

**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 "Receiver") of THE HOME INSURANCE COMPANY and those companies listed on Exhibit A hereto which merged with and into The Home Insurance Company (collectively, "Home"), and THE INSURANCE CORPORATION OF NEW YORK ("INSCORP"). For purposes of this Agreement, Home shall not include the companies listed on Exhibit B hereto.

**WITNESSETH:**

**WHEREAS**, Home and INSCORP entered into certain reinsurance agreements (the "Outwards Reinsurance Agreements") pursuant to which Home ceded to INSCORP, and INSCORP accepted from Home, a certain share of Home's liabilities as more fully reflected in the percentages of participation and periods for each respective Outwards Reinsurance Agreement as set forth therein; and

**WHEREAS**, INSCORP and Home entered into certain reinsurance agreements (the "Inwards Reinsurance Agreements") pursuant to which INSCORP ceded to Home, and Home accepted from INSCORP, a certain share of INSCORP's liabilities as more fully reflected in the percentages of participation and periods for each respective Inwards Reinsurance Agreement as set forth therein. The Outwards Reinsurance Agreements and the Inwards Reinsurance Agreements are hereinafter collectively referred to as the "Commutated Agreements", which term shall include, without limitation, all such contracts between the parties; and

**WHEREAS**, in addition to their past and present obligations under the Commuted Agreements, Home and INSCORP 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 uncertain obligations and the parties' past and present obligations will resolve all pending and outstanding issues between the parties and will eliminate the uncertainty of contingent liabilities for presently unresolved and/or unasserted claims with respect to the Commuted Agreements; and

**WHEREAS**, the parties agree that it is mutually in their best interests to fully and finally settle and commute their respective past, present and future rights, obligations and liabilities (whether known or unknown) under the Commuted Agreements with immediate effect and enter into mutual releases relating thereto, all in accordance with the terms and conditions hereinafter contained.

**NOW THEREFORE**, intending to be legally bound, in consideration of the promises, covenants, 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. Within seven (7) days after the Effective Date of this Agreement (as defined in Paragraph 2 below), INSCORP will pay to Home the sum of [REDACTED] (the "Net Settlement Sum") in full and final settlement of any and all past, present and future liabilities due or potentially due from the parties to this Agreement to each other under the Commuted Agreements, with time being of the essence in the performance by INSCORP in effecting such payment. The payment of the Net Settlement Sum shall be effected by wire transfer as follows:

Citizens Bank, Manchester, NH, USA  
ABA No. [REDACTED]  
For the Account of The Home Insurance Company in  
Liquidation  
Account No. [REDACTED]

2. This Agreement shall only become effective (the "Effective Date") two (2) Business Days after approved by the New Hampshire Superior Court for Merrimack County (the "Court"), being the court before which liquidation of Home is presently pending. For purposes of this Agreement, a "BUSINESS DAY" is any day other than a Saturday, Sunday or a day on which banking institutions in the City of Manchester, New Hampshire, the City of New York, New York or the City of Hartford, Connecticut are authorized by law or other governmental actions to close.

3. Without prejudice to Home's right to terminate this Agreement under Paragraph 4 below, if INSCORP fail to pay any portion of the Net Settlement Sum within seven (7) days after the Effective Date, INSCORP shall pay (a) interest on any unpaid amounts at the rate of [REDACTED] (simple rate) per annum from the Effective Date; and (b) any and all 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 as if payment of the Net Settlement Sum had been made in full within seven (7) days after the Effective Date.

4. Notwithstanding the provisions of Paragraph 3 above, in the event that INSCORP fails to pay any portion of the Net Settlement Sum within seven (7) days after the Effective Date (and notwithstanding any claim that may be asserted by Home for interest and Collection Costs) Home shall be entitled, at its sole discretion, to either seek enforcement of this Agreement or, by notice in writing to INSCORP, to terminate this Agreement, in which event (a) this Agreement shall be null and void; and (b) all of the rights and obligations of the parties with respect to the Commuted Agreements shall be fully reinstated as if this Agreement had never been made.

5. Subject to the terms and conditions of this Agreement and in consideration of and as a condition precedent to the timely payment of the Net Settlement Sum by INSCORP, Home on behalf of itself, its officers, directors, employees, agents, attorneys, affiliates, shareholders, parents, predecessors, successors and assigns, hereby irrevocably and unconditionally releases and discharges INSCORP, its officers, directors, employees, agents, attorneys, affiliates, shareholders, parents, representatives, liquidators, receivers and rehabilitators and their respective predecessors, successors and assigns to the extent permitted by applicable law from any and all adjustments, obligations, offsets, actions, causes of action, suits, debts, dues, sums of money, accounts, reckonings, premiums, returned premiums, unearned premiums, losses, salvage, commissions, variances, expenses, acts, omissions, executions, bonds, bills, covenants, contracts, controversies, agreements, promises, damages, judgments, claims and demands whatsoever, all whether known or unknown, suspected or unsuspected, fixed or contingent in law or in equity, which Home ever had, now has, or hereafter may have against INSCORP by reason of any matter whatsoever arising out of or in connection with or in relation to the Commuted Agreements. Additionally, Home fully understands and expressly waives its rights and benefits under any provision of 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.

6. Subject to the terms and conditions of this Agreement, and in consideration of the release of INSCORP by Home pursuant to Paragraph 5 above, INSCORP on behalf of itself, its

officers, directors, employees, agents, attorneys, affiliates, shareholders, parents, predecessors, successors and assigns, hereby irrevocably and unconditionally releases and discharges Home, its receiver, liquidator, officers, directors, employees, agents, attorneys, representatives, affiliates, shareholders, parents and their respective predecessors, successors and assigns to the extent permitted by applicable law from any and all adjustments, obligations, offsets, actions, causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, premiums, returned premiums, unearned premiums, losses, salvage, commissions, variances, expenses, acts, omissions, executions, covenants, contracts, controversies, agreements, promises, damages, judgments, claims and demands whatsoever, all whether known or unknown, suspected or unsuspected, fixed or contingent in law or in equity, which INSCORP ever had, now have, or hereafter may have against Home by reason of any matter whatsoever arising out of or in connection with or in relation to the Commuted Agreements. Additionally, INSCORP fully understands and expressly waives its rights and benefits under any provision of 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.

7. This Agreement shall, subject to its approval by the Court, be binding upon and shall inure to the benefit of the parties. The parties each represent and warrant that they have not prior hereto assigned or otherwise transferred to any other entity any of the rights, entitlements or interests in or to the reinsurance agreements commuted and released hereunder.

8. This instrument embodies the final, complete and entire agreement between the parties and is the product of their own independent legal advice and analysis. 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.

9. If any provision of this Agreement is invalid, unenforceable or illegal under the law of any 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.

10. The parties hereby agree that, subject to Paragraph 4 above, this Agreement shall take precedence over and supersede the Commuted 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 Commuted 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 Commuted Agreements.

11. The failure of any party 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.

12. The Parties, without further consideration, agree to execute and deliver such other documents and take such other action as may be (a) necessary to effect and implement this Agreement, including without limitation, providing such information as may be reasonably requested by the Insurance Department of the State of New York in connection with this Agreement, and (b) reasonably necessary to effect collection(s) from any retrocessionaire or other person or entity obligated to indemnify or reimburse INSCORP for payment hereunder or under the Commuted Agreements.

13. 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 Commuted 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 Commuted Agreements, other than with respect to the terms and conditions herein contained.

14. The Parties agree that this Agreement and the negotiations and proceedings

leading to the formation of this Agreement shall not form the basis for any claim by either against the other or against any officer, director, liquidator, receiver, consultant, professional or shareholder of the other, except with respect to an action for enforcement of this Agreement.

15. Upon written request, Home shall provide INSCORP with the same notice of losses or occurrences, notices of subsequent developments respecting such losses or occurrences and proofs of loss which it would have been obligated to provide (or would in the ordinary course have provided) to INSCORP under the Outwards Reinsurance Agreements as if such agreements had not been commuted by this Agreement.

16. (a) INSCORP represents and warrants that it is a legally constituted entity in good standing; that, based upon its financial condition at September 30, 2003 (as reported to the New York Department of Insurance), it is solvent and maintains surplus in excess of the minimum amounts required under applicable New York law; that it is duly authorized to enter into this Agreement and the transactions contemplated herein; that the representatives signing this Agreement are 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 and that no additional authorization is needed from any regulatory authority in this regard; and that it has read this Agreement, that it understand its contents and that it is executing it freely and voluntarily with an intent to be bound by its terms; and (b) the Receiver represents and warrants that, subject to the Court's approval, he is duly authorized to enter into this Agreement and the transactions contemplated herein; that he will make reasonable efforts to obtain the Court's approval of this Agreement; that no other agreement, undertaking, contract or matter is known to exist that might render this Agreement void, voidable or unenforceable; that Home has read this Agreement, understands its contents, and that the Special Deputy Liquidator is fully authorized to execute this Agreement freely and voluntarily on his behalf with an intent to be bound by its terms.

17. 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, and not on the basis of any representation by any other party hereto except those representations contained in this Agreement .

18. This Agreement shall 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.

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

20. It is hereby agreed that 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 Court.

21. The parties believe that the consideration for this Agreement, provided in exchange for the parties' mutual promises made herein, is fair and reasonable and that they have each received and/or paid fair market value for the reinsurance protection being commuted. The parties further agree to 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.

22. In the event of any breach of the terms or conditions of this Agreement, the party claiming such breach shall be entitled to recover from the breaching party, all costs and expenses, including, without limitation, reasonable fees and disbursements of counsel to the claiming party incurred in connection with the enforcement of this Agreement.

23. All notices under this Agreement shall be in writing and shall be deemed to be duly given and received (i) upon delivery if delivered by certified mail; or (ii) on the next Business Day if sent by overnight courier, if sent to a party to its Address for Notices on Exhibit C hereto or to such other address as any party may have furnished to the other in writing.

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

**Roger A. Sevigny, New Hampshire Commissioner of Insurance,  
Solely in his capacity as Liquidator of  
The Home Insurance Company**

By: Peter Bergelsdorf

Dated: 12-24-03

Name: Peter Bergelsdorf

Title: Special Deputy Liquidator

**The Insurance Corporation of New York**

By: Alan L. Hunt

Dated: December 22, 2003

Name: ALAN L. HUNTE

Title: PRESIDENT



**EXHIBIT A**

City Insurance Company  
The Home Indemnity Company  
The Home Insurance Company of Indiana  
Home Lloyd's Insurance Company of Texas  
The Home Insurance Company of Illinois  
The Home Insurance Company of Wisconsin

**EXHIBIT B**

Cityvest International Limited  
Cityvest Reinsurance Limited  
US International Re, Inc.  
US International Reinsurance Company  
City International Insurance Co. Ltd

**EXHIBIT C**

**Address for Notices:**

**If to Home:**

The Home Insurance Company In Liquidation  
59 Maiden Lane  
New York, New York 10038  
Attention: Jonathan Rosen  
Chief Operating Officer

**If to INSCORP:**

The Insurance Corporation of New York  
c/o Trenwick Group Ltd.  
One Canterbury Green  
Stamford, Connecticut 06901  
Attention: David B. Semeraro  
Chief Executive Officer

**and**

**General Counsel**