

**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**

**MOTION FOR APPROVAL OF AGREEMENT WITH TRYG**

John R. Elias, Insurance Commissioner of the State of New Hampshire, as Liquidator (“Liquidator”) of The Home Insurance Company (“Home”), hereby moves that the Court enter an order in the form submitted herewith approving the Agreement and Release (the “Agreement”) between the Liquidator and Tryg Forsikring A/S (“Tryg”). As reasons for this motion, the Liquidator respectfully states:

1. This motion seeks approval of the Agreement between the Home and Tryg. A redacted copy of the Agreement is attached as Exhibit 1. A complete copy of the Agreement is attached to the Confidential Affidavit of Peter A. Bengelsdorf, Special Deputy Liquidator, in Support of Approval of Agreement with Tryg (“Bengelsdorf Confidential Affidavit”) submitted herewith under seal. The Agreement is subject to approval by the Court. Agreement ¶ 5. Bengelsdorf Confidential Affidavit ¶ 2.

2. As a part of its business, Home entered into reinsurance agreements with numerous reinsurers under which Home ceded and the reinsurers assumed a portion of Home’s obligations. Collection of reinsurance is the principal asset marshalling task of the Home liquidation. Bengelsdorf Confidential Affidavit ¶ 3.

3. Tryg is a Danish insurance company. The Liquidator contends that Tryg is the successor to the obligations of Skandinavia Insurance Company (“Skandinavia-DK”) under

various reinsurance contracts that Skandinavia-DK, or its subsidiary Skandinavia Insurance Company Ltd. (“Skandinavia-US”), issued, as a member of the Agency Managers Limited Reinsurance Pool (“Agency Managers Pool”), to Home. Home was a cedent to the Agency Managers Pool, and the Liquidator contends that Tryg is liable to Home under certain reinsurance contracts alleged by Home to be within the Agency Managers Pool (the “Skandinavia-US Share of the Agency Managers Pool”). See Agreement, Recital 1.2. Bengelsdorf Confidential Affidavit ¶ 4.

4. Tryg has denied these claims based, in part, on actions of Home and in part on actions taken and assertions made by Cerberus Holding Company, LLC (“Cerberus Holding”), which had entered into an Assumption and Assignment Agreement with Tryg as of January 1, 2008. See Agreement, Recital 1.3. See also Recitals 1.4-1.6. Bengelsdorf Confidential Affidavit ¶ 5.

5. In June 2016, the Liquidator commenced an action against Tryg in the United States District Court for the Southern District of New York (the “Home Action”), alleging that Tryg was liable to Home for the Skandinavia-US Share of the Agency Managers Pool, which Tryg denied. Agreement, Recitals 1.2-1.3. Bengelsdorf Confidential Affidavit ¶ 6.

6. Tryg and the Liquidator engaged in settlement discussions which led to the Agreement. The Agreement resolves the Home Action and is a compromise that avoids the expense and risk associated with pursuing litigation. The Agreement does not constitute an admission of liability and is not and shall not be construed as an admission of the truth of any of the allegations or assertions made by either party. Agreement ¶ 2. It resolves any and all disputes between Home and Trygg. Agreement ¶ 3. Bengelsdorf Confidential Affidavit ¶ 7.

7. The Agreement resolves the Home Action and disputes between the Liquidator and Tryg for a payment to Home of a sum certain. Agreement ¶¶ 6, 16. The Agreement includes broad releases by the Liquidator and Tryg of each other. Agreement ¶¶ 9, 10. After the Liquidator receives the settlement sum, the Home Action will be dismissed with prejudice. Agreement ¶ 24. The other provisions of the settlement are set forth in the Agreement. Bengelsdorf Confidential Affidavit ¶ 11.

8. The Bengelsdorf Confidential Affidavit summarizes the reasons that support the determination to enter the Agreement. Bengelsdorf Confidential Affidavit ¶¶ 8-16. For the reasons set forth in the Bengelsdorf Confidential Affidavit, the Liquidator submits that the Agreement is fair and reasonable and in the best interests of the policyholders and other creditors of Home. The Agreement will convert disputed reinsurance obligations into immediate cash and avoid delay in the collection of reinsurance. Bengelsdorf Confidential Affidavit ¶ 17.

WHEREFORE, the Liquidator respectfully requests that this Court:

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

Respectfully submitted,

JOHN R. ELIAS, INSURANCE  
COMMISSIONER OF THE STATE OF  
NEW HAMPSHIRE, SOLELY AS  
LIQUIDATOR OF THE HOME  
INSURANCE COMPANY,

By his attorneys,

GORDON J. MACDONALD  
ATTORNEY GENERAL

J. Christopher Marshall  
NH Bar ID No. 1619  
[J.Christopher.Marshall@doj.nh.gov](mailto:J.Christopher.Marshall@doj.nh.gov)  
Civil Bureau  
New Hampshire Department of Justice  
33 Capitol Street  
Concord, NH 03301-6397  
(603) 271-3650



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J. David Leslie  
NH Bar ID No. 16859  
[dleslie@rackemann.com](mailto:dleslie@rackemann.com)  
Eric A. Smith  
NH Bar ID No. 16952  
[esmith@rackemann.com](mailto:esmith@rackemann.com)  
Rackemann, Sawyer & Brewster P.C.  
160 Federal Street  
Boston, MA 02110  
(617) 542-2300

December 3, 2018

**Certificate of Service**

I hereby certify that a copy of the foregoing Motion for Approval of Agreement with Tryg and the Proposed Order Approving Agreement with Tryg were sent, this 3d day of December, 2018, by first class mail, postage prepaid to all persons on the attached service list. The Confidential Affidavit being filed under seal was not so served.



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Eric A. Smith  
NH Bar ID No. 16952

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

In the Matter of the Liquidation of  
The Home Insurance Company  
Docket No. 217-2003-EQ-00106

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  
250 West 55th Street  
New York, NY 10019-9601

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

Samantha D. Elliott, Esq.  
Gallagher, Callahan & Gartrell, P.C.  
214 North Main Street  
Concord, NH 03301

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, 22<sup>nd</sup> Floor  
San Francisco, California 94111

Jeffrey W. Moss, Esq.  
Morgan Lewis & Bockius, LLP  
One Federal Street  
Boston, Massachusetts 02110

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 7<sup>th</sup> Avenue South  
Great Falls, Montana 59405

Paul W. Kalish, Esq.  
Ellen M. Farrell, 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, 14<sup>th</sup> 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.  
Michael S. Lewis, Esq.  
Rath Young Pignatelli  
One Capital Plaza  
Concord, New Hampshire 03302-1500

Robert E. Murphy, Esq.  
Michael J. Tierney, Esq.  
Wadleigh, Starr & Peters, PLLC  
95 Market Street  
Manchester, New Hampshire 03101

Mark J. Andreini, Esq.  
Jones Day  
North Point  
901 Lakeside Avenue  
Cleveland, Ohio 44114-1190

Paul A. Zevnik, Esq.  
Morgan, Lewis & Bockius LLP  
1111 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004

Michel Y. Horton, Esq.  
Morgan, Lewis & Bockius LLP  
300 South Grand Avenue, Suite 4400  
Los Angeles, California 90071

Hilary Loynes Palazzolo, Esq.  
Keith Dotseth, Esq.  
Larson King  
30 East Seventh Street, Suite 2800  
Saint Paul, Minnesota 55101

**AGREEMENT AND RELEASE**

**THIS AGREEMENT AND RELEASE** (the “Agreement”) is made and entered into by and between John R. Elias, New Hampshire Insurance Commissioner, solely in his capacity as Liquidator (the “Liquidator”) of The Home Insurance Company (“Home Insurance”) and Tryg Forsikring A/S (“Tryg”). The Liquidator and Home Insurance are collectively referred to in this Agreement as “Home.” Home and Tryg are referred to collectively herein as the “Parties” and each is individually referred to herein as a “Party.”

**RECITALS**

1. The Parties acknowledge the truth, accuracy and correctness of the following recitals and incorporate the same into this Agreement, relying on specific representations and sources of information where stated.

1.1 Home represents and warrants that Home Insurance is in liquidation pursuant to the June 13, 2003 Order of Liquidation issued by the Superior Court of the State of New Hampshire, Merrimack County (the “Liquidation Court”), pursuant to which the Liquidator was appointed as the Liquidator of Home Insurance.

1.2 On June 23, 2016, Home commenced an action (the “Home Action”) against Tryg in the United States District Court for the Southern District of New York (Case No. 16-Civ. 4874 (NRB)(HBP), in which action Home alleged that Tryg was the successor to Skandinavia Insurance Company (“Skandinavia-DK”) under various reinsurance contracts which Skandinavia-DK, or its subsidiary, Skandinavia Insurance Company Ltd. (“Skandinavia-US”) issued as a member of the Agency Managers Limited Reinsurance Pool (“Agency Managers Pool”) as to which Home was a cedent and claimed that Tryg was therefore liable to Home under certain reinsurance contracts alleged by Home to be within the Agency Managers Pool (the “Skandinavia-US Share of the Agency Managers Pool”).

1.3 Tryg answered and denied Home’s claims based, in part, on actions of Home and in part on actions taken by and assertions made by Cerberus Holding Company, LLC (“Cerberus Holding”), which had entered into an Assumption and Assignment Agreement with Tryg as of January 1, 2008 (“Assumption Agreement”), more than eight years before Home sued Tryg,



whereby Cerberus Holding assumed all of Tryg's rights, liabilities and obligations, as the successor in interest for Skandinavia-US emanating from and/or related to the participation of Skandinavia-US in the Agency Managers Pool.

1.4 According to information available to Home, Cerberus Holding notified Home and ROM Reinsurance Management Company ("ROM"), the successor to Agency Managers, Inc. and manager of the Agency Managers Pool, of its assumption of the Skandinavia-US Share of the Agency Managers Pool and was invoiced by Home, or ROM on its behalf and paid such invoices, from 2008 through 2010.

1.5 According to information available to Home, beginning in 2010, Cerberus Holding claimed to Home that the Skandinavia-US Share of the Agency Managers Pool had been transferred away from Tryg when Tryg sold a US subsidiary in 2000 such that Tryg was thereafter not the successor in interest to the Skandinavia-US Share of the Agency Managers Pool as of that time such that neither Cerberus Holding, as successor in interest to Tryg under the Assumption Agreement, nor Tryg, were the successor in interest to the Skandinavia-US share of the Agency Managers Pool, but that a different entity was. Home contested that assertion and it, among other factual disputes, remains unresolved in the Home Action.

1.6 According to information available to Home, beginning in 2010, Cerberus Holding ceased to pay invoices arising from the Agency Managers Pool.

1.7 After being sued by Home in 2016, Tryg commenced a Third-party Action against Cerberus Holding claiming, among other things, for contractual indemnification under the Assumption Agreement, and for breach of the Assumption Agreement, for all amounts that it had expended or would spend in investigating and defending the Home Action and with respect to the Third-party Action and for the full amount of any judgment Home might obtain against Tryg in the Home Action plus all costs and expenses.

1.8 Home later made a direct claim against Cerberus Holding under Fed. R. Civ. P. Rule 14(a)(3).

1.9 The Court has entered default against Cerberus Holding on Tryg's Third-party Action against it and Home's Rule 14(a)(3) claim against it.

1.10 Cerberus Holding was given notice of the settlement discussions between Home and Tryg and was invited to participate in them but did not respond to such notice and invitation.

**NATURE, INTENT AND PURPOSE**

2. The Parties acknowledge that this Agreement has been executed to compromise and settle disputed claims to avoid the expense and risk associated with pursuing litigation of the Home Action [REDACTED]

[REDACTED] The Agreement and the actions taken pursuant thereto do not constitute an acknowledgment or admission of any liability or any wrongdoing of any kind by either Party. It is expressly understood that any and all acts that are to be performed pursuant to this Agreement are not to be and will not be construed as a concession and/or an admission by either of the Parties hereto, or by anyone else, of the truth of any of the allegations or assertions made against either of the Parties.

3. The purpose of this Agreement is to resolve and settle finally any and all disputes between Home and Tryg including the claims brought by Home, the defenses and counterclaim asserted by Tryg, and the defenses to the counterclaim asserted by Home, in the Home Action,

[REDACTED]

3.1 [REDACTED]

3.2 The Parties agree that it is mutually in their best interests to fully and finally settle the Home Action [REDACTED]

[REDACTED] with immediate effect and enter into mutual releases relating thereto, all in accordance with the terms and conditions hereinafter contained.

4. 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 to the terms set forth herein.

#### EFFECTIVE DATE

5. This Agreement shall only become effective after it has been fully executed and as of the date on which it will have been unconditionally approved by the Liquidation Court (the "Effective Date") except that Tryg's obligations under the Agreement shall become effective and enforceable only as of the date on which Home notifies Tryg in writing of said court approval and transmits documentation of same. This Agreement is conditioned upon approval by the Liquidation Court and in the event that the Liquidation Court does not approve this Agreement, it shall be deemed null and void *ab initio* and of no force or effect.

#### SETTLEMENT PAYMENT

6. The agreed consideration to be remitted by Tryg to Home [REDACTED] (the "Settlement Sum"). The Settlement Sum shall be paid by Tryg to Home by wire transfer of funds directed as follows:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

The Settlement Sum shall be transferred free and clear of and without any deduction for or on account of any set-off or counterclaim. The Settlement Sum shall be paid by Tryg to Home after the receipt by Tryg of notice of the unconditional approval of the Agreement by the Liquidation Court ("Liquidation Court Approval") as follows:

- a. If notice of the Liquidation Court Approval is received by Tryg on or before December 15, 2018, Tryg will pay the Settlement Sum by December 31, 2018;
- b. If notice of the Liquidation Court Approval is received by Tryg after December 15, 2018, Tryg will use its best efforts to pay the Settlement Sum on or before December 31, 2018, but in any event within forty-five (45) calendar days.

7. If Tryg fails to pay any portion of the Settlement Sum within forty-five (45) days of Liquidation Court Approval, Tryg shall pay: (1) interest on any unpaid amounts at the rate of ■ (compounded annually) per year from the Effective Date; and (2) any and all costs, including reasonable attorneys' fees, incurred by Home in recovering the Settlement Sum in full (the "Collection Costs"). The acceptance by Home of the 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 Settlement Sum had been made in full within ten (10) business days after the Effective Date.

8. Notwithstanding the provisions of Paragraph 7, in the event that Tryg fails to pay any portion of the Settlement Sum within forty-five days of Liquidation Court Approval (and notwithstanding and without prejudice to any claim that may be asserted by the Liquidator for interest and Collection Costs), the Liquidator shall be entitled, at his sole discretion, to either seek enforcement of this Agreement or, by notice in writing to Tryg, to terminate this Agreement and return all amounts already paid, in which event: (a) this Agreement shall be null and void; (b) the *status quo ante* of the Parties shall be fully restored; and (c) all of the rights and obligations of the Parties with respect to the Reinsurance Agreements shall be fully reinstated as if this Agreement had never been made.

#### **MUTUAL RELEASES**

9. For and in consideration of the Settlement Sum, the release herein of Home, and other consideration in this Agreement and except for the obligations set forth in this Agreement,

the Liquidator on behalf of Home Insurance, its officers, directors, employees, agents, attorneys, subsidiaries, affiliates, shareholders, parents, and their respective predecessors, successors and assigns, irrevocably and unconditionally releases and discharges Tryg, its officers, directors, employees, agents, attorneys, subsidiaries, affiliates, shareholders, parents, and their respective predecessors, successors and assigns to the extent permitted by applicable law from any and all liabilities, adjustments, obligations, offsets, actions, causes of action, suits, debts, dues, sums of money, accounts, reckonings, premiums, returned premiums, unearned premiums, losses, salvage, specialties, commissions, variances, expenses, acts, omissions, bonds, bills, covenants, contracts, controversies, agreements, promises, trespasses, damages, judgments, extents, executions, claims and demands whatsoever, all whether known or unknown to one or both parties, suspected or unsuspected, fixed or contingent, in law, admiralty or equity, which the Liquidator or Home Insurance ever had, now has, or hereafter may have against Tryg by reason [REDACTED]

[REDACTED] the Home Action. Additionally, the Liquidator fully understands and expressly waives the rights and benefits of Home Insurance with respect to the Reinsurance Agreements 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.

10. For and in consideration of the dismissal of the Home Action, the release of Tryg herein, and other consideration in this Agreement and except for the obligations set forth in this Agreement, Tryg on behalf of itself, its officers, directors, employees, agents, attorneys, subsidiaries, affiliates, shareholders, parents, and their respective predecessors, successors and assigns, irrevocably and unconditionally releases and discharges the Liquidator and Home Insurance and their respective officers, directors, employees, agents, attorneys, subsidiaries, affiliates, shareholders, parents, and their respective predecessors, successors and assigns to the extent permitted by applicable law from any and all liabilities, adjustments, obligations, offsets, actions, causes of action, suits, debts, dues, sums of money, accounts, reckonings, premiums, returned premiums, unearned premiums, losses, salvage, specialties, commissions, variances, expenses, acts, omissions, bonds, bills, covenants, contracts, controversies, agreements, promises,

trespasses, damages, judgments, extents, executions, claims and demands whatsoever, all whether known or unknown to one or both parties, suspected or unsuspected, fixed or contingent, in law, admiralty or equity, which Tryg ever had, now has, or hereafter may have against the Liquidator or Home Insurance by reason of [REDACTED] the Home Action. Additionally, Tryg fully understands and expressly waives its rights and benefits with respect to the Reinsurance Agreements 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.

This release shall not release, or have the effect, directly or indirectly, of releasing, Cerberus Holding, in any respect.

#### **COOPERATION**

11. Home agrees to reasonably cooperate with Tryg in order to assist Tryg in its pursuit of any action, default, or judgment against Cerberus Holding related to the Home Action, the Agency Managers Pool, the Reinsurance Agreements and/or the Assumption Agreement including, but not limited to, seeking through such proceedings to recover the amount of the Settlement Sum.

#### **GENERAL PROVISIONS**

12. 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 (except that the Agreement does not and is not intended to directly or indirectly or in any way release Cerberus Holding from any claim of Tryg or waive any claim that Tryg had against Cerberus Holding prior to the execution of this Agreement). 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 except insofar as Tryg made such assignment to Cerberus Holding in the Assumption Agreement.

13. This Agreement embodies the final, complete and entire agreement between the Parties. The Parties acknowledge that they have entered into this Agreement in reliance on their own independent investigation and analysis of the matters forming the subject of this Agreement and their rights and obligations with respect thereto. No other representations, understandings or agreements have been made or relied upon in the making of this Agreement other than those specifically set forth or referred to herein.

14. Each Party acknowledges that it has read the Agreement, has received independent legal advice from legal counsel of its choice with respect to the advisability of entering into this Agreement, is aware of the content and legal effects of this Agreement, and has full knowledge of all rights which it may have.

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

16. This Agreement supersedes the Reinsurance Agreements. Notwithstanding anything to the contrary contained herein, this Agreement shall operate as a full and final settlement, [REDACTED]

[REDACTED] In addition, the Parties and their respective successors and assigns, except Cerberus Holding as assignee of Tryg under the Assumption Agreement, 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 Reinsurance Agreements except as necessary to enforce this Agreement.

17. The failure of any party hereto to enforce at any time any of the provisions of this Agreement shall in no way be construed to be a waiver of such provisions, nor in any way to affect

the validity of this Agreement, or any part hereof, or the rights of such party to thereafter enforce each and every such provision.

18. The Parties, without further consideration, agree to execute and deliver such other documents and take such other action as may be necessary to effect and implement this Agreement.

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

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

21. The Parties, with respect to each other, shall each bear their own attorneys' fees and costs incurred in connection with the Home Action and related actions and proceedings, and the negotiation and execution of this Agreement. The only payment of monies between them shall be the payment of the Settlement Sum. Neither this provision, nor any other term of this Agreement is intended to or shall be interpreted to mean that either Party cannot seek recovery of its attorneys'



fees, costs, the Settlement Sum, or any other funds expended by such Party against any non-party to this Agreement.

### INTEGRATION

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

### CONFIDENTIALITY

23. In addition to and separate from the Stipulated Protective Order governing the production and exchange of confidential information entered in the Action on June 20, 2018 (the “Protective Order”) the Parties, including but not limited to their attorneys, agents, successors, representatives and affiliates, agree to maintain the confidentiality of the settlement, this Agreement, and related matters, including Confidential Information of the other Party (the “Disclosing Party”). For purposes of this Agreement, “Confidential Information” shall mean the existence of the Agreement, the terms and conditions thereof with a limited exception for parts of the Agreement as the Parties agree in a Redacted Version annexed as Exhibit A hereto, and all documents and other items sent, served, or produced by or on behalf of one Party to or on the other Party or filed with the Court in connection with the Home Action which do not appear on the public docket of the Court. (Every copy of the Redacted Version must be prepared so as not to permit the redacted text to be able to be revealed by electronic means.) Each Party, in such capacity as to this Agreement, as well as being the recipient (“Recipient”) of Confidential Information, shall not disclose Confidential Information to anybody except:

(a) to the parties’ respective attorneys, employees, accountants, reinsurers, retrocessionaires, auditors and/or tax advisors, (the “Authorized Disclosees”) solely insofar as it is reasonably necessary respectively for internal business purposes or for purposes of obtaining advice and/or professional services, or for other legitimate business purposes, provided that before such a disclosure is made, each such Authorized Disclosee agrees to the extent possible in light of its professional, fiduciary, or other obligations to maintain the confidentiality of such disclosure;

(b) to regulatory entities or in connection with reports and statements that the Parties may be required to file or submit to government agencies, provided that any such report, statement,

filing, or the like be done confidentially and nonpublicly, except to the extent not permitted by law;

(c) to Cerberus Holding, or any court, arbitrator, arbitral authority, attorneys or other professionals or service providers in connection with any action, default, or judgment against Cerberus Holding by Tryg;

(d) insofar as disclosure is required to report any payment under this Agreement or any other financial aspect thereof to any taxing authority;

(e) insofar as disclosure is required or compelled pursuant to an order issued by any court of competent jurisdiction or a lawfully issued subpoena (but only to the extent, and for the purposes, stated in such order or subpoena) or as otherwise required by law, and then only after notifying the counsel identified in the following notification paragraph of this Agreement of the order or subpoena;

(f) to request or obtain approval of this Agreement from the Liquidation Court by submission of the Redacted Version for public filing and the unredacted Agreement under seal;

(g) insofar as disclosure is necessary to perform or enforce the terms of this Agreement in a manner not contemplated by the Agreement and then only as to the Redacted Version except upon agreement in writing by the Parties; and/or

(h) where mutually agreed to in writing by the Parties.

In the event of any such disclosure of Confidential Information pursuant to any of the above-listed exceptions, the involved Party and/or Recipient shall take all steps reasonably possible to protect the confidentiality of the Confidential Information and limit the dissemination to as little information to as few disclosees as possible.

23.1 With respect to the Protective Order, pursuant to Paragraph 20 thereof, this Agreement modifies the Protective Order, specifically Paragraph 18 thereof, such that Tryg may continue to possess all Confidential Information, as defined therein, after the final termination of the Home Action for the purpose of pursuing any action, default, or judgment against Cerberus Holding related to the Home Action, the Agency Managers Pool, the Reinsurance Agreements

and/or the Assumption Agreement for as long as such proceedings continue. Tryg's use of the Confidential information shall continue to be governed by the Protective Order such that Tryg can use the Confidential Information in such proceedings only after securing confidential treatment for the Confidential Information by Cerberus Holding or any court or other involved entity or person in the manner provided in the Protective Order. Tryg shall notify Home when proceedings regarding Cerberus Holding are finally terminated and Paragraph 18 of the Protective Order shall then apply as of that date.

### **THE ACTION**

24. The Parties shall enter into a Stipulation and Order of Dismissal with Prejudice of the Home Action in the form annexed hereto as Exhibit B (the "Stipulation"). It is a condition of this Agreement that counsel for Home shall execute and deliver to counsel for Tryg said Stipulation within five (5) days of receipt by Home of the Settlement Sum from Tryg. Counsel for Tryg will thereafter execute and file the Stipulation within two (2) weeks.

24.1 As part of its cooperation with Tryg as set forth herein including in Paragraph 11 hereof, Home will consent to a motion by Tryg to supplement and/or to amend its Third-party Complaint against Cerberus Holding and will consent to reasonable adjustments to the current scheduling order in the Home Action which Tryg will propose to be submitted to the Court.

### **NOTICES**

25. Any notice or communication pursuant to or regarding this Agreement shall be in writing and shall be transmitted by e-mail and first-class mail to the following addresses or to such other, alternate address as the parties hereto may designate by notice in the foregoing manner:

To Home:

Russell G. Bogin, Esq.  
Vice President & Reinsurance Counsel  
The Home Insurance Company in Liquidation  
61 Broadway  
New York, New York 10006  
USA

Tel: (212) 530-6308  
russell.bogin@homeinsco.com

Eric A. Smith, Esq.  
Rackemann, Sawyer & Brewster  
160 Federal Street, Floors 13, 14, 15  
Boston, MA 02110  
USA  
Tel: (617) 951-1127  
esmith@rackemann.com

To Tryg:

Ted G. Semaya, Esq.  
Offit Kurman, P.A.  
10 East 40<sup>th</sup> Street, 35<sup>th</sup> Floor  
New York, New York 10016  
USA  
Tel. +1.347.589.8506  
Fax +1.212.545.1656  
tsemaya@offitkurman.com

Anders Christian Carstensen  
Tryg Forsikring A/S  
Reinsurance & Risk Management, N17  
Klausdalsbrovej 601  
DK - 2750 Ballerup  
Denmark  
Mobile: +45 22 22 86 82  
Fax: +45 44 20 66 35  
anders.carstensen@tryg.dk

Lars J. Christensen  
Tryg Forsikring A/S  
Koncernfinans, N19  
Klausdalsbrovej 601  
DK - 2750 Ballerup  
Denmark  
Mobile: +45 22 20 84 11  
Fax: +45 44 20 66 35  
lars.j.christensen@tryg.dk

**EXECUTION**

26. This Agreement may be executed in multiple counterparts, each of which, when so delivered, shall be an original, but such counterparts shall together constitute one and the same instrument. The Parties agree that an imaged ink signature sent by facsimile or electronic mail to the other Party shall have the same force and effect as an original ink signature on a paper copy of this Agreement. This Agreement shall be fully executed only after each Party shall have first received delivery by email, fax or post of an executed original or counterpart from the other Party. Delivery of the executed original or counterpart shall be by counsel for each party to counsel for the other Party. Agreement shall be of no force and effect until fully executed by both Parties and approved by the Liquidation Court. All counterparts shall constitute a single agreement and any combination of copies and/or counterparts bearing the signatures of each of the Parties shall be sufficient to be used as evidence of this Agreement in any enforcement thereof.

**CHOICE OF FORUM**

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

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

**John R. Elias, New Hampshire Insurance Commissioner,  
solely in his capacity as Liquidator of The Home Insurance Company**

By: *Peter A Bengelsdorf* Date: November 28 2018  
Name: Peter A. Bengelsdorf  
Title: Special Deputy Liquidator of The Home Insurance Company

**Tryg Forsikring A/S**

By: \_\_\_\_\_ Date: November \_\_, 2018  
Title: \_\_\_\_\_

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solely in his capacity as Liquidator of The Home Insurance Company**

By: \_\_\_\_\_ Date: November \_\_, 2018  
Name: Peter A. Bengelsdorf  
Title: Special Deputy Liquidator of The Home Insurance Company

**Tryg Forsikring A/S**

By: A. CARSTENSEN / LARS CHRISTENSEN Date: November 19, 2018  
Title: SR. RISK ANALYST / PROJECT MANAGER

  
Lars J. Christensen

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**Tryg**