

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

Docket No. 217-2003-EQ-00106

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

**LIQUIDATOR'S MOTION FOR APPROVAL OF SETTLEMENT
AGREEMENT WITH CLARK EQUIPMENT COMPANY AND ALDRICH PUMP LLC**

Christopher R. Nicolopoulos, Insurance Commissioner of 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 Clark Equipment Company ("Clark"), and Aldrich Pump LLC ("Aldrich") (collectively "Claimants") 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. A copy of the Settlement Agreement is attached hereto as Exhibit A. Affidavit of Peter A. Bengelsdorf, Special Deputy Liquidator, in Support of Motion for Approval of Settlement Agreement with Clark Equipment Company and Aldrich Pump LLC ("Bengelsdorf Aff.") ¶ 2.

2. Home issued nine policies to Clark for various periods between September 30, 1974 and September 30, 1979 which, together with all other insurance policies issued by Home to Claimants, are referred to collectively as the "Policies". Settlement Agreement, first Whereas clause. Bengelsdorf Aff. ¶ 3.

3. Ingersoll-Rand Company ("IR") submitted a proof of claim in the Home liquidation on behalf of Clark, its wholly-owned subsidiary, seeking coverage for asbestos bodily

injury claims, which was assigned nine proof of claim numbers and which, together with any other proofs of claim hereinbefore or hereinafter filed by Claimants in the Home liquidation, are referred to collectively as the “Proofs of Claim”. Settlement Agreement, third Whereas clause. Bengelsdorf Aff. ¶ 4.

4. Aldrich asserts that in a series of corporate restructurings IR ceased to exist and Aldrich was created and that Aldrich was allocated certain assets formerly owned by IR, including certain insurance assets relating to asbestos liabilities, and was allocated certain asbestos liabilities of IR, including certain of IR’s contractual liabilities to Clark. Settlement Agreement fourth Whereas clause. Bengelsdorf Aff. ¶ 5.

5. On June 18, 2020, Aldrich filed a petition under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Western District of North Carolina, In re Aldrich Pump LLC, No. 20-30608 (JCW) (the “Aldrich Bankruptcy Proceeding”). Settlement Agreement fifth Whereas clause. Bengelsdorf Aff. ¶ 6.

6. The Liquidator and the Claimants have negotiated the Settlement Agreement to resolve all matters concerning the Proofs of Claim and all rights and obligations with respect to the Policies. Settlement Agreement, sixth Whereas clause. Bengelsdorf Aff. ¶ 7.

7. The Settlement Agreement is subject to approval by the Bankruptcy Court in the Aldrich Bankruptcy Proceeding and by this Court in the Home liquidation proceeding. Settlement Agreement, seventh Whereas clause, ¶ 1. Bengelsdorf Aff. ¶ 8.

8. On November 16, 2022, the Bankruptcy Court issued an Order Approving Certain Settlement Agreements with Clark Equipment Company and the Liquidator of The Home Insurance Company (“Bankruptcy Approval Order”) in the Aldrich Bankruptcy Proceeding. The Bankruptcy Approval Order approved the Settlement Agreement as well as a related agreement

between Clark and Aldrich that resolved rights as between them to the proceeds of the Settlement Agreement. Now that the Bankruptcy Approval Order has been obtained, the Liquidator moves for approval of the Settlement Agreement by this Court. Bengelsdorf Aff. ¶ 9.

9. The Settlement Agreement provides that the Liquidator will recommend allowance of the Proofs of Claim in the amount of \$1,250,000 (the “Recommended Amount”) as a Class II priority claim under RSA 402-C:44. Settlement Agreement ¶ 2(A). Allowance of the Recommended Amount as a Class II claim will fully and finally resolve the Proofs of Claim and all claims that Claimants have under the Policies. *Id.* ¶ 2(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. Bengelsdorf Aff. ¶ 10.

10. The Settlement Agreement is intended to resolve the Proofs of Claim and all claims that Claimants have under the Policies. Settlement Agreement ¶ 2(B). To that end, the Settlement Agreement provides for mutual releases of all claims among the Liquidator, Home, and the Claimants arising from or related to the Proofs of Claim or the Policies. *Id.* ¶¶ 4, 5. Bengelsdorf Aff. ¶ 11.

11. In resolving all of the Claimants’ claims relating to the Proofs of Claim and the Policies, the Settlement Agreement is intended to resolve all matters arising out of or relating to any rights the 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 the Claimants under the Policies. Settlement Agreement ¶ 6. The Claimants agree to address, at their sole cost, any such claims of third-party claimants against the Claimants as if there had been no liquidation proceeding for Home and as if the Claimants had no insurance coverage from Home by virtue of the Policies. *Id.* The Claimants also agree to indemnify and hold the Liquidator and Home

harmless from all claims arising from or relating to the Proof of Claim or the Policies, including asserted rights of third party claimants, up to the total amount ultimately distributed or distributable in relation to the Recommended Amount. *Id.* Bengelsdorf Aff. ¶ 12.

12. The Liquidator is not aware of any third party claimants asserting claims under the Policies. Bengelsdorf Aff. ¶ 13. However, the denial of any third party claimants' claims without prejudice to their claims against Claimants will not harm the third party claimants, who will continue to have their claims against Claimants. As noted above, Claimants have agreed to address these claims as if they 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 the 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 were allowed) to the initial interim distributions and any later distribution at a presently undetermined distribution percentage from Home at the future date when 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) of Home will be paid in full. Under the Settlement Agreement, Claimants are responsible for any third party claimants' claims against them. *See* Settlement Agreement ¶ 6. Bengelsdorf Aff. ¶ 13.

13. The Liquidator is not aware of any proofs of claim asserting a claim subject to the same policy limit as the Proofs of Claim resolved by the Settlement Agreement. Bengelsdorf Aff. ¶ 14. However, if a claim of another claimant is subject to the same limit of liability as claims resolved by the Settlement Agreement, and if the total allowed amounts for all claimants exceed the limit, then the allowed amounts for all claimants will be subject to adjustment under

RSA 402-C:40, IV, so that the policy limit will not be exceeded. *See* Settlement Agreement ¶ 7. Bengelsdorf Aff. ¶ 14.

14. The Settlement Agreement reflects a compromise of the claims asserted in the Proofs 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 claims under Home’s insurance policies. The agreed settlement amount is based on careful evaluation and negotiation of coverage obligations under the Policies respecting the underlying liabilities of the Claimants. The Liquidator accordingly recommends approval of the Settlement Agreement and allowance of the \$1,250,000 settlement amount as a Class II claim of the Claimants in accordance with RSA 402-C:45 and RSA 402-C:44. Bengelsdorf Aff. ¶ 15.

15. The Court has previously approved many similar settlement agreements. *See, e.g.,* Order Approving Settlement Agreement with Black & Decker (January 20, 2022); Order Approving Settlement Agreement with Colgate-Palmolive Company (June 23, 2020); Order Approving Settlement Agreement with Navistar, Inc. (December 11, 2018); Order Approving Settlement Agreement with Graham Corporation (July 8, 2016); Order Approving Settlement Agreement with Washington Gas (July 15, 2013); Order Approving Settlement Agreement with Wisconsin Energy (March 18, 2010); 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.

16. 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.

17. 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.* ¶ 16.

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' claims as a Class II claim in accordance with RSA 402-C:45 and RSA 402-C:44 in the amount of \$1,250,000; and
- C. Grant such other and further relief as justice may require.

Respectfully submitted,

CHRISTOPHER R. NICOLOPOULOS,
INSURANCE COMMISSIONER OF THE
STATE OF NEW HAMPSHIRE, AS
LIQUIDATOR OF THE HOME
INSURANCE COMPANY,

By his attorneys,

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November 28, 2022

Certificate of Service

I hereby certify that a copy of the foregoing Liquidator's Motion for Approval of Settlement Agreement with Clark Equipment Company and Aldrich Pump LLC, the Affidavit of Peter A. Bengelsdorf, and the Proposed Order, were sent this 28th th day of November, 2022, by first class mail, postage prepaid to all persons on the attached service list.

/s/ Eric A. Smith
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NH Bar ID No. 16952

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EXHIBIT A

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release ("Settlement Agreement") is made as of this 24th day of December, 2021, by and between Clark Equipment Company ("Clark") and Aldrich Pump LLC ("Aldrich") (collectively the "Claimants"), on the one hand, and Christopher R. Nicolopoulos, Insurance Commissioner 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 Clark under which Clark is the named insured:

<u>Policy Number</u>	<u>Policy Period</u>
HEC4765476	9/30/74 - 9/30/75
HEC4975298	9/30/75 - 9/30/76
HEC9006935	10/31/75 - 1/1/77
HEC9006548	9/30/76 - 9/30/77
HEC9328551	9/30/77 - 9/30/78
HEC9345532	9/30/76 - 9/30/77
HEC9532074	9/30/77 - 9/30/78
HEC9689982	9/30/78 - 9/30/79
HEC9690462	9/30/78 - 9/30/79

which together with all other insurance policies Home may have issued to Claimants are defined collectively as the "Policies";

WHEREAS, Home is being liquidated pursuant to the June 13, 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, Ingersoll-Rand Company ("IR") submitted a proof of claim in the Home liquidation on behalf of Clark, its then wholly-owned subsidiary, seeking coverage for asbestos bodily injury claims that have been assigned proofs of claim numbers:

INSU473790	INSU700456
INSU389962	INSU700457
INSU700453	INSU700267
INSU700454	INSU700452
INSU700455	

which together with any other proofs of claim hereinbefore or hereinafter filed by Claimants in the Home liquidation are defined collectively as the "Proofs of Claim";

WHEREAS, Aldrich asserts that in a series of corporate restructurings, on May 1, 2020, IR ceased to exist and, among other transactions, Aldrich was created. Aldrich asserts that Aldrich was allocated certain assets formerly owned by IR, including certain insurance assets relating to asbestos liabilities, and was allocated certain asbestos liabilities of IR, including certain of IR's contractual liabilities to Clark. For the avoidance of doubt nothing in this Settlement Agreement shall be interpreted as an agreement or endorsement by Clark of any such assertions by Aldrich, or as endorsing any position on the validity or effect of any such transactions;

WHEREAS, on June 18, 2020, Aldrich filed a petition under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Western District of North Carolina (the "Bankruptcy Court"), which is being jointly administered with the chapter 11 case of its affiliate, Murray Boiler LLC, under the caption In re Aldrich Pump LLC et al., No. 20-30608 (JCW) (the "Aldrich Bankruptcy Proceeding"). The Aldrich Bankruptcy Proceeding remains pending;

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

WHEREAS, the Parties agree that this Settlement Agreement is subject to and conditioned upon its approval by the Bankruptcy Court in the Aldrich Bankruptcy Proceeding and its approval by the Liquidation Court in the Home liquidation proceeding; and

WHEREAS, the Parties agree that, in the event that either the Bankruptcy Court or the Liquidation Court does not approve the Settlement Agreement, 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.

(A) This Settlement Agreement is conditioned and shall become effective only upon the occurrence of all of the following events:

- (i) A final, non-appealable order from the Bankruptcy Court in the Aldrich Bankruptcy Proceeding approving the Settlement Agreement, specifically including approval of the Claimants' release of all rights under the Policies and payment of distributions to Clark ("Final Bankruptcy Court Approval Order").
- (ii) A final, non-appealable order from the Liquidation Court approving the Settlement Agreement, specifically including a Class II priority allowance in the full Recommended Amount ("Final Liquidation Court Approval Order" and, together with the Final Bankruptcy Court Approval Order, the "Approval Orders").

(B) Aldrich shall move promptly at its expense for approval of this Settlement Agreement by the Bankruptcy Court. Upon receipt by the Liquidator of the Final Bankruptcy Court Approval Order and an executed copy of the Settlement Agreement signed by Claimants, the Liquidator shall move promptly at his expense to obtain a Final Liquidation Court Approval Order. The “Effective Date” of this Settlement Agreement is the date upon which both Approval Orders have been entered, or, if the Orders are entered on separate dates, the latter of the two dates. In the event that either of the Approval Orders is not entered, this Settlement Agreement shall be null and void and without any force or effect, and the Parties shall return to their positions status quo ante this Settlement Agreement as if no such agreement ever was reached, with this Settlement Agreement thereafter being inadmissible for any purpose in any dispute between the Parties.

(C) Review of Claimant’s Request for Approval by Liquidator. Aldrich will provide the Liquidator with the final draft of its motion to be submitted to the Bankruptcy Court seeking approval of the Settlement Agreement. The Liquidator may withdraw from this Settlement Agreement within five (5) business days of receipt by the Liquidator of the draft motion if the Liquidator determines that the motion does not adequately protect the interests of the Liquidator and Home.

2. 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 \$1,250,000 (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.

3. Distribution. Upon the Effective Date, Claimants will become a Class II creditor in the Home liquidation pursuant to N.H. RSA 402-C:44, and Claimants shall, subject to this Settlement Agreement, receive distributions on the allowed amount at the same intervals and at the same percentages as other Class II creditors of Home. All distributions to Claimants shall be made payable to and issued to:

Clark Equipment Company
Attn: Wayne Naylor, Dir. Risk Management & Insurance
100475 Mill Center Parkway, Ste 400
Buford, GA 30518

4. Release by Claimant. Subject to the terms of this Settlement Agreement and upon the Effective Date, Claimants for themselves and on behalf of their officers, directors, employees, agents, attorneys, subsidiaries, affiliates, predecessors (including IR), and their successors and assigns, irrevocably and unconditionally releases and discharges 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, 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 has, 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 upon the Effective Date, 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 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, 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 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.

6. 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 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 a Claimant 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 Proofs of Claim or the Policies and such indemnification shall be capped at the total amount ultimately distributed or distributable in relation to the Recommended Amount as allowed by the Liquidation Court. The future obligations of Claimants under this paragraph shall extend to and include (by way of example and not limitation) any claims for defense or indemnity for claims made under the Policies against the Liquidator or Home by vendors, or by other insurers of Claimants, or 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. 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. Claimants shall cooperate with the Liquidator (including but not limited to the provision of affidavits or testimony) to defend against and resolve such claims.

7. Multiple Claims. The Home policies against which this claim is made contains certain limits. New Hampshire RSA 402-C:40 (IV) provides that in the event multiple claims against such policies are filed, and the aggregate allowed amount of all claims to which the same limit of liability in the policy is applicable exceeds that limit, then each claim as allowed shall be reduced in the same proportion so that the total equals the policy limit. The Liquidator is presently unaware of any proof of claim filed in the Home estate asserting a claim subject to the same limit in the Home policy as this claim. However, if an allowance is made such that the aggregate allowed amount of all claims subject to the same limit exceeds the limit, each claim will be prorated so that the total equals the policy limit as required by RSA 402-C:40 (IV). The Liquidator will be unable to determine whether and to what extent Claimants' allowed amount may be reduced until all proofs of claim against the Policies have been determined. If the aggregate allowed amount of claims exceeds the applicable limit such that Claimants' claim is subject to proration, the Liquidator will inform Claimants accordingly.

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 the

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

9. No Assignments. Each Claimant warrants and represents that it has 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 the Proofs of Claim, or 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.

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 that they are aware of the requirements of the Medicare Secondary Payer Act and the Medicare, Medicaid and SCRIP Extension Act of 2007, including provisions concerning Medicare set-asides 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. Claimants acknowledge that they may be obligated, and otherwise agree, to provide data, if and when required or requested, for CMS regarding claimants who will share in distributions from Claimants' assets that include a portion of the Recommended Amount.

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 Proof of Claim, the Policies or this Settlement Agreement shall be the Liquidation Court.

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. 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.

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 another 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 and the Bankruptcy Court as set forth in 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.

16. 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, agents, attorneys, liquidators, receivers, administrators, 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 agreements 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 Bankruptcy Court and 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.

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

If to Claimants, to:

Clark Equipment Company
Attn: Wayne Naylor, Dir. Risk Management & Insurance
475 Mill Center Parkway, Ste 400
Buford, GA 30518
wayne.naylor@doosan.com

and

Allan Tananbaum, Esq.
Chief Legal Officer & Secretary
Aldrich Pump LLC
One Centennial Avenue
Piscataway, NJ 08854
atananbaum@tranetechnologies.com

If to the Liquidator, to:

Angela Anglum, Esq.
Vice President Legal Affairs & Corporate Secretary
The Home Insurance Company in Liquidation
61 Broadway 6th Floor
Angela.anglum@homeinsco.com

and

J. Christopher Marshall
Civil Bureau
New Hampshire Department of Justice
33 Capitol Street
Concord, New Hampshire 03301-6397
christopher.marshall@doj.nh.gov

and

J. David Leslie, Esq.
Rackemann, Sawyer & Brewster, P.C.
160 Federal Street
Boston, MA 02110-1700
dleslie@rackemann.com

22. 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 by their duly authorized representatives.

CLARK EQUIPMENT COMPANY

By:  _____

Name: Jason Mayberry

Title: Deputy General Counsel & Assistant Secretary

Date December 14, 2021

ALDRICH PUMP LLC

By: Allan Tananbaum

Name: Allan Tananbaum

Title: Chief Legal Officer & Secretary

Date: December 22, 2021

**CHRISTOPHER R. NICOLOPOULOS, INSURANCE
COMMISSIONER OF THE STATE OF NEW
HAMPSHIRE, SOLELY IN HIS CAPACITY AS
LIQUIDATOR OF THE HOME INSURANCE
COMPANY**

By: Angela Anglum

Name: Angela Anglum

Title: Vice President Legal Affairs
& Corporate Secretary

Date: December 24, 2021