

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 BRIDGESTONE AMERICAS TIRE OPERATIONS LLC

John R. Elias, 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 Bridgestone Americas Tire Operations LLC, successor to Bridgestone/Firestone North American Tire, LLC, successor to Bridgestone/Firestone, Inc., formerly known as The Firestone Tire & Rubber Company (collectively, "Claimant"), 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 Bridgestone Americas Tire Operations LLC ("Bengelsdorf Aff.")

¶ 2.

2. Home issued two insurance policies under which The Firestone Tire & Rubber Company is the named insured for various policy periods between March 1, 1973 and March 1, 1976 which, together with all other insurance policies Home may have issued to The Firestone Tire & Rubber Company are referred to collectively as the "Policies". Settlement Agreement, second Whereas clause. Bengelsdorf Aff. ¶ 3.

3. Claimant filed a proof of claim in the liquidation seeking coverage in connection with liability arising out of underlying claims against Claimant which, together with all other proofs of claim hereinbefore or hereinafter filed by Claimant in the Home liquidation, are referred to collectively as the “Proof of Claim”. Settlement Agreement, third Whereas clause. Bengelsdorf Aff. ¶ 4.

4. The Liquidator denied Claimant’s claim, and Claimant objected and initiated Disputed Claim Proceeding 2015-HICIL-60. After a decision by the Referee, Claimant filed Bridgestone’s Objections to Referee’s Report on the Issue of the Number of Occurrence and Motion to Recommit to the Referee for Further Proceedings (the “Motion to Recommit”). The Motion to Recommit is fully briefed and pending before the Court. Settlement Agreement, fourth Whereas clause. On June 10, 2019, the Court stayed proceedings on the Motion to Recommit pending decision on this motion. Bengelsdorf Aff. ¶ 5.

5. Claimant was previously allowed \$507,995 as a partial Class II allowance on February 27, 2019 (the “Prior Allowance”). Settlement Agreement, fifth Whereas clause. Bengelsdorf Aff. ¶ 6.

6. The Liquidator and the Claimant have negotiated the Settlement Agreement reflecting a resolution of all matters concerning the Proof of Claim and their rights and obligations with respect to the Policies, including Disputed Claim Proceeding 2015-HICIL-60 and the Motion to Recommit. Settlement Agreement, sixth Whereas clause. The Settlement Agreement is subject to approval by the Court. Settlement Agreement ¶ 1. Bengelsdorf Aff. ¶ 7.

7. The Settlement Agreement provides that the Liquidator will recommend allowance of the Proof of Claim in the amount of \$1,750,000 (“Recommended Amount”) as a Class II priority claim under RSA 402-C:44. Settlement Agreement ¶ 2(A). The Recommended Amount is in addition to the Prior Allowance. Id. Allowance of the Recommended Amount as a

Class II claim will fully and finally resolve the Proof of Claim and all claims the Claimant has under the Policies. Id. ¶ 2(B). Distributions based on that allowance and the Prior Allowance will be made at the same intervals and at the same percentages as distributions to other Class II creditors of Home. Id. ¶ 2(C). Bengelsdorf Aff. ¶ 8.

8. The Settlement Agreement is intended to resolve the Proof of Claim and all claims that the Claimant has under the Policies, including the Disputed Claim Proceeding and the Motion to Recommit. See Settlement Agreement, sixth Whereas clause, ¶ 2(B). To that end, the Settlement Agreement provides that, upon approval of the Settlement Agreement, the Motion to Recommit shall be deemed withdrawn and Disputed Claim Proceeding 2015-HICIL-60 shall be deemed dismissed with prejudice, id. ¶ 3, and further provides for mutual releases of all claims among the Liquidator, Home, and the Claimant arising from or related to the Proof of Claim or the Policies. Id. ¶¶ 5, 6. Bengelsdorf Aff. ¶ 9.

9. In resolving all of the Claimant's claims relating to the Proof of Claim and the Policies, the Settlement Agreement is intended to resolve all matters arising out of or relating to any rights the Claimant ever had, now has, or hereafter may have in the Policies and the Proof of Claim, including any asserted rights of third-party claimants against the Claimant under the Policies. Settlement Agreement ¶ 7. The Claimant agrees to address, at its sole cost, any such claims of third-party claimants against the Claimant as if there had been no liquidation proceeding for Home and as if the Claimant had no insurance coverage from Home by virtue of the Policies. Id. The Claimant also agrees 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 amount ultimately distributed or distributable in relation to the Recommended Amount, as set forth in the Settlement Agreement. Id. Bengelsdorf Aff. ¶ 10.

10. The Liquidator is not aware of any third party claimants presently asserting claims under the Policies in the liquidation.¹ However, the denial of any third party claimants' claims without prejudice to their claims against the Claimant will not harm the third party claimants who will continue to have their claims against the Claimant. As noted above, the Claimant has agreed to address these claims as if it had no insurance coverage from Home under the Policies. Settlement Agreement ¶ 7. Third party claimants' proofs of claim against the insolvent Home, if not denied with the agreement, would release the Claimant 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, the Claimant will continue to be responsible for any third party claimants' claims against it. See Settlement Agreement ¶ 7. Bengelsdorf Aff. ¶ 11.

11. The Liquidator is not aware of any open proofs of claim asserting a claim to the same policy limit as the Proof of Claim resolved by the Settlement Agreement.² However, if a claim of another claimant is subject to the same limit of liability as the 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 ¶ 8. Bengelsdorf Aff. ¶ 12.

¹ Thirty-eight third party claimants initially filed proofs of claim under the Policies, but those claims were disallowed by orders approving Liquidator's claims reports issued October 11, 2012 and April 10, 2018.

² Two insurers filed proofs of claim asserting contribution claims regarding the Policies, but those claims were disallowed by orders approving Liquidator's claims reports issued May 27, 2016 and July 22, 2016.

12. The Settlement Agreement reflects a compromise of the claims asserted in the Proof of Claim. It is the result of negotiations involving the Claims Department, under the supervision of the Special Deputy Liquidator, which has extensive experience in assessing the exposure presented by claims under Home's insurance policies. The agreed settlement amount is based on careful evaluation and negotiation of disputed positions regarding coverage obligations under the Policies respecting the underlying liabilities of the Claimant.³ The Liquidator accordingly recommends approval of the Settlement Agreement and allowance of the \$1,750,000 settlement amount as a Class II claim of the Claimant in accordance with RSA 402-C:45 and RSA 402-C:44. Bengelsdorf Aff. ¶ 13.

13. The Court has previously approved many similar settlement agreements. See, e.g., 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

³ The Liquidator and the Claimant acknowledge and agree that the Recommended Amount is a compromise of matters in dispute and does not reflect the view of any party as to the value of Claimant's claim should the matter be adjudicated. Settlement Agreement ¶ 4.

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.

14. 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 Claimant.

15. 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. ¶ 14.

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 Claimant's claim as a Class II claim in accordance with RSA 402-C:45 and RSA 402-C:44 in the amount of \$1,750,000; 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, AS LIQUIDATOR
OF THE HOME INSURANCE
COMPANY,

By his attorneys,

GORDON J. MACDONALD
ATTORNEY GENERAL

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



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

August 13, 2019

Certificate of Service

I hereby certify that a copy of the foregoing Liquidator's Motion for Approval of Settlement Agreement with Bridgestone Americas Tire Operations LLC, the Affidavit of Peter A. Bengelsdorf, and the Proposed Order, were sent this 13th day of August, 2019, by first class mail, postage prepaid to all persons on the attached service list.



Eric A. Smith

NH Bar ID No. 16952

THE STATE OF NEW HAMPSHIRE

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SERVICE LIST

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

Gary S. Lee, Esq.
James J. DeCristofaro, Esq.
Kathleen E. Schaaf, Esq.
Morrison & Foerster
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, 22nd 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 7th Avenue South
Great Falls, Montana 59405

Stephanie V. Corrao, Esq.
Crowell & Moring
1001 Pennsylvania Avenue, N.W.
Washington, DC 20004-2595

Harry Cohen, Esq.
Crowell & Moring
590 Madison Avenue
20th Floor
New York, New York 10022-2544

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

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

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

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

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

Michael S. Lewis, Esq.
Rath Young Pignatelli
One Capital Plaza
Concord, New Hampshire 03302-1500

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, 22nd Floor
Los Angeles, California 90071

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

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release (“Settlement Agreement”) is made as of this 2d day of August 2019, by and between Bridgestone Americas Tire Operations LLC, successor to Bridgestone/Firestone North American Tire, LLC, successor to Bridgestone/Firestone, Inc., formerly known as The Firestone Tire & Rubber Company (collectively, “Claimant”), on the one hand, and John R. Elias, 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 (Claimant and the Liquidator are hereinafter referred to collectively as the “Parties”).

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, Home issued the following insurance policies under which The Firestone Tire & Rubber Company is the named insured:

<u>Policy Number</u>	<u>Policy Period</u>
HEC 4429222	3/1/73 – 3/1/76
HEC 4356801	3/1/73 – 3/1/76

which together with all other insurance policies Home may have issued to The Firestone Tire & Rubber Company are defined collectively as the “Policies”.

WHEREAS, Claimant has submitted a claim in the Home liquidation seeking coverage in connection with liability arising out of underlying claims against Claimant. Claimant’s claim has been assigned proof of claim number INSU240739, which together with any other proofs of claim, hereinbefore or hereinafter filed by Claimant in the Home liquidation are defined collectively as the “Proof of Claim”.

WHEREAS, the Liquidator denied the Claimant's claim, and Claimant objected and initiated Disputed Claim Proceeding 2015-HICIL-60. After proceedings, the Referee issued the Referee's Order on Number of Occurrences. Claimant then filed Bridgestone's Objections to Referee's Report on the Issue of the Number of Occurrences and Motion to Recommit to the Referee for Further Proceedings ("Motion to Recommit") with the Liquidation Court. The Motion to Recommit is fully briefed and pending.

WHEREAS, the Claimant was previously allowed \$507,995 as a partial Class II allowance pursuant to the Referee's Order Adopting Stipulation of the Parties and the approval of the Liquidation Court in its April 11, 2019 Order Approving Report of Claims and Recommendations as of February 27, 2019 (the "Prior Allowance"), which is not affected by this Settlement Agreement.

WHEREAS, the Parties are desirous of resolving all claims that were asserted, or could have been or could be asserted, between them and resolving all matters concerning the Proof of Claim and their rights and obligations with respect to the Policies, including Disputed Claim Proceeding 2015-HICIL-60 and the Motion to Recommit.

WHEREAS, the Parties agree that this Settlement Agreement is subject to and conditioned upon its approval by the Liquidation Court and allowance of the Recommended Amount (as defined below) into the Home liquidation and in the event that the Liquidation Court does not approve the Settlement Agreement and allow the Recommended Amount, this Settlement Agreement shall be null and void and without any force or effect;

NOW, THEREFORE, in consideration of all the respective transactions contemplated by this Settlement Agreement, and the mutual covenants and representations herein contained, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Effectiveness. This Settlement Agreement is conditioned and shall only become effective (the "Effective Date") upon approval by the Liquidation Court. The Liquidator shall move for approval of this Settlement Agreement promptly following execution by all Parties.

2. Recommendation, Allowance, and Classification of Claims.

A. Subject to all the terms of this Settlement Agreement, and with the agreement of Claimant, which by Claimant's execution hereof is hereby granted, the Liquidator shall recommend pursuant to N.H. RSA 402-C:45 that the Proof of Claim be allowed in the amount of \$1,750,000 (the "Recommended Amount") as a Class II priority claim under N.H. RSA 402-C:44. The Recommended Amount is in addition to the Prior Allowance. 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 Proof of Claim and any and all claims of whatever nature that Claimant has under the Policies. In the event that the Liquidation Court does not allow the Recommended Amount as a Class II claim, this Settlement Agreement shall be null and void and shall have no force and effect and the Parties will be returned to *status quo ante*, as if no such agreement was ever reached, with this Settlement Agreement thereafter being inadmissible for any purpose in any dispute between the Parties.

C. If and when the Liquidation Court allows the Recommended Amount as a Class II claim, Claimant will become a Class II creditor in the Home liquidation pursuant to N.H. RSA 402-C:44, and Claimant 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. Any future distributions on the Prior Allowance will also be at the same intervals and the same percentages as other Class II creditors of Home. All distributions on the allowed amount and the Prior Allowance shall be made payable to Bridgestone Americas Tire Operations LLC. and sent to the Claimant at the following address:

Bridgestone Americas Tire Operations LLC
200 4th Avenue South
Nashville, TN 37201
Attn: David M. Dumas
Associate General Counsel,
Legal Recoveries and Environmental

Claimant agrees that it will promptly notify the Liquidator of any change of address or addressee.

3. Resolution of Proceedings. Upon approval of this Settlement Agreement by the Liquidation Court, the Motion to Recommit shall be deemed withdrawn and Disputed Claim Proceeding 2015-HICIL-60 shall be deemed dismissed with prejudice.

4. Agreement as to Recommendation and Allowance. The Claimant and the Liquidator acknowledge and agree that the Recommended Amount is a compromise of matters in dispute and does not reflect the view of any Party as to the value of Claimant's claim should the matter be adjudicated.

5. Release by Claimant. Subject to the terms of this Settlement Agreement and the Liquidation Court's approval of the Recommended Amount as a Class II claim, Claimant for itself and on behalf of each of its officers, directors, employees, agents, attorneys, subsidiaries, affiliates, predecessors (including The Firestone Tire & Rubber Company and its subsidiaries and affiliates), 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 Proof of Claim or the Policies, in law, admiralty, or equity, which Claimant, its subsidiaries, affiliates, predecessors (including The Firestone Tire & Rubber Company and its subsidiaries and affiliates), 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 Proof of Claim or the Policies.

6. Release by Liquidator. Subject to the terms of this Settlement Agreement and the Liquidation Court's approval of the Recommended Amount as a Class II claim, the Liquidator, in his capacity as such, and on behalf of Home and each of its officers, directors, employees, agents, attorneys, subsidiaries, affiliates, predecessors, and their successors and assigns, irrevocably and unconditionally releases and discharges Claimant and each of its 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 Proof 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 Claimant or its 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 Proof of Claim or the Policies.

7. Resolution of Matters and Indemnification. Claimant acknowledges that this Settlement Agreement is intended to resolve all matters arising out of or relating to any rights Claimant ever had, now has or hereafter may have in the Policies and the Proof of Claim, including any asserted rights of third-party claimants against Claimant under the Policies, and Claimant agrees to address, at its sole cost and expense, any such claims of third-party claimants against Claimant as if there had been no liquidation proceeding for Home and as if Claimant 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, Claimant agrees 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 Proof of Claim or the Policies, excluding the Liquidator's costs and expenses of handling a claim incurred prior to the initiation of a disputed claim proceeding, and such indemnification shall be capped at the total amount ultimately distributed or distributable (based on application of the approved distribution percentage) in relation to the Recommended Amount as allowed by the Liquidation Court. The future obligations of Claimant 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 Claimant, or by any individuals or entities asserting "direct action" claims arising out of or related to the Policies. The Liquidator shall promptly notify Claimant of any such claim, and

shall afford Claimant 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. Claimant shall cooperate with the Liquidator (including but not limited to the provision of affidavits or testimony) to defend against and resolve such claims. Claimant may object if the Liquidator seeks approval from the Court of an allowance for such a claim to which Claimant does not agree. The Liquidator represents and warrants that he is presently unaware of any claims in the Home liquidation that would trigger an indemnification obligation of Claimant pursuant to this Settlement Agreement.

8. Multiple Claims. The Home policies against which this claim is made contain certain limits. New Hampshire RSA 402-C:40, IV provides that in the event multiple claims against such a policy 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 unaware of any claim in the Home Liquidation asserting a claim subject to the same limit in the Home policies as this claim. 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, to the extent required by RSA 402-C:40, IV. The Liquidator will be unable to determine whether, or the extent to which, Claimant's claim may be subject to proration until all claims against the policy have been determined. If the aggregate allowed amount of claims exceeds the applicable limit such that Claimant's claim is subject to proration, the Liquidator will inform Claimant accordingly.

9. Mutual Release of Settling Carriers. Claimant agrees to use reasonable commercial efforts to cause any settlement agreement relating to the underlying matters covered by the Proof

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 Proof 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 Proof of Claim against any other insurance company which executes a settlement with Claimant that includes a provision that is materially the same as this paragraph.

10. No Assignments. 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 Proof of Claim, or the claims, losses and expenses released herein, to any person or entity. Claimant 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.

11. 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. Claimant acknowledges it is aware of the requirements of the Medicare Secondary Payer Act and the Medicare, Medicaid and SCHIP 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. Claimant acknowledges that it may be obligated, and otherwise agrees, to provide data, if and when required or requested, for CMS regarding claimants who will

share in distributions from Claimant's assets that include a portion of the Recommended Amount.

12. 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, the Prior Allowance, or this Settlement Agreement shall be the Liquidation Court.

13. 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.

14. No Third Party Rights. This Settlement Agreement is entered into solely for the benefit of the Liquidator, Home, and Claimant and is not intended to, and does not give or create any rights to or in any person or entity other than the Parties.

15. Counterparts. This Settlement Agreement may be executed in multiple counterparts, each of which, when so delivered, shall be an original, but such counterparts shall together constitute one and the same instrument. The Parties agree that a signature sent by facsimile or electronic mail to the other Party shall have the same force and effect as an original signature.

16. Power and Authority to Execute. Subject to the approval of the Liquidation Court required by paragraph 1, each Party hereto represents and warrants that it has the full power and

authority to execute, deliver, and perform this Settlement Agreement; that all requisite and necessary approvals have been obtained to consummate the transactions contemplated by this Settlement Agreement; that there are no other agreements or transactions to which it is a party that would render this Settlement Agreement or any part thereof, void, voidable or unenforceable; that each individual signing on behalf of a Party has been duly authorized by that Party to execute this Settlement Agreement on its behalf; and that no claims being released under the terms of this Settlement Agreement have been assigned, sold, or otherwise transferred to any other entity.

17. 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.

18. 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.

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

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

21. 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.

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

If to the Claimant, to:

Bridgestone Americas Tire Operations LLC
200 4th Avenue South
Nashville, TN 37201
Attn: David M. Dumas
Associate General Counsel,
Legal Recoveries and Environmental

and

Mark J. Andreini
Joseph Z. Czerwien
Jones Day
Northpoint
901 Lakeside Avenue
Cleveland, OH 44114
Email: mjandreini@jonesday.com

If to the Liquidator, to:

Thomas W. Kober
Chief Claims Officer
The Home Insurance Company in Liquidation
61 Broadway, 6th Floor
New York, New York 10006
Email: tom.kober@homeinsco.com

and

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

and

J. David Leslie, Esq./Eric A. Smith, Esq.
Rackemann, Sawyer & Brewster, P.C.
160 Federal Street
Boston, Massachusetts 02110-1700
Email: dleslie@rackemann.com; esmith@rackemann.com

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

WHEREFORE, the Parties have caused this Settlement Agreement to be executed on their respective behalves by their duly authorized representatives.

**BRIDGESTONE AMERICAS TIRE OPERATIONS,
LLC**

By: David M. Dumas

Name: David M. Dumas

Title: Associate G.C., Legal Recourses and Environmental

Date: August 8, 2019

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

By: _____

Name: _____

Title: _____

Date: August _____, 2019

WHEREFORE, the Parties have caused this Settlement Agreement to be executed on their respective behalves by their duly authorized representatives.

**BRIDGESTONE AMERICAS TIRE OPERATIONS,
LLC**

By: _____

Name:

Title:

Date: August ____, 2019

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

By: Thomas V. Kozem

Name: Thomas V. Kozem

Title: Chief Claims Officer

Date: August 8, 2019