

PLAN OF DISTRIBUTION

Whereas Orders of Liquidation with findings of insolvency have been entered with respect to or affecting creditors of the following seven underwriting syndicates (referred to collectively herein as the "Insolvent Syndicates") which had been admitted as syndicate members of the INEX Insurance Exchange, formerly known as the Illinois Insurance Exchange, (referred to herein as "the Exchange"):

- (A) Geneva Assurance Syndicate, Inc. ("Geneva"),
order entered July 11, 1996;
- (B) First Oak Brook Corp. Syndicate ("First Oak
Brook") order entered November 12, 1996;
- (C) Resure, Inc. ("Resure"),
order entered February 27, 1997;
- (D) AAI Syndicate #1, Ltd. ("AAI"),
order entered February 9, 1999;
- (E) RCA Syndicate #1, Ltd. ("RCA"),
order entered June 5, 2000;
- (F) Transco Syndicate #1, Ltd., now known as Alpine Holdings
Company ("Transco"), order affecting Transco
creditors entered June 28, 2000 in the liquidation
of its subsidiary Alpine Insurance Company;
- (G) Agora Syndicate, Inc. ("Agora"),
order entered November 15, 2000.

Whereas Nathaniel S. Shapo, the Director of Insurance of the State of Illinois ("the Director"), has been appointed the Statutory Liquidator of the seven Insolvent Syndicates in accordance with Article XIII of the Illinois Insurance Code, 215 ILCS 5/187 et seq. (referred to herein as "the Liquidator" with

respect to activities taken in this capacity);

Whereas pursuant to Article XIII of the Illinois Insurance Code, the entry of an Order of Liquidation creates an estate comprising all of the liabilities and assets of the insurer, which are vested in the Liquidator.

Whereas persons and entities who had claims against the seven Insolvent Syndicates pursuant to their contracts of insurance and reinsurance were given notice of the respective Orders of Liquidation, and were afforded the opportunity to file claims with the Liquidator;

Whereas the Exchange is an Illinois not-for-profit corporation, created pursuant to the Illinois Insurance Exchange Act, Article V 1/2 of the Illinois Insurance Code, 215 ILCS 5/107 *et seq.*, to operate as an exchange for the insurance and reinsurance of risks;

Whereas the INEX Insurance Exchange Guaranty Fund, formerly known as the Illinois Insurance Exchange Guaranty Fund ("the Guaranty Fund"), is an Illinois not-for-profit corporation, established for the protection of persons and entities insured or reinsured pursuant to policies issued by member syndicates of the Exchange through the facilities of the Exchange;

Whereas the INEX Insurance Exchange Immediate Access Security Association (referred to herein as the "Association") is an Illinois not-for profit corporation, created pursuant to

§107.26 of the Illinois Insurance Code, 215 ILCS 5/107.26, with certain responsibilities with respect to claims against insolvent syndicates, and whereas certain of the Association's responsibilities pertaining to various of the Insolvent Syndicates have been delegated, with Court approval, to the Liquidator pursuant to §107.26(c) of the Illinois Insurance Code;

Whereas the seven Insolvent Syndicates became members of the Guaranty Fund pursuant to their approval as syndicate members of the Exchange;

Whereas the Guaranty Fund's Plan of Operation (the "Plan of Operation") provides that persons or entities insured or reinsured pursuant to contracts underwritten by insolvent member syndicates issued through the Exchange could make claims against the Guaranty Fund, subject to the terms and limitations of the Plan of Operation, and *whereas* Transco withdrew as a member syndicate of the Exchange on January 9, 1997, pursuant to §23 of the Exchange's regulations;

Whereas the assets of the Guaranty Fund which would be available to satisfy claims by insureds and reinsureds of the seven Insolvent Syndicates pursuant to the terms of the Plan of Operation will be insufficient to satisfy in full the anticipated total amount of such claims;

Whereas there is a dispute between the Liquidator and the Exchange and the Guaranty Fund concerning whether the Geneva and

First Oak Brook insolvencies should be deemed to be a single insolvency pursuant to §4.9 of the Plan of Operation, which has resulted in a legal action which is pending in the Circuit Court of Cook County, Illinois, as a counterclaim in case No. 96 CH 5093;

Whereas it will be impossible for the Guaranty Fund to satisfy all of the anticipated approved covered claims relating to the seven Insolvent Syndicates regardless of whether or not the Geneva and First Oak Brook insolvencies are deemed to be one single insolvency pursuant to §4.9 of the Plan of Operation;

Whereas, in view of the impossibility of fully satisfying all of the anticipated approved covered claims which would be entitled to payment pursuant to the Plan of Operation, the most equitable and fair method of distribution of the funds available for such claims pursuant to the Plan of Operation would be a *pro rata* distribution among all insureds and reinsureds having approved covered claims arising from the seven insolvencies;

Whereas the costs of continued litigation over the applicability of §4.9 of the Plan of Operation to the Geneva and First Oak Brook insolvencies will deplete the assets of the estates of the Insolvent Syndicates and similarly will deplete the assets of the Guaranty Fund, so that continued litigation will reduce the funds available for approved covered claims arising from the seven insolvencies;

Whereas further litigation over the applicability of §4.9 of the Plan of Operation to the Geneva and First Oak Brook insolvencies cannot increase the funds available to persons and entities with approved covered claims arising from the seven insolvencies;

Whereas, the Liquidator and the Exchange and the Guaranty Fund have agreed to a dismissal of the litigation concerning the applicability of §4.9 of the Plan of Operation upon approval of this Plan of Distribution by the Circuit Court of Cook County following notice to claimants of the seven Insolvent Syndicates and a hearing on the fairness thereof;

NOW THEREFORE, the INEX Insurance Exchange and the INEX Insurance Exchange Guaranty Fund and the INEX Insurance Exchange Immediate Access Security Association have adopted this Plan of Distribution for claims of insureds and reinsureds of the seven Insolvent Syndicates.

1. The Plan of Distribution shall apply to all "claimants" as defined by §1.2(d) of the Plan of Operation, whose claims arise under policies underwritten by one or more of the seven Insolvent Syndicates issued through the Exchange, and whose claims constitute "covered claims" as defined in §1.2(f) of the Plan of Operation.

2. Payment pursuant to this Plan of Distribution shall be further limited to claimants who have submitted timely claims to

the Liquidator with respect to the seven Insolvent Syndicates, and whose claims have been brought before the court with appropriate jurisdiction with respect to said claims by the Liquidator and whose claims have been adjudicated and approved by said Court. Claimants who satisfy all of the requirements of this paragraph and paragraph 1 shall be referred to herein as "Approved Claimants" and their adjudicated and approved claims shall be referred to herein as "Approved Covered Claims." The determination of the Guaranty Fund as to whether a claim is a "covered claim" pursuant to the Plan of Operation shall be final and binding on all claimants.

3. Subject to paragraph 4 herein, the Guaranty Fund shall make available the entire amount in its Premium Surcharge Account for payment of Approved Covered Claims to Approved Claimants and for the Guaranty Fund's administrative expenses relating thereto.

4. Amounts which were contributed to the Premium Surcharge Account subsequent to November 15, 2000 (the date of the last of the seven insolvencies) and accrued interest on such subsequent contributions shall not be included in the funds which are to be made available pursuant to this Plan of Distribution for distribution to Approved Claimants and for related expenses as defined by §1.2(t) of the Plan of Operation. The funds to be made available from the Premium Surcharge Account for

distribution and related expenses shall be referred to herein as the "PSA funds."

5. Distributions to Approved Claimants shall be subject to the provisions of §4.4(a) of the Plan of Operation which limit payments from the Guaranty Fund to:

- (i) the full amount of a Covered Claim for benefits under a worker's compensation insurance coverage;
- (ii) \$10,000 per Claimant for the return of unearned premium
- (ii) \$300,000 per Claimant for all other Covered Claims; and
- (iv) the applicable limit of liability under the policy or contract applicable to such Unpaid Insurance Obligation of the Insolvent Syndicate.

Distributions to approved claimants shall also be subject to the provisions of §4.7(a) of the Plan of Distribution setting forth the priorities for payment on covered claims and related expenses.

6. Distributions to Approved Claimants shall be further subject to the provisions of §4.4(b) of the Plan of Operation. This section imposes an aggregate limit of Fifteen Million Dollars (\$15,000,000) on the payment by the Guaranty Fund for Related Expenses and Covered Claims for Unpaid Insurance Obligations with respect to any one insolvency. Thus, pursuant to this Plan of Distribution the aggregate total of payments with respect to any one of seven insolvencies shall be limited to \$15,000,000. Notwithstanding the provisions of §4.9 of the Plan of Operation, for the purposes of this Plan of Distribution each

of the seven insolvencies, including Geneva and First Oak Brook shall be deemed to be a separate insolvency subject to the aggregate payment limit of \$15,000,000.

7. Subject to the provisions of paragraphs 5 and 6 *supra*, the "PSA funds" shall be distributed to Approved Claimants on a *pro rata* basis among Approved Claimants. Distributions shall be calculated so that payments for each Approved Claimant would constitute the same percentage of the unpaid portion of the first \$300,000 of insurance and reinsurance obligations. Since it is anticipated that there will be insufficient funds available to fully pay related expenses (Class 1 payments pursuant to §4.7(a)(i) of the Plan of Operation) and covered claims for unpaid insurance and reinsurance obligations (Class 2 claims pursuant to §4.7(a)(ii) of the Plan of Operation), it is anticipated that no payments will be made with respect to unearned premiums (Class 3 claims pursuant to §4.7(a)(iii) of the Plan of Operation).

8. The Liquidator shall give written notice to the Guaranty Fund no later than 60 days after it has made its final distributions to all claimants of any Insolvent Syndicate. Said notice shall identify the amount of the distribution, the applicable INEX policy number, claim number, claimant name and address, and any other information which the Guaranty Fund shall reasonably request from the Liquidator to enable it to fulfill

its responsibilities pursuant to this Plan of Distribution.

9. After the Liquidator has made final distributions, pursuant to Section 210 of Article XIII of the Insurance Code (215 ILCS 5/210), with respect to all claimants of any of the seven Insolvent Syndicates (such Insolvent Syndicate being referred to herein as "the First Completed Syndicate"), the Guaranty Fund shall set aside an amount, not to exceed \$10,000,000, for distribution to Approved Claimants with Approved Covered Claims relating to the First Completed Syndicate. The amount to be made initially available pursuant to this paragraph shall be determined by the Guaranty Fund with the objective of assuring that all Approved Claimants with respect to all seven Insolvent Syndicates shall receive a *pro rata* distribution of PSA funds in accord with paragraph 7 herein.

10. Upon receipt of notice from the Liquidator in compliance with paragraph 8 herein, the Guaranty Fund, shall (a) determine the amount to be set aside pursuant to paragraph 9 herein, and (b) calculate the amount to be distributed therefrom to each Approved Claimant of the First Completed Syndicate which would result in each Approved Claimant of the First Completed Syndicate receiving from the Guaranty Fund the same percentage of the first \$300,000 of unpaid insurance and reinsurance obligations.

11. The Guaranty Fund shall distribute the amounts determined pursuant to paragraph 10 herein no later than 120 days after the date of the Liquidator's notice with respect to the First Completed Syndicate.

12. In the event that the Liquidator has made final distributions to all claimants of any syndicate or syndicates prior to the time when this Plan of Distribution shall become effective pursuant to the terms specified herein, the Liquidator shall give the notice required by paragraph 8 herein no later than 60 days after the effective date of this Plan of Distribution. Any such syndicate or syndicates shall be deemed to be the First Completed Syndicate.

13. At the time when the Liquidator has made final distributions to all claimants of one or more other Insolvent Syndicates following distributions to the First Completed Syndicate, the Guaranty Fund, after receipt of the notice required herein pursuant to paragraph 8, shall determine an amount to be distributed from the PSA funds so that Approved Claimants of each subsequent Insolvent Syndicate would receive the same percentage of the first \$300,000 of unpaid insurance and reinsurance obligations as had been paid to Approved Claimants of the First Completed Syndicate. The Guaranty Fund shall distribute to Approved Claimants the amounts so determined no

later than 120 days after Liquidator's paragraph 8 notice concerning an Insolvent Syndicate.

14. The Guaranty Fund may also make, at its sole discretion, other interim payments to Approved Claimants in amounts that will preserve the *pro rata* nature of distributions to Approved Claimants of the various Insolvent Syndicates.

15. When all seven of the liquidation proceedings have been concluded, the remaining amount of the PSA funds shall be distributed ratably among the Approved Claimants of the seven Insolvent Syndicates.

16. Pursuant to this Plan, the total distribution of all of the PSA funds, less related expenses of administration, will result in every Approved Claimant of the seven Insolvent Syndicates receiving the same percentage of the remaining unpaid portion of the first \$300,000 of insurance and reinsurance obligations and (subject to the aggregate limit of \$15,000,000 per Insolvent Syndicate as specified in §4.4(b) of the Plan of Operation).

17. PSA funds shall remain under the control of the Guaranty Fund until such time as they are distributed to Approved Claimants pursuant to this Plan of Distribution.

18. In addition to sums in the Premium Surcharge Account, certain amounts held in individual Syndicate Guaranty Fund Custodial Accounts ("Custodial Accounts") of present and former

syndicate members of the Exchange, established pursuant to §3.3 of the Plan of Operation, may be available with respect to any shortfall between the total of the unpaid portion of the first \$300,000 of an Approved Claimant's approved covered claims and the amounts paid pursuant to this Plan of Distribution with PSA funds.

19. The availability of funds from Custodial Accounts for payment on approved covered claims relating to the seven Insolvent Syndicates is restricted pursuant to the applicable terms of the Plan of Operation, including §4.5(a)(iv), §4.6(e), and §4.8., as well as pursuant to provisions of the Exchange's rules and regulations and other agreements relating to the Custodial Accounts.

20. Funds in the relevant syndicate Custodial Accounts which are available for payment on approved covered claims of the seven Insolvent Syndicates shall be disbursed by the Guaranty Fund to Approved Claimants subsequent to the final disbursement of the PSA funds.

21. Within 120 days after the final disbursement of the PSA funds, the Guaranty Fund shall determine the total amount of funds in the relevant syndicate Custodial Accounts which are available for payment on approved covered claims of the seven Insolvent Syndicates ("the "Available Custodial Funds").

22. The Guaranty Fund shall thereupon determine the amount to be distributed from the Available Custodial Funds so that Approved Claimants of each of the seven Insolvent Syndicates shall have received from the Guaranty Fund (including payments from both PSA Funds and the Available Custodial Funds) the same percentage of the first \$300,000 of unpaid insurance and reinsurance obligations.

23. The determination of the amounts to be distributed from the Available Custodial Funds to Approved Claimants shall be based on the total amount of Available Custodial Funds, regardless of source and regardless of any limitations otherwise relating to the use of any specific custodial account. However, while all Available Custodial Funds regardless of source shall be deemed available for ratable distribution to Approved Claimants, the determination of what funds shall be included in the Available Custodial Funds shall be made pursuant to the applicable terms of the Plan of Operation, the Exchange's rules and regulations, and any other relevant agreements concerning the establishing of custodial fund accounts.

24. The Guaranty Fund shall distribute, in accord with this Plan of Distribution, the Available Custodial Funds to Approved Claimants within 60 days after it has determined what funds constitute Available Custodial Funds.

25. Until such time as distributions from the relevant

Custodial Accounts are determined and paid, the Available Custodial Accounts shall remain under the control of the Guaranty Fund.

26. Accordingly, pursuant to this Plan of Distribution, the distribution of the PSA funds and the Available Custodial Funds shall result in every Approved Claimant of the seven Insolvent Syndicates receiving the same percentage of the unpaid portion of the first \$300,000 of insurance and reinsurance obligations, subject to the aggregate limit of \$15,000,000 per Insolvent Syndicate as specified in §4.4(b) of the Plan of Operation.

27. To the extent that this Plan of Distribution modifies or alters any provision of the Plan of Operation, the terms of this Plan of Distribution shall control.

28. By this Plan of Distribution, the Guaranty Fund, the Exchange and the Immediate Access Security Association, and their officers, Trustees, Governors, Directors, members and agents, undertake to act in a reasonable manner with the objective of utilizing the limited available resources of the Guaranty Fund for an equitable distribution to Approved Claimants of the seven Insolvent Syndicates.

29. The Guaranty Fund, the Exchange, and the Immediate Access Security Association and their officers, Trustees, Governors, Directors, members and agents expressly disclaim any

liability, intent or agreement to guarantee any insurance obligation of any of the seven Insolvent Syndicates, or to make any payments to claimants of the seven Insolvent Syndicates other than pursuant to this Plan of Distribution.

30. Upon approval of this Plan of Distribution by the Circuit Court of Cook County, every Claimant of the seven Insolvent Syndicates shall be deemed to have expressly released and discharged the Guaranty Fund, the Exchange, the Association and their Officers, Directors, Governors, Trustees, Members, and agents and employees of and from any liability of any kind whatsoever to which such Claimant and all persons interested in or claiming through such Claimant for the payment of any specific amount, at any specific time or for any deficiency, inequality or shortfall of such payment occurring at any time.

31. This Plan of Distribution shall be effective and binding upon the Guaranty Fund, the Exchange, and the Association only upon (a) final approval of the Plan of Distribution by the Circuit Court of Cook County in case No. 96 CH 5093, following a hearing subsequent to Court approved notice to all claimants of the seven Insolvent Syndicates whose claims have not been dispositively denied, and (b) entry of an Order by the Circuit Court of Cook County in case No. 96 CH 5093 providing that all claimants of the seven Insolvent Syndicates are bound by the terms of the Plan of Distribution and shall have no further

claims for compensation or reimbursement of any sort from the Guaranty Fund, the Exchange, or the Association, other than pursuant to the Plan of Distribution, and (c) entry of an Order by the Circuit Court of Cook County in case No. 96 CH 5093 dismissing with prejudice the Amended Counterclaim of the Liquidator against the Exchange and the Guaranty Fund.

The INEX Insurance Exchange
By: Its _____

The INEX Insurance Exchange
Guaranty Fund
By: Its _____

The INEX Insurance
Exchange Immediate Access
Security Association
By: Its _____