible for any third party claimants’ claims against it accordance with the terms of the Trust and the provisions of Tronox’s bankruptcy plan. See Settlement Agreement ¶ 6. Bengelsdorf Aff. ¶ 8.

7. The Settlement Agreement reflects a compromise of the claims asserted in the proof of claim. It is the result of negotiations involving the Claims Department, under the supervision of the Special Deputy Liquidator, which has extensive experience in assessing the exposure presented by claimants asserting bodily injury and property damage 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 Tronox. The Liquidator accordingly recommends approval of the Settlement Agreement and allowance of the \$4,592,333 settlement amount as an unexcused late-filed Class II claim of Tronox in accordance with RSA 402-C:45, RSA 402-C:44, and RSA 402-C:37, III. Bengelsdorf Aff. ¶ 9.

8. The Court has previously approved similar settlement agreements. See, e.g., Order Approving Settlement Agreement with Washington Gas (July 15, 2013) (involving unexcused late-filed claims); Order Approving Settlement Agreement with Wisconsin Energy (March 18, 2010); Order Approving Settlement Agreement with Straits Steel (May 3, 2009); 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 Tronox.

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 Tronox's claim as an unexcused late-filed Class II claim in accordance with RSA 402-C:37, III, in the amount of \$4,592,333; 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,
JOSEPH A. FOSTER
ATTORNEY GENERAL

J. Christopher Marshall
NH Bar ID No. 1619
Civil Bureau
New Hampshire Department of Justice
33 Capitol Street
Concord, NH 03301-6397
(603) 271-3650



J. David Leslie
NH Bar ID No. 16859
Eric A. Smith
NH Bar ID No. 16952
Rackemann, Sawyer & Brewster P.C.
160 Federal Street
Boston, MA 02110
(617) 542-2300

October 29, 2013

Certificate of Service

I hereby certify that a copy of the foregoing Liquidator's Motion for Approval of Settlement Agreement with Tronox, the Affidavit of Peter A. Bengelsdorf, and the Proposed Order, were sent, this 29th day of October, 2013, by first class mail, postage prepaid to all persons on the attached service list.

A handwritten signature in black ink, appearing to read "Eric A. Smith", is written over a horizontal line.

Eric A. Smith
NH Bar ID No. 16952

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SERVICE LIST

Lisa Snow Wade, Esq.
Orr & Reno
One Eagle Square
P.O. Box 3550
Concord, New Hampshire 03302-3550

Gary S. Lee, Esq.
James J. DeCristofaro, Esq.
Kathleen E. Schaaf, Esq.
Morrison & Foerster
1290 Avenue of the Americas
New York, New York 10104-0050

George T. Campbell, III, Esq.
Robert A. Stein, Esq.
Robert A. Stein & Associates, PLLC
One Barberry Lane
P.O. Box 2159
Concord, New Hampshire 03302-2159

David M. Spector, Esq.
Dennis G. LaGory, Esq.
Schiff Hardin LLP
6600 Sears Tower
Chicago, Illinois 60606

Michael Cohen, Esq.
Cohen & Buckley, LLP
1301 York Road
Baltimore, Maryland 21093

David H. Simmons, Esq.
Mary Ann Etzler, Esq.
Daniel J. O'Malley, Esq.
deBeaubien, Knight, Simmons, Mantzaris & Neal, LLP
332 North Magnolia Avenue
P.O. Box 87
Orlando, Florida 32801

Martin P. Honigberg, Esq.
Sulloway & Hollis, P.L.L.C.
9 Capitol Street
P.O. Box 1256
Concord, New Hampshire 03302-1256

Richard Mancino, Esq.
Willkie Farr & Gallagher, LLP
787 Seventh Avenue
New York, New York 10019

Joseph G. Davis, Esq.
Willkie Farr & Gallagher, LLP
1875 K Street, N.W.
Washington, DC 20006

Albert P. Bedecarre, Esq.
Quinn Emanuel Urguhart Oliver & Hedges, LLP
50 California Street, 22nd Floor
San Francisco, California 94111

Jeffrey W. Moss, Esq.
Morgan Lewis & Bockius, LLP
225 Franklin Street
16th Floor
Boston, Massachusetts 02110

Gerald J. Petros, Esq.
Hinckley, Allen & Snyder LLP
50 Kennedy Plaza, Suite 1500
Providence, Rhode Island 02903

Christopher H.M. Carter, Esq.
Hinckley, Allen & Snyder LLP
11 South Main Street, Suite 400
Concord, New Hampshire 03301

Robert M. Horkovich, Esq.
Robert Y. Chung, Esq.
Anderson Kill & Olick, P.C.
1251 Avenue of the Americas
New York, New York 10020

Andrew B. Livernois, Esq.
Ransmeier & Spellman, P.C.
One Capitol Street
P.O. Box 600
Concord, New Hampshire 03302-0600

John A. Hubbard
615 7th Avenue South
Great Falls, Montana 59405

Adebowale O. Osijo
2015 East Pontiac Way, Suite 209
Fresno, California 93726-3978

Paul W. Kalish, Esq.
Ellen M. Farrell, Esq.
Kristine E. Nelson, Esq.
Crowell & Moring
1001 Pennsylvania Avenue, N.W.
Washington, DC 20004-2595

Harry L. Bowles
306 Big Hollow Lane
Houston, Texas 77042

Gregory T. LoCasale, Esq.
White and Williams, LLP
One Liberty Place, Suite 1800
Philadelphia, Pennsylvania 19103-7395

Kyle A. Forsyth, Esq.
Commercial Litigation Branch
Civil Division
United States Department of Justice
P.O. Box 875
Washington, D.C. 20044-0875

W. Daniel Deane, Esq.
Nixon Peabody LLP
900 Elm Street, 14th Floor
Manchester, New Hampshire 03861

Joseph C. Tanski, Esq.
John S. Stadler, Esq.
Nixon Peabody LLP
100 Summer Street
Boston, Massachusetts 02110

Steven J. Lauwers, Esq.
Rath Young Pignatelli
One Capital Plaza
Concord, New Hampshire 03302-1500

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release (the "Settlement Agreement") is made this ____ day of August, 2013 by and between the Tronox Incorporated Tort Claims Trust and Tronox Inc., successors in interest to Kerr-McGee Corporation and Kerr-McGee Worldwide Corporation and their affiliates (hereinafter 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 Home Insurance Company ("Home"), on the other hand (the Claimants and the Liquidator are hereinafter referred to collectively as the "Parties").

WHEREAS, Home issued the following insurance policies to Kerr-McGee Corporation under which Kerr-McGee Corporation is the named insured:

<u>Policy Number</u>	<u>Policy Period</u>
GA4389610	1/1/73 - 1/1/76
GA9119366	1/1/76 -1/1/79
GA9697500	7/1/78 -7/1/79
GA9697505	7/1/78 -7/1/79
GA9730184	7/1/79 - 7/1/82
7504031	1/1/74 - 1/1/75
7510562	1/1/76 - 1/1/77
WC9187934	1/1/76 – 1/1/77
WC9187933	1/1/76 – 1/1/79
WC990913	7/1/78 - 7/1/79
WC993137	7/1/79 – 7/1/82
WC9866017	7/1/79 - 7/1/80
WC9187934	1/1/76 - 1/1/77
WC9304140	1/1/77- 1/1/78
WC9781290	7/1/78 - 7/1/79
WC9866016	7/1/79 - 7/1/80
PCAF727926	4/1/93 - 4/1/94
PCAF727787	4/1/94 - 4/1/95

which together with all other insurance policies that Home may have issued to Kerr-McGee Corporation and Kerr-McGee Worldwide Corporation and their affiliates are hereinafter defined collectively as the "Policies";

WHEREAS, Home is being liquidated pursuant to the June 13, 2003 Order (the "Order of Liquidation") of the Merrimack County Superior Court (the "Liquidation Court"), pursuant to which the Liquidator was appointed as the Liquidator of Home;

WHEREAS, Kerr-McGee Corporation and its affiliates have submitted proofs of claim in the Home liquidation under which Claimants seek payment from Home that have been assigned the following proof of claim numbers:

INSU276770
INSU140328
INSU140448
INSU269539
INSU274371
INSU391455

which together with any other proof of claim hereinbefore or hereinafter filed by Kerr-McGee Corporation and its affiliates, Kerr-McGee Worldwide Corporation or Claimants in the Home liquidation are hereinafter defined collectively as the "Proofs of Claim";

WHEREAS, pursuant to a Master Separation Agreement, dated as of November 28, 2005, among Kerr-McGee Corporation, Kerr-McGee Worldwide Corporation, and Tronox Inc., Tronox Inc. assumed the rights, including the rights to the Policies and the Proofs of Claim, of Kerr-McGee Corporation and Kerr-McGee Worldwide Corporation and their affiliates.

WHEREAS, pursuant to a First Amended Joint Plan of Reorganization of Tronox Incorporated, dated as of November 30, 2010, Tronox Inc. has assigned some of its rights to the Proofs of Claim except for the Ledgerwood claim to the Tronox Tort Claims Trust.

WHEREAS, the Parties are desirous of resolving all claims that were asserted, or could have been or could be asserted, between them and resolving all matters concerning the Proofs of

Claim and all rights and obligations with respect to the Policies except for the Ledgerwood Claim (as defined below); 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) in the Home liquidation and in the event that 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. Effectiveness. This Settlement Agreement is conditioned and shall only become effective (the "Effective Date") upon approval by the Liquidation Court. The Liquidator shall move at his expense for approval of this Settlement Agreement promptly following execution by the Parties.

2. Ledgerwood Claim Expressly Excluded from this Settlement Agreement. Nothing in this Settlement Agreement is intended to address the Ledgerwood workers' compensation claim (referred to herein as "Ledgerwood Claim").

3. Recommendation, Allowance, and Classification of Claims

A. Subject to all the terms of this Settlement Agreement, and with the agreement of Claimants, which by Claimants' execution hereof is hereby granted, the Liquidator shall recommend pursuant to N.H. RSA 402-C:45 that the Proofs of Claim be allowed in the amount of \$4,592,333 (the "Recommended Amount") as a Class II priority claim under N.H. RSA 402-

C:44. The Liquidator shall seek allowance of the Recommended Amount as a Class II priority 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 except for the Ledgerwood Claim. 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 the Parties will be returned to *status quo ante*, as if no such agreement was ever reached, with this Settlement Agreement thereafter being inadmissible for any purpose in any dispute between the Parties.

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 this Settlement Agreement, receive distributions, other than the first distribution, on the allowed amount at the same intervals and at the same percentages as other Class II creditors of Home. All distributions on the Recommended Amount shall be paid to the Tronox Incorporated Tort Claims Trust.

4. 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, Claimants for themselves and on behalf of each of their respective officers, directors, employees, agents, attorneys, subsidiaries, affiliates, predecessors, and their successors and assigns, irrevocably and unconditionally release and discharge the Liquidator and Home and each of their respective officers, directors, employees, agents, attorneys, subsidiaries, affiliates, predecessors, successors,

and assigns (including any trustee or other statutory successor), 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 (except for matters regarding the Ledgerwood Claim) arising from or related to the Proofs of Claim or the Policies, in law, admiralty or equity, which Claimants, or their subsidiaries, affiliates, predecessors, successors, and assigns, ever had, now have, or hereafter may have against the Liquidator or Home or their respective officers, directors, employees, agents, attorneys, subsidiaries, 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.

5. 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 each of their respective officers, directors, employees, agents, attorneys, subsidiaries, affiliates, predecessors, and their successors and assigns, irrevocably and unconditionally releases and discharges Claimants and each of their respective officers, directors, employees, agents, attorneys, subsidiaries, 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 (except for matters regarding the Ledgerwood Claim) arising from or related to the Proofs of Claim or the Policies, in law, admiralty or equity, which the Liquidator, Home, or their subsidiaries,

affiliates, predecessors, successors, and assigns, ever had, now have or hereafter may have against Claimants or their respective officers, directors, employees, agents, attorneys, subsidiaries, 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.

6. Resolution of Matters and Indemnification. Claimants acknowledge that this Settlement Agreement is intended to resolve all matters (except for the Ledgerwood Claim) arising out of or relating to any rights Claimants ever had, now have or hereafter may have in the Policies and the Proofs of Claim, including any asserted rights of third party claimants against Claimants under the Policies, and Claimants agree to address, at their sole cost and expense, any such claims of third party claimants against Claimants 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 the Policies (except for the Ledgerwood Claim) or the Proofs of Claim; provided, however, that the obligation of Claimants to pay for the defense (including costs, fees, attorneys' fees and disbursements), indemnify and hold harmless the Liquidator and Home under this section 6: (a) shall exclude all salaries of all employees and officers of the Liquidator and Home and all internal costs incurred by the Liquidator and Home; (b) shall be satisfied solely by setoff against amounts to be distributed to Claimants in relation to the Recommended Amount; and (c) the total amount of the indemnification obligation of Claimants including all costs, fees, expenses, disbursements and settlement payments shall be capped in the aggregate at the total

amount ultimately distributed or distributable in relation to the Recommended Amount as allowed by the Liquidation Court. For the avoidance of doubt, in the event the Liquidator and/or Home have distributed all amounts to be distributed to Claimants in relation to the Recommended Amount such that there will be no more money distributed to the Claimants pursuant to this Settlement Agreement, the Claimants shall have no obligation to pay for the defense of (including costs, fees, attorneys' fees and disbursements) or to indemnify and hold harmless the Liquidator or Home.

The future obligations of Claimants under this paragraph 6 shall extend to and include (by way of example and not limitation) any claims, including claims for defense and indemnity, (except for the Ledgerwood Claim), made under the Policies against the Liquidator or Home by vendors of or respecting Claimants, by other insurers of Claimants, and by any individuals or entities asserting "direct action" claims arising out of or related to the Policies. The Liquidator shall promptly notify Claimants of any such claim, and shall afford Claimants the opportunity to reasonably participate in the defense of such claims. Claimants shall have no duty to pay for defense or indemnity that the Liquidator or Home incur or pay prior to Claimants' receipt of notice of the claim, nor any duty to indemnify or hold harmless the Liquidator or Home prior to receipt of notice of the claim. The Liquidator shall assert all defenses to such claims reasonably available to the Liquidator, including defenses under the Order of Liquidation or the New Hampshire Insurers Rehabilitation and Liquidation Act. Claimant shall cooperate with the Liquidator (including but not limited to the provision of affidavits or testimony) to defend against and resolve such claims.

The Liquidator represents that he has reviewed the proofs of claim submitted in the Home liquidation estate and that as of the date of this Settlement Agreement, he is not aware of any

unresolved proofs of claim that have been submitted specifically referencing the Policies other than the proofs of claim filed by Kerr-McGee Corporation and its affiliates and proofs of claim submitted by Certain Underwriters at Lloyd's, London, Certain solvent, represented London Market insurance companies, The Travelers Indemnity Company and Travelers Casualty and Surety Company ("Insurers"). Notwithstanding anything provided to the contrary in this paragraph 6, it is expressly understood and agreed by the Parties that Claimants shall not be obligated to indemnify, defend or hold harmless the Liquidator or Home for any claim brought or proof of claim submitted in the Home liquidation estate by the Insurers under the Policies, although they shall cooperate in the defense of such claims.

Claimants acknowledge that they are apprised of the requirements of the Medicare Secondary Payer Act ("MSPA") as well as the Medicare, Medicaid and SCHIP Extension Act of 2007 ("MMSEA" and collectively, the "Acts"), which include or may include provisions for a Medicare Set-Aside and/or notification to the Centers for Medicare and Medicaid Services ("CMS") regarding certain Medicare-eligible, or potentially eligible claimants who enter into settlement agreements that may justify recovery for Medicare covered case-related services, and Claimants acknowledge that as part of the consideration to induce Liquidator to enter into this settlement agreement they will comply with any and all reporting or other obligations of said Acts. Claimants further agree to fully indemnify Liquidator against any claims, liens or obligations with respect to the Acts, or otherwise regarding Medicare, Medicaid, and/or any other form of public assistance that may arise from or in relation to this Settlement Agreement unless such claims, liens or obligations are the result of the Liquidator and/or Home failing to comply with their obligations under the Acts or other law regarding Medicare, Medicaid, and/or any other form of public assistance. Claimants acknowledge that they may be obligated or

otherwise agree to provide data, when and if required, to CMS regarding claimants who will share in distributions from Trust assets that include a portion of the Recommended Amount.

7. 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 (other than the Ledgerwood 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 underlying matters covered by the Proofs of Claim (other than the Ledgerwood Claim) against any other insurance company which executes a settlement with Claimant that includes a provision that is materially the same as this paragraph.

8. No Assignments. Claimants warrant and agree that except for the assignment pursuant to the First Amended Joint Plan of Reorganization of Tronox Incorporated, dated as of November 30, 2010, they have not assigned, conveyed, or otherwise transferred any claims, demands, causes of action, rights, or obligations related in any way to the Policies, or any proceeds thereof, or to the claims, losses and expenses released herein, to any person or entity. Claimants shall not assign or otherwise transfer this Settlement Agreement or any rights or obligations thereunder without the written consent of the Liquidator, which consent shall not be unreasonably withheld.

9. 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.

10. 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.

11. 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. No Party shall be charged with having promulgated this Settlement Agreement, and the general rule that ambiguities are to be construed against the drafter shall not apply to this Agreement.

12. 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.

13. 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.

14. Power and Authority to Execute. Subject to the approval of the Liquidation Court required by paragraph 1, each Party hereto represents and warrants that it has the full power and authority to execute, deliver, and perform this Settlement Agreement; 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 has been duly authorized by that Party to execute this Settlement Agreement on its behalf; and that no claims being released under the terms of this Settlement Agreement have been assigned, sold, or otherwise transferred to any other entity.

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

16. 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 agreements and understandings, whether written or oral, concerning such matters.

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

18. Validity of Settlement Agreement. Subject to approval of this Settlement Agreement by the Liquidation Court as required by paragraph 1, each Party represents and warrants that this Settlement Agreement is a legal, valid, and binding obligation, enforceable in accordance with its terms.

19. 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.

19. 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:

James R. Matthews
Keating Muething & Klekamp PLL
One East Fourth Street
Suite 1400
Cincinnati OH 45202
Fax: (513) 579-6457

and

Michael J. Zomcik
Branisa & Zomcik P. C.
3900 Essex Lane, Suite 730
Houston, Texas 77027
Fax: 713-622-1299

If to the Liquidator, to:

Thomas W. Kober, Chief Claims Officer
The Home Insurance Company in Liquidation
61 Broadway, 6th Floor
New York, New York 10006-2504
Fax: 212-299-3824

and

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

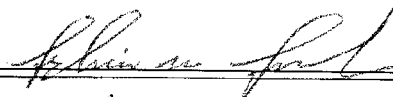
and

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

20. 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 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, the Parties have caused this Settlement Agreement to be executed on their respective behalves as of the date below the signatures of their duly authorized representatives.

TRONOX INCORPORATED TORT CLAIMS TRUST

By: 
Name: Sylvius von Sawchen
Title: Fiduciary
Date: October 3, 2013

TRONOX INC.

By: _____
Name: _____

and

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

20. 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 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, the Parties have caused this Settlement Agreement to be executed on their respective behalves as of the date below the signatures of their duly authorized representatives.

TRONOX INCORPORATED TORT CLAIMS TRUST

By: _____

Name: _____

Title: _____

Date: August __, 2013

TRONOX INCORPORATED

By:  _____

Name: MATTHEW PAQUE

Title: Vice President, Assistant Secretary

Date: August 15, 2013

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

By: Thomas W. Kober

Name: Thomas W. Kober

Title: Chief Claims Officer

Date: ~~August~~ 15, 2013

October