

**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**

**AFFIDAVIT OF PETER A. BENGELSDORF, SPECIAL DEPUTY  
LIQUIDATOR, IN SUPPORT OF MOTION FOR APPROVAL OF  
AMENDMENT TO ZURICH INFORMATION TECHNOLOGY  
SERVICES AGREEMENT**

I, Peter A. Bengelsdorf, hereby depose and say:

1. I was appointed Special Deputy Liquidator of The Home Insurance Company (“Home”), by the Commissioner of Insurance for the State of New Hampshire, as Liquidator (“Liquidator”) of Home. I submit this affidavit in support of the Liquidator’s Motion for Approval of Amendment to Zurich Information Technology Agreement. The facts and information set forth are either within my own knowledge gained through my involvement with this matter, in which case I confirm that they are true, or are based on information provided to me by others, in which case they are true to the best of my knowledge, information and belief.

2. The present motion concerns an amendment, dated October 28, 2006, (the “Amendment”) to the Information Technology Services Agreement, dated December 17, 2003 (the “Agreement”), between Home and Zurich American Insurance Company (“Zurich”). A copy of the Amendment is attached as Exhibit A to the motion. The Amendment is subject to approval by the Court. Amendment ¶ 9.

3. The Court approved the Agreement in an order entered March 19, 2004. As described more fully in the Liquidator’s Motion for Approval of Zurich Information Technology

Services Agreement (March 11, 2004), prior to 2003, Risk Enterprise Management Limited (“REM”) administered the run-off of Home, and REM outsourced the maintenance and operation of Home’s back-end “legacy” systems to Zurich under an information technology service agreement. In 2003, Home went into liquidation and the Liquidator executed the Agreement to ensure that Zurich would continue to provide information technology services to Home.

4. Under the Agreement, Zurich has provided the Liquidator with the same information technology services supporting the legacy systems as it previously provided under the Zurich/REM contract. The services include:

- a. operating, managing, and maintaining the equipment and computer programs used in connection with the liquidation of Home;
- b. furnishing information and data processing reports to Home;
- c. correcting errors in the equipment and computer programs utilized;
- d. storing and safeguarding the storage media containing Home’s data and computer software;
- e. maintaining off-site disaster recovery capabilities. See Agreement ¶ 3.2.

5. The Agreement has a five-year renewable term that expires in December 2008. Agreement ¶ 2.2. The information technology services provided by Zurich under the Agreement are critical to the liquidation of Home, and the Liquidator accordingly wants to ensure that Zurich continues to provide those services after 2008. The purpose of the Amendment is to

extend the term of the Agreement for an additional five years, to December 2013. This is the primary substantive change wrought by the Amendment. See Amendment ¶ 3.

6. The Amendment also includes changes to certain cost provisions. The Amendment provides that the “Monthly Charge” will not be increased over the rate of the current consumer price index, barring unforeseen increases in Home’s transaction volume or increases in the costs to Zurich of third party suppliers of services. This replaces the former requirement that monthly charges not exceed the average charge for the first six months of the contract.

Amendment ¶ 4; Agreement ¶ 7.1.

7. The Amendment also revises a number of the exhibits to the Agreement to reflect the parties’ needs and practices. None of these changes constitutes a significant alteration in the Agreement. The Amendment deletes former Exhibits A (DP Report Listing and Description), B (Third Party Software Application Maintenance), and H (Programs in Production). The reports provided for in Exhibit A have been greatly reduced; Exhibits B and H provided for maintenance of software which is no longer in use. The Amendment replaces Exhibits C (Backup Procedures), D (Summary of Disaster Recovery Plan), F (Operating Level Agreement), and G (Change Management Process) with updated versions. The changes to these exhibits reflect changes in Zurich’s practices and procedures since the Agreement was executed. Exhibit F is now described as a Service Level Agreement, and it details the actual services Zurich provides with minor alterations tracking the changes in Zurich’s internal procedures.

8. It is expected that, under the Amendment, Home’s monthly obligations to Zurich will not change significantly. Home currently pays approximately \$31,000 a month based on the liquidation’s present utilization of Zurich’s services, and the Liquidator estimates that the

monthly payments will stay the same next year. The fee structure remains substantively the same, the Unit Costs continue to be Zurich's actual costs without markup (Amendment ¶ 2), and the changes to the definitions of "Unit Costs" and "Monthly Charges" will not increase Home's obligations. The Amendment provides increased cost protection in the future by limiting price increases to the consumer price index. (The former limitation to the average monthly cost of the first six months of the contract is no longer relevant because at that time the Liquidator used many more services so that the monthly payments were approximately \$75,000.) Further, the Amendment does not affect the "most favored nation" provision in the Agreement, so that the charges for Zurich's services will be no more than what Zurich charges its own affiliates. Agreement ¶ 7.3.

9. I believe that the Amendment is fair and reasonable and that it is in the best interests of the liquidation and of the policyholders and other creditors of Home. The information technology services being provided are essential to the liquidation of Home. They are being provided at Zurich's actual cost and subject to the "most favored nation" clause, and securing the continuation of these services without disruption will save Home the expense of relocating the data or negotiating a less favorable agreement with another vendor.

Signed under the penalties of perjury this 8<sup>TH</sup> day of November \_\_\_\_, 2006.

*Peter A. Bengelsdorf*

Peter A. Bengelsdorf  
Special Deputy Liquidator of The Home Insurance  
Company

STATE OF NEW HAMPSHIRE  
COUNTY OF MERRIMACK

Subscribed and sworn to, before me, this 8<sup>th</sup> day of November, 2006.

*Nicole St. Hilaire*  
Notary Public/Justice of the Peace

NICOLE M. ST. HILAIRE, Notary Public  
My Commission Expires December 18, 2007

