

**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**

**CENTURY INDEMNITY COMPANY'S RESPONSE TO THE LIQUIDATOR'S MOTION  
FOR APPROVAL OF SETTLEMENT AGREEMENTS WITH BORG WARNER MORSE  
TEC LLC, BORG WARNER, INC., FLOWSERVE CORPORATION AND YORK  
INTERNATIONAL CORPORATION**

Century Indemnity Company, in its capacity as successor to Indemnity Insurance Company of North America ("IINA"), by its attorneys, respectfully submits this Response to the Liquidator's Motion for Approval of Settlement Agreements with Borg Warner Morse TEC LLC, Borg Warner, Inc., Flowserve Corporation, and York International Corporation.

The Liquidator's Motion seeks approval of three settlement agreements. The first settlement agreement is between the Liquidator and both Borg Warner Morse Tec LLC and Borg Warner, Inc. (collectively "Borg Warner"); the second is between the Liquidator and Flowserve Corporation; and the third is between the Liquidator and York International Corporation ("York"). The Liquidator's Motion states that all three settlement agreements relate to two insurance policies issued by Home Insurance Company to Borg Warner Corporation for various policy periods between July 1, 1968 and September 1, 1974 (the "Home Policies"). The Liquidator's motion further states that Borg Warner Morse TEC LLC and York are both successors with respect to certain liabilities related to Borg Warner Corporation and have certain rights under the Policies.

According to the Motion, Borg Warner submitted a proof of claim in the Home liquidation seeking coverage under the Home Policies for asbestos bodily injury exposures, and

that Burns International Services Corporation filed proofs of claim in the Home liquidation seeking coverage under the Home Policies for asbestos bodily injury exposures for itself and on behalf of Flowserve and York. The Liquidator also states that the BorgWarner Settlement Agreement reflects a resolution of all remaining matters concerning the BorgWarner Proof of Claim and the rights and obligations of the Liquidator and BorgWarner with respect to the Home Policies. Likewise, the Liquidator states that the York Settlement reflects a resolution of all matters concerning the York Proof of Claim and the rights and obligations of the Liquidator and York with respect to the Home Policies.

CIC has (or is alleged to have) issued one or more policies to BorgWarner Morse TEC LLC, Borg Warner, Inc., or York. Those policies, like the policies issued by Home, may provide coverage for underlying asbestos liabilities of the relevant policyholders whose claims are resolved by the settlement agreements. To the extent that CIC has made and/or in the future will make any payments for the underlying asbestos claims addressed in the Home Liquidator's proposed settlements in connection with policies that CIC issued, it is CIC's position that nothing in the Liquidator's settlement agreements affects, alters or in any way negates any current and/or future contribution or subrogation claim which CIC has and/or may have against the Home estate in connection with those payments (unless such claims have already been fully resolved).

The Liquidator has recognized as much in connection with his motion for the approval of other settlement agreements, by acknowledging that: "Unlike third party claimants' claims, a contribution claim is independent of the insured's claims (although derived from the same underlying circumstances), and it will be determined under applicable law in the liquidation proceeding." *E.g.*, Liquidator's Motion for Approval of the PPG Settlement Agreement with at

¶5 n.1. As a result, any current or future CIC claim for contribution or subrogation in connection with payments made to BorgWarner or York with respect to the underlying asbestos liabilities of one of the Home policyholders included within the settlement agreements addressed in the Liquidator's motion will remain to be determined in the Liquidation.

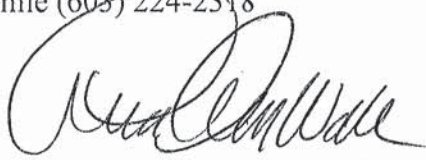
CIC requests that the Liquidator retain all claim files pertaining to BorgWarner and York. CIC reserves all of its rights including any rights against all parties; nothing in this statement shall be deemed an admission by CIC, or a waiver by CIC of any rights or remedies including, without limitation, claims or defenses.

Respectfully submitted,

CENTURY INDEMNITY COMPANY  
By its attorneys,

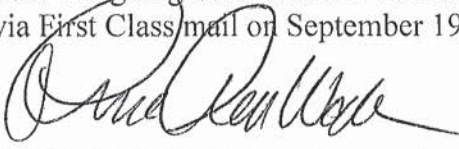
ORR & RENO, P.A.  
45 S. Main Street  
P.O. Box 3550  
Concord, NH 03302-3550  
Telephone (603) 224-2381  
Facsimile (603) 224-2318

Date: September 19, 2019

By:   
\_\_\_\_\_  
Lisa Snow Wade (#5595)

**Certificate of Service**

The undersigned certifies that a copy of the foregoing document has been served on counsel of record and the attached service list via First Class mail on September 19, 2019.

By:   
\_\_\_\_\_  
Lisa Snow Wade (#5595)

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**SERVICE LIST**

Eric A. Smith  
Rackemann Sawyer & Brewster  
160 Federal Street  
Boston, MA 02110-1700

Gary S. Lee, Esq., James J. DeCristofaro, Esq.  
Kathleen E. Schaaf, Esq., Morrison & Foerster  
1290 Avenue of the Americas  
New York, New York 10104-0050

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

Samantha D. Elliot, Esq.  
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  
332 North Magnolia Avenue  
P.O. Box 87  
Orlando, Florida 32801

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

Gerald J. Petros, Esq.  
Hinckley, Allen & Snyder LLP  
50 Kennedy Plaza, Suite 1500  
Providence, Rhode Island 02903

Robert.M. Horkovich, Esq.  
Robert Y. Chung, Esq.  
Anderson Kill & Olick, P.C.  
1251 Avenue of the Americas  
New York, New York 10020

John A. Hubbard  
615 7<sup>th</sup> Avenue South  
Great Falls, Montana 59405

Paul W. Kalish, Esq., Ellen M. Farrell, Esq.  
Timothy E. Curley, 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, 14th 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

Michael Y. Horton, Esq.  
Morgan, Lewis & Bockius LLP  
300 South Grant Avenue, Suite 4400  
Los Angeles, CA 90071

Keith A. Dotseth, Esq.  
Hilary Loynes Palazzolo, Esq.  
Larson & King, LLP  
30 East 7<sup>th</sup> St., Suite 2800  
St. Paul, MN 55101

Michael J. Tierney  
95 Market Street  
Manchester, NH 03101

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