

**PLAINTIFF'S
EXHIBIT
423**

From: Holland, Andrew
Sent: Thursday, June 29, 2000 6:39 PM
To: Umansky, Joseph; Brown, PaulA@Comptroller's; Spier, Arnold
Cc: Harkins, Ken; Rose, Scott@Notes
Subject: Revised Reinsurance Trust Agmt.

Attachments: 114trust2.doc; RED114TRUST.doc

I have attached a draft reinsurance trust agreement among Capco, NUFIC and Citibank, as revised to meet the requirements of both Pennsylvania and New York Insurance Law.



114trust2.doc (84 KB)



RED114TRUST.doc (119 KB)

**DEFENDANT'S
EXHIBIT**

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5-17-07 *W*

TRUST AGREEMENT,

dated as of June [], 2000,

by and among

CAPCO REINSURANCE COMPANY LTD.,

as Grantor,

**NATIONAL UNION FIRE INSURANCE COMPANY
OF PITTSBURGH, PA.,**

as Beneficiary,

and

[CITIBANK, N.A.],

as Trustee

TABLE OF CONTENTS

	<u>Page</u>
Section 1. <u>Deposit of Assets to the Trust Account</u>	1
Section 2. <u>Withdrawal of Assets from the Trust Account</u>	2
Section 3. <u>Application of Assets</u>	3
Section 4. <u>Redemption, Investment and Substitution of Assets</u>	4
Section 5. <u>The Income Account</u>	5
Section 6. <u>Right to Vote Assets</u>	5
Section 7. <u>Additional Rights and Duties of the Trustee</u>	6
Section 8. <u>The Trustee's Compensation, Expenses and Indemnification</u>	8
Section 9. <u>Resignation or Removal of the Trustee</u>	8
Section 10. <u>Termination of the Trust Account</u>	9
Section 11. <u>Qualified United States Financial Institution</u>	10
Section 12. <u>Definitions</u>	10
Section 13. <u>Governing Law; Compliance with Regulations; Venue</u>	11
Section 14. <u>Successors and Assigns</u>	11
Section 15. <u>Severability</u>	12
Section 16. <u>Entire Agreement</u>	12
Section 17. <u>Amendments</u>	12
Section 18. <u>Notices, etc.</u>	12
Section 19. <u>Headings</u>	13
Section 20. <u>Counterparts</u>	14

TRUST AGREEMENT

TRUST AGREEMENT, dated as of June [], 2000 (the “Agreement”), by and between Capco Reinsurance Company Ltd., a Barbados corporation (the “Grantor”), National Union Fire Insurance Company of Pittsburgh, Pa., a Pennsylvania corporation (together with any successors thereto by operation of law, including, without limitation, any liquidator, rehabilitator, receiver or conservator, the “Beneficiary”), and [Citibank, N.A., a national banking association organized and existing under the laws of the United States] (the “Trustee”) (the Grantor, the Beneficiary and the Trustee are hereinafter each sometimes referred to individually as a “Party” and collectively as the “Parties”).

W I T N E S S E T H:

WHEREAS, the Grantor and the Beneficiary have entered into the reinsurance agreement listed on Exhibit A hereto (the “Reinsurance Agreement”);

WHEREAS, the Beneficiary desires the Grantor to secure payments of all amounts at any time and from time to time owing by the Grantor to the Beneficiary under or in connection with the Reinsurance Agreement;

WHEREAS, the Grantor desires to transfer to the Trustee for deposit to a trust account (the “Trust Account”) Assets (as hereinafter defined) in order to secure payments under or in connection with the Reinsurance Agreement and in order to permit the Beneficiary to take credit on financial statements required to be filed with the insurance departments of the State of New York and the Commonwealth of Pennsylvania for liabilities ceded under the Reinsurance Agreement;

WHEREAS, the Trustee has agreed to act as Trustee hereunder, and in accordance with the terms hereof, to hold such Assets in trust in the Trust Account for the sole use and benefit of the Beneficiary in accordance with the provisions hereof; and

WHEREAS, this Agreement is made for the sole use and benefit of the Beneficiary and for the purpose of setting forth the duties and powers of the Trustee with respect to the Trust Account, and the Grantor’s and Beneficiary’s rights and obligations;

NOW, THEREFORE, for and in consideration of the premises and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties hereby agree as follows:

Section 1. Deposit of Assets to the Trust Account. {tc \11 "Section 1. Deposit of Assets to the Trust Account.}

(a) The Grantor hereby establishes the Trust Account in the State of New York and the Trustee hereby accepts the Trust Account herein created and declared upon the

terms provided herein and shall administer the Trust Account in the Grantor's name as Trustee for the Beneficiary. The Trust Account shall be subject to withdrawal by the Beneficiary as provided herein. The Trustee and its lawfully appointed successors are authorized and shall have power to receive such cash, securities and property as the Grantor from time to time may transfer or remit to or vest in the Trustee or place under the Trustee's possession and control, and to hold, invest, reinvest, manage and dispose of the same for the uses and purposes and in the manner and according to the provisions hereinafter set forth. The Trustee shall receive and hold the Assets in a safe place at an office of the Trustee in New York, New York.

(b) The Grantor shall transfer to the Trustee, for deposit to the Trust Account, the Assets listed on Exhibit B hereto, and shall transfer to the Trustee, for deposit to the Trust Account, such other assets as may from time to time be required by this Agreement (all such assets actually received in the Trust Account are herein referred to individually as an "Asset" and collectively as the "Assets"). The Assets shall consist only of Eligible Trust Assets (as hereinafter defined).

(c) The Grantor hereby represents, warrants and covenants (i) that any Assets transferred by the Grantor to the Trustee for deposit to the Trust Account will be in such form that the Beneficiary whenever necessary may, and the Trustee upon direction by the Beneficiary will, negotiate any such Assets without consent or signature from the Grantor or any other Person; (ii) that all Assets transferred by the Grantor to the Trustee for deposit to the Trust Account shall consist only of Eligible Trust Assets; and (iii) that the Grantor will transfer sufficient additional Assets at least equal to 102% of the Grantor's Obligations (as hereinafter defined) upon demand.

(d) All assets in the Trust Account shall be valued at their current fair market value in U.S. dollars as determined by the Trustee in its sole discretion exercised in a reasonable manner.

(e) The Trustee shall have no responsibility to determine whether the Assets in the Trust Account are sufficient to secure the Grantor's Obligations under the Reinsurance Agreement. The Beneficiary's determination of the sufficiency of the Assets is final and binding on all Parties.

Section 2. Withdrawal of Assets from the Trust Account. {tc \1 "Section 2. Withdrawal of Assets from the Trust Account.}

(a) Without notice to the Grantor, the Beneficiary, shall have the right, at any time and from time to time, to withdraw from the Trust Account, upon written notice to the Trustee delivered to the Trustee at the address indicated in Section 19 (and, as a matter of legal right, at the Trustee's principal office in the United States) (the "Withdrawal Notice") such Assets or amounts as are specified in such Withdrawal Notice. The Withdrawal Notice may designate a third party (the "Designee") to whom Assets or amounts specified therein shall be delivered. The Beneficiary need present no statement or document in addition to a Withdrawal Notice in order to

withdraw any Assets; nor is such right of withdrawal or any other provision of this Agreement subject to any conditions or qualifications not contained in this Agreement.

(b) Upon receipt of a Withdrawal Notice from the Beneficiary, the Trustee shall immediately take any and all steps necessary to transfer, absolutely and unequivocally, all right, title and interest to the Assets or amounts specified in such Withdrawal Notice and shall deliver such Assets or amounts to or for the account of the Beneficiary or such Designee as specified in such Withdrawal Notice. The Trustee shall be protected in relying upon any written demand, instruction, direction, acknowledgment, statement, notice, resolution, request, consent, order, certificate, report, appraisal, opinion, telegram, cablegram, facsimile, radiogram, letter, or other communication (collectively, "Communications") of the Beneficiary for any such withdrawal. The Beneficiary shall execute a receipt evidencing the delivery of Assets or amounts when required in the normal and customary transaction of the business of banking.

(c) Except as provided in Section 4(a), the Trustee shall allow no withdrawal of Assets except on written instructions from the Beneficiary for each individual withdrawal at the time the withdrawal is executed.

(d) Without limiting any other provision of this Agreement, the Trustee shall have no responsibility whatsoever to determine that any Assets withdrawn from the Trust Account pursuant to this Section 2 will be used and applied in the manner contemplated by Section 3 of this Agreement.

Section 3. Application of Assets.{tc \11 "Section 3. Application of Assets.}

The Beneficiary hereby covenants to the Grantor that it shall use and apply any withdrawn Assets, without diminution because of the insolvency of the Beneficiary or the Grantor, for the following purposes only:

(i) to pay or reimburse the Beneficiary regarding any losses and allocated loss expenses paid or incurred by the Beneficiary but not recovered from the Grantor, for unearned premiums due to the Beneficiary, or to secure losses incurred but not reported, if not otherwise paid by the Grantor in accordance with the terms of the Reinsurance Agreement;

(ii) where the Beneficiary has received a Termination Notice (as hereinafter defined) pursuant to Section 10 of this Agreement and where all of the Grantor's Obligations have been liquidated or discharged ten days prior to the Termination Date (as hereinafter defined), to make payment to the Grantor of any amounts held in the Trust Account; and

(iii) where the Beneficiary has received a Termination Notice pursuant to Section 10 of this Agreement and where all or any part of the Grantor's Obligations remain unliquidated and undischarged ten days prior to the Termination Date, to withdraw Assets equal to such Obligations and deposit such amounts in a separate account, in the name of the Beneficiary in any Qualified United States Financial Institution (as hereinafter defined), apart from

its other assets, in trust for the uses and purposes specified in subparagraph (i) of this section as may remain executory after such withdrawal and for any period after such Termination Date. The relative rights and obligations of the Grantor and the Beneficiary under this Agreement shall apply to any "separate account" established pursuant to this subparagraph (iii).

Section 4. Redemption, Investment and Substitution of Assets. {tc \1 "Section 4. Redemption, Investment and Substitution of Assets.}

(a) Upon call or maturity of a Trust Asset, the Trustee may withdraw the Asset without the consent of the Beneficiary if the Trustee provides notice to the Beneficiary, liquidates or redeems the Asset, and the proceeds are paid to the Trust Account no later than five days after the liquidation or redemption of the Asset.

(b) The Beneficiary may appoint an investment manager (the "Investment Manager") with respect to the Trust Account. The Trustee is authorized to act upon any Communications concerning the investment, reinvestment, or substitution of securities (each, an "Investment Order") received from the Investment Manager to the same extent that the Trustee would act upon an Investment Order of the Beneficiary, provided that the Trustee has received written evidence of the Investment Manager's appointment by Beneficiary, written confirmation from the Investment Manager evidencing its acceptance of such appointment, and written certification from the Investment Manager of the names of individuals authorized to give instructions with respect to the Trust Account, together with specimen signatures of those persons.

(c) Except as provided in Section 4(a), the Trustee shall allow no substitution or reinvestment of Assets except on written instructions from the Beneficiary for each individual substitution or reinvestment at the time the substitution or reinvestment is executed. From time to time, the Grantor may request that the Beneficiary give such written instructions to the Trustee, subject to the Beneficiary's sole and absolute discretion to reject such request. The Trustee shall have no responsibility whatsoever to determine the value of such substituted or reinvested securities or that such substituted or reinvested securities constitute Eligible Trust Assets. The Beneficiary's prior written approval of such substitution or reinvestment shall be deemed to approve such substituted or reinvested securities as Eligible Trust Assets.

(d) The Beneficiary and the Grantor agree that all investments and substitutions of securities referred to in paragraph (c) of this Section 4 shall be in compliance with the relevant provisions of the New York Insurance Law and the Pennsylvania Insurance Law, as set forth in the definition of "Eligible Trust Assets" in Section 13 of this Agreement. The Trustee shall have no responsibility whatsoever to determine that any Assets in the Trust Account are or continue to be Eligible Trust Assets. The Trustee, based upon Investment Orders from the Investment Manager or the Beneficiary if no Investment Manager is appointed, shall execute Investment Orders and settle securities transactions by itself or by means of an agent or broker (provided that such securities shall ultimately be held only by the Trustee and not by such agent or broker). The Trustee shall not be responsible for any act, error or omission, or for the solvency,

of any Investment Manager, agent or broker unless such act, error or omission is the result, in whole or in part, of the Trustee's negligence, willful misconduct or lack of good faith. The Trustee shall not be responsible for any Loss (as hereinafter defined) suffered by the Beneficiary or the Grantor due to the insolvency of any agent or broker unless the Trustee negligently, willfully or with lack of good faith chooses the agent or broker.

(e) Any loss, liability, claim or damage paid or incurred ("Loss") from any investment, reinvestment or substitution pursuant to the terms of this Agreement shall be borne exclusively by the Trust Account other than a Loss due to the Trustee's own negligence, willful misconduct or lack of good faith. Without limiting any other provision herein, the Trustee shall not be liable for any Loss due to changes in market rates or penalties for early redemption. Other than the execution of an Investment Order, as provided herein, the Trustee shall not be required to take any action with respect to the investment or reinvestment of the Assets.

Section 5. The Income Account. {tc \11 "Section 5. The Income Account.}

(a) All payments of interest or dividends actually received in respect of Assets in the Trust Account shall be deposited by the Trustee in a separate account (the "Income Account") established and maintained by the Trustee at an office of the Trustee in New York, New York.

(b) In the event that the Trustee has not been paid in accordance with Section 8(a) within 90 days of the receipt by the Beneficiary of an invoice from the Trustee therefor, the Trustee may deduct its unpaid compensation and expenses from the Income Account. If all of the Trustee's compensation and expenses have been paid, the Trustee shall transfer such funds in the Income Account into the Trust Account. Such transferred funds shall then become principal and part of the Trust Account.

(c) From time to time, the Trustee may elect, but shall not be required to, credit the Income Account with the amount of interest and dividends due in respect of Assets in the Trust Account before actually receiving such payments from a payor, Depository (as hereinafter defined), broker or other agent. Any such crediting shall be at the Grantor's sole risk, and the Trustee shall be authorized to reverse any such credit in the event it does not receive good funds from such payor, Depository, broker or other agent. The Trustee shall not be required to enforce collection by legal means or otherwise of any such payment, but shall use reasonable diligence to make all such collections as may be affected in the ordinary course of business.

Section 6. Right to Vote Assets. {tc \11 "Section 6. Right to Vote Assets.}

The Trustee will forward all annual and interim stockholder reports and all proxies and proxy materials relating to the Assets in the Trust Account to the Grantor. The Grantor or its designee shall have the full and unqualified right to vote any Assets in the Trust Account. The Grantor agrees that it shall not knowingly allow the value of the Assets to fall below 102% of Grantor's Obligations due to a vote of an Asset.

Section 7. Additional Rights and Duties of the Trustee. {tc \11 "Section 7. Additional Rights and Duties of the Trustee.}

(a) The Trustee shall notify the Grantor and the Beneficiary in writing within ten days following each deposit to or withdrawal from the Trust Account.

(b) Before accepting any Asset for deposit to the Trust Account, the Trustee shall determine that such Asset is in such form that the Beneficiary whenever necessary may, or the Trustee upon direction by the Beneficiary may, negotiate such Asset without consent or signature from the Grantor or any other Person.

(c) The Trustee may deposit any Assets in the Trust Account in a book-entry account maintained at a Federal Reserve Bank or in depositories such as the Depository Trust Company and the Participants Trust Company (the Federal Reserve Bank and such other depositories being referred to herein as "Depositories").

(d) The Trustee shall accept and may open all mail directed to the Grantor or the Beneficiary in care of the Trustee. The Trustee shall forward all mail to the addressee whether or not opened.

(e) The Trustee shall furnish to the Grantor and the Beneficiary a statement of all Assets in the Trust Account upon the inception of the Trust Account and within 15 days of the end of each calendar quarter thereafter.

(f) The Trustee shall keep full and complete records of the administration of the Trust. Upon the reasonable request of the Grantor or the Beneficiary, the Trustee shall promptly permit the Grantor, the Beneficiary or their respective agents, employees or independent auditors to examine, audit, excerpt, transcribe and copy, at a location in New York, New York, at their own expense, during the Trustee's normal business hours any books, documents, papers and records relating to the Trust Account or the Assets.

(g) The Trustee is authorized to follow and rely upon all Communications (including, without limitation, Investment Orders, Withdrawal Notices and Termination Notices), given by officers, agents and/or employees named in letters and incumbency certificates furnished to the Trustee from time to time by the Grantor, the Beneficiary or the Investment Manager, respectively, and by attorneys-in-fact acting under written authority furnished to the Trustee by the Grantor, the Beneficiary or the Investment Manager (collectively "Instructions") including, without limitation, Instructions given by letter, facsimile transmission or electronic media, if the Trustee reasonably believes such Instructions to be genuine and to have been signed, sent or presented by the proper party or parties. The Trustee shall not incur any liability to anyone resulting from actions taken by the Trustee in reliance in good faith on such Instructions. The Trustee shall not incur any liability in executing Instructions prior to receipt by it of (i) notice of the revocation of the written authority of the individual(s) named therein, or (ii) notice from any

officer, agent or employee of the Grantor, the Beneficiary or the Investment Manager named in a letter or incumbency certificate delivered hereunder prior to receipt by it of a more current certificate.

(h) The duties and obligations of the Trustee shall only be such as are specifically set forth in this Agreement, as it may from time to time be amended in accordance with the terms hereof, and no implied duties or obligations shall be read into this Agreement against the Trustee. The Trustee shall be liable only for its own negligence, willful misconduct or lack of good faith.

(i) No provision of this Agreement shall require the Trustee to take any action which, in the Trustee's reasonable judgment, would result in any violation of this Agreement or any provision of applicable law.

(j) In relation to matters arising under this Agreement, the Trustee may confer with reputable counsel, experienced in the type of transactions contemplated by this Agreement and selected by it after consultation with the Grantor and the Beneficiary, and shall, upon demand, be indemnified and held harmless from and against any and all Losses by the Grantor hereunder for any actions taken, omitted or suffered by it in connection with this Agreement or under any transaction contemplated hereby in good faith without negligence or willful misconduct and in accordance with the opinion of such counsel. The opinion of such counsel shall be full and complete authority and protection for the Trustee with respect to any action taken, suffered or omitted by it in good faith and in accordance with the opinion of such counsel, other than with respect to the withdrawal of Assets by the Beneficiary.

(k) Whenever, in the administration of the Trust Account created by this Agreement, the Trustee shall reasonably deem it necessary or desirable that a matter be proved or established prior to taking, suffering or omitting any action thereunder, subject to the requirement of reasonableness, good faith and lack of negligence and willful misconduct, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a statement or certificate signed by or on behalf of the Grantor and/or the Beneficiary and delivered to the Trustee and such certificate shall be full warrant to the Trustee for any action taken, suffered or omitted by it on reliance thereon, subject to this paragraph, but in its discretion exercised in a reasonable manner, the Trustee may in lieu thereof accept other evidence of the fact or matter or may require such other or additional evidence as it may deem reasonable.

(l) Notwithstanding anything to the contrary provided herein, the Trustee is not responsible for any Losses resulting from reasons or causes beyond its control, including, without limitation, nationalization, expropriation, currency restrictions, acts of war, terrorism, insurrection, revolution, civil unrest, riots or strikes, nuclear fusion or fission or acts of God.

(m) The Parties acknowledge that nothing in this Agreement shall obligate the Trustee to extend credit, grant financial accommodation or otherwise advance moneys for the

purpose of making any payments or part thereof or otherwise carrying out any Instructions, including, without limitation, any Investment Order.

(n) The Trustee hereby indemnifies the Grantor and the Beneficiary for, and holds them harmless against, any Losses (including reasonable attorneys' fees and expenses and reasonable consulting and accountants' fees and expenses) incurred or paid, arising out of or in connection with the Trustee's negligence, willful misconduct or lack of good faith in the performance of its duties and obligations under this Agreement, including, without limitation, any Loss arising out of or in connection with the status of the Trustee as the holder of record of any or all of the Assets. The Trustee hereby acknowledges that the foregoing indemnities shall survive the resignation of the Trustee and the termination of this Agreement.

Section 8. The Trustee's Compensation, Expenses and Indemnification. {tc \1 "Section 8. The Trustee's Compensation, Expenses and Indemnification.}

(a) The Beneficiary, upon receipt of an invoice from the Trustee and without offset to the Beneficiary's interest, (i) shall pay the Trustee, as compensation for its services under this Agreement, a fee computed at rates determined by the Trustee from time to time and communicated in writing to the Beneficiary and (ii) shall pay or reimburse the Trustee for all of the Trustee's expenses and disbursements in connection with its duties under this Agreement (including reasonable attorneys' fees and expenses and reasonable accounting and consulting fees and expenses), except any such expense or disbursement as may arise from the Trustee's negligence, willful misconduct or lack of good faith.

(b) The Grantor hereby indemnifies the Trustee for, and holds it harmless against, any Losses (including reasonable attorneys' fees and expenses and reasonable consulting and accountants' fees and expenses) incurred or paid (other than as a result of Trustee's negligence, willful misconduct or lack of good faith), arising out of or in connection with the performance of its duties and obligations under this Agreement, including, without limitation, any Loss arising out of or in connection with the status of the Trustee as the holder of record of any or all of the Assets. The Grantor hereby acknowledges that the foregoing indemnities shall survive the resignation of the Trustee or the termination of this Agreement and hereby grants the Trustee a lien, right of set-off and security interest in the funds in the Income Account for the payment of any claim for indemnity hereunder.

(c) No Assets shall be withdrawn from the Trust Account or used in any manner for paying compensation to, or reimbursement or indemnification of, the Trustee.

Section 9. Resignation or Removal of the Trustee. {tc \1 "Section 9. Resignation or Removal of the Trustee.}

(a) The Trustee may resign at any time by giving not less than 90 days' written notice thereof to the Beneficiary and to the Grantor. The Grantor or the Beneficiary also may remove the Trustee at any time, without assigning any reason therefore, on 90 days' prior written

notice thereof to the Trustee. Any such resignation or removal shall become effective on the acceptance of appointment by a successor trustee and the transfer to such successor trustee of all Assets in the Trust Account in accordance with paragraph (b) of this Section 9.

(b) Upon receipt of the Trustee's notice of resignation, the Grantor and the Beneficiary shall promptly appoint a successor trustee. Upon receipt by the Trustee of the notice of removal, the Trustee shall forward a copy of such notice to the Grantor and the Beneficiary and the Grantor and the Beneficiary shall promptly appoint a successor trustee. Any successor trustee shall be a Qualified United States Financial Institution. Upon the acceptance of the appointment as trustee hereunder by a successor trustee, such successor trustee shall succeed to and become vested with all the rights, powers, privileges and duties of the Trustee, and the Trustee shall be discharged from any future duties and obligations under this Agreement (other than the indemnification contained in Section 7(n)), but the Trustee shall continue after its resignation to be entitled to the benefits of the indemnities provided herein for a Trustee.

Section 10. Termination of the Trust Account. {tc \11 "Section 10. Termination of the Trust Account.}

(a) The Trust Account and this Agreement, except for the indemnities provided herein, which shall survive termination, may be terminated only after (i) the Grantor or the Beneficiary has given the Trustee written notice of its intention to terminate the Trust Account (the "Notice of Intention"), and (ii) the Trustee has given the Grantor and the Beneficiary the written notice specified in paragraph (b) of this Section 10. The Notice of Intention shall specify the date on which the notifying Party intends the Trust Account to terminate (the "Proposed Date").

(b) Within ten Business Days following receipt by the Trustee of the Notice of Intention, the Trustee shall give written notification (the "Termination Notice") to the Beneficiary and the Grantor of the date (the "Termination Date") on which the Trust Account shall terminate. The Termination Date shall be (i) the Proposed Date (or if not a Business Day, the next Business Day thereafter), if the Proposed Date is at least 30 days but no more than 45 days subsequent to the date the Termination Notice is given; (ii) 30 days subsequent to the date the Termination Notice is given (or if not a Business Day, the next Business Day thereafter), if the Proposed Date is less than 30 days subsequent to the date the Termination Notice is given; or (iii) 45 days subsequent to the date the Termination Notice is given (or if not a Business Day, the next Business Day thereafter), if the Proposed Date is more than 45 days subsequent to the date the Termination Notice is given.

(c) On the Termination Date, upon receipt of written approval of the Beneficiary, the Trustee shall transfer to the Grantor any Assets remaining in the Trust Account, at which time all duties and obligations of the Trustee with respect to such Assets shall cease. Until such Assets have been so transferred, the Beneficiary may withdraw Assets necessary to secure 102% of the Obligations and deposit the Assets into an account of the Beneficiary pending payment of the Obligations as they mature.

(d) The Grantor shall not terminate the Trust Account or this Agreement on the basis of the insolvency of the Beneficiary.

Section 11. Qualified United States Financial Institution. {tc \1 "Section 11. Qualified United States Financial Institution}

The Trustee represents and warrants to the Grantor and the Beneficiary that it is a Qualified United States Financial Institution.

Section 12. Definitions.{tc \1 "Section 12. Definitions.}

Except as the context shall otherwise require, the following terms shall have the following meanings for all purposes of this Agreement (the definitions to be applicable to both the singular and the plural forms of each term defined if both such forms of such term are used in this Agreement):

The term "Affiliate" shall mean a Person that, directly or indirectly through one or more Persons, controls or is controlled by, or is under common control with, another Person.

The term "Business Day" shall mean any day on which the office of the Trustee in New York, New York is open for business.

The term "control" (including the related terms "controlling," "controlled by" and "under common control with") shall mean the possession by a Person, directly or indirectly, of the power to direct or cause the direction of the management and policies of another Person, whether through the ownership of voting securities, by contract (other than a commercial contract for goods or non-management services), or otherwise, unless the power is the result of an official position with or corporate office held by such Person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, 10% or more of the voting securities of another Person; provided, that this presumption may be rebutted by a showing that control does not exist in fact.

The term "Eligible Trust Assets" shall mean cash (United States legal tender) and other investments that meet each of the following criteria: (a) the investments are of the types specified in subsections (1), (2), (3), (8) or (10) of Section 1404(a) of the New York Insurance Law; (b) the investments are of the types specified in PA. STAT. ANN. tit. 40 § 442.1(b); and (c) the investments have not been issued by a Parent, a Subsidiary or an Affiliate of the Grantor or the Beneficiary.

The term "New York Insurance Law" shall mean Chapter 28 of the Consolidated Laws of the State of New York, as amended, and the rules and regulations promulgated thereunder from time to time.

The term "Obligations" shall mean, with respect to the Reinsurance Agreement, (a) losses and allocated loss expenses paid by the Beneficiary, but not recovered from the Grantor, (b) reserves for losses reported and outstanding, (c) reserves for losses incurred but not reported, (d) reserves for allocated loss expenses and (e) reserves for unearned premiums.

The term "Parent" shall mean a Person that controls, directly or indirectly, another Person.

The term "Pennsylvania Insurance Law" shall mean The Insurance Company Law of 1921 of the Commonwealth of Pennsylvania, as amended (PA. STAT. ANN. tit. 40 §§ 341-991.1718), and the rules and regulations promulgated thereunder from time to time.

The term "Person" shall mean and include an individual, a corporation, a limited liability company, a partnership, an association, a joint stock company, a trust, an unincorporated organization, or any similar entity or any combination of the foregoing acting in concert.

The term "Qualified United States Financial Institution" shall mean a Person that is (a) a bank that is a member of the Federal Reserve System or chartered in the State of New York; (b) a "qualified United States financial institution" under and as defined in 31 PA. CODE § 163.1 promulgated under the Pennsylvania Insurance Law; and (c) is not a Parent, a Subsidiary or an Affiliate of the Grantor or the Beneficiary.

The term "Subsidiary" shall mean a Person that is controlled, directly or indirectly, by another Person.

Section 13. Governing Law; Compliance with Regulations; Venue.{tc \1 "Section 13. Governing Law; Compliance with Regulations; Venue.}

This Agreement shall be governed by and construed in accordance with the laws of the State of New York. The Parties acknowledge that the Beneficiary is domiciled in the Commonwealth of Pennsylvania. The Parties desire that the terms of this Agreement and the operation of the Trust Account are at all times in compliance with the relevant provisions of the New York Insurance Law and the Pennsylvania Insurance Law (including, without limitation, Regulation 114 of the New York Insurance Law and Title 31, Chapter 163 of the Regulations of the Pennsylvania Insurance Department) and this Agreement shall be interpreted accordingly. The Trustee agrees, for the benefit of the other Parties (including, without limitation, any liquidator, rehabilitator, receiver or conservator and any successor, merged or consolidated entity), that the federal and state courts located in the State of New York, New York County, shall have exclusive jurisdiction to hear and determine any suit, action or proceeding, and to settle any disputes, which may arise out of or in connection with this Agreement.

Section 14. Successors and Assigns.{tc \1 "Section 14. Successors and Assigns.}

No Party may assign this Agreement or any of its obligations hereunder without the prior written consent of the other Parties; provided, however, that this Agreement shall inure to the benefit of and bind those who, by operation of law, become successors to the Parties, including, without limitation, any liquidator, rehabilitator, receiver or conservator and any successor, merged or consolidated entity, and provided, further, that, in the case of the Trustee, the successor trustee is eligible to be a trustee under the terms hereof.

Section 15. Severability.{tc \1 "Section 15. Severability.}

In the event that any provision of this Agreement shall be declared invalid or unenforceable by a court having jurisdiction, such invalidity or unenforceability shall not effect the validity or enforceability of the remaining portions of this Agreement.

Section 16. Entire Agreement.{tc \1 "Section 16. Entire Agreement.}

This Agreement constitutes the entire agreement among the Parties, and there are no understandings or agreements, conditions or qualifications relative to this Agreement which are not fully expressed in this Agreement.

Section 17. Amendments.{tc \1 "Section 17. Amendments.}

This Agreement may be modified or otherwise amended, and the observance of any term of this Agreement may be waived, only if such modification, amendment or waiver is in writing and signed by all of the Parties, and such modification is in compliance with all applicable law, including, without limitation, the New York Insurance Law and the Pennsylvania Insurance Law.

{tc \1 "}Section 18. **Notices, etc.**{tc \1 "Section 18. **Notices, etc.**}

Unless otherwise provided in this Agreement, all Communications (including, without limitation, any Investment Orders or Instructions) required or permitted to be given or made under the terms hereof shall be in writing and shall be deemed to have been duly given or made (a) (i) when delivered personally, (ii) when made or given by facsimile or electronic mail, or (iii) in the case of International Priority Mail or Federal Express, upon the expiration of three days after any Communication shall have been deposited in International Priority Mail or Federal Express for transmission or upon receipt thereof, whichever shall first occur and (b) when addressed as follows:

If the Grantor:

Capco Reinsurance Company Ltd.

[]

[]

Attention: []

Fax: [_____]

If the Beneficiary:

National Union Fire Insurance
Company of Pittsburgh, Pa.
70 Pine Street - 3rd Floor
New York, NY 10270
Attention: Jeff Schattin
Fax: (212) 509-7059

With a copy to (for all Communications
other than Investment Orders and Instructions):

American International Companies®
160 Water Street - 24th Floor
New York, NY 10038
Attention: General Counsel, Domestic Brokerage Group
Fax: (212) 820-4504

If to the Trustee:

[Citibank, N.A.
Insurance Trust Unit
111 Wall Street
14th Floor, Zone 20
New York, NY 10043
Attention: Peter von Kaufmann
Facsimile: (212) 657-2674]

Each Party may from time to time designate a different address for Communications (including, without limitation, Investment Orders) by giving written notice of such change to the other Parties; provided, however, that each Party shall at all times be entitled to give all Communications to the Trustee at its principal office in the United States. All Communications relating to the withdrawal, redemption, substitution or reinvestment of Assets and to the termination of the Trust Account shall be in writing.

Section 19. Headings.{tc \l "Section 19. Headings.}

The headings of the sections and the Table of Contents have been inserted for convenience of reference only, and shall not be deemed to constitute a part of this Agreement.

Section 20. Counterparts.{tc \11 "Section 20. Counterparts.}

This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall constitute an original, but such counterparts together shall constitute one and the same Agreement.

[SIGNATURE PAGES FOLLOW]

DRAFT – 6/29/00

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed and delivered by their respective officers thereunto duly authorized as of the date first above written.

CAPCO REINSURANCE COMPANY LTD.

By: _____
Name:
Title:

NATIONAL UNION FIRE INSURANCE
COMPANY OF PITTSBURGH, PA.

By: _____
Name:
Title:

[CITIBANK, N.A.]

By: _____
Name:
Title:

REINSURANCE AGREEMENT

Aggregate Loss Ratio Agreement, dated as of June [], 2000, by and between National Union Fire Insurance Company of Pittsburgh, Pa. and Capco Reinsurance Company Ltd.

DRAFT – 6/29/00
EXHIBIT B

ASSETS DEPOSITED TO THE TRUST ACCOUNT

TRUST AGREEMENT,

dated as of June [], 2000,

by and among

CAPCO REINSURANCE COMPANY LTD.,

as Grantor,

**NATIONAL UNION FIRE INSURANCE COMPANY
OF PITTSBURGH, PA.,**

as Beneficiary,

and

[CITIBANK, N.A.],

as Trustee

TABLE OF CONTENTS

	<u>Page</u>
Section 1. <u>Deposit of Assets to the Trust Account</u>	1
Section 2. <u>Withdrawal of Assets from the Trust Account</u>	2
Section 3. <u>Application of Assets</u>	3
Section 4. <u>Redemption, Investment and Substitution of Assets</u>	4
Section 5. <u>The Income Account</u>	5
Section 6. <u>Right to Vote Assets</u>	5
Section 7. <u>Additional Rights and Duties of the Trustee</u>	6
Section 8. <u>The Trustee's Compensation, Expenses and Indemnification</u>	8
Section 9. <u>Resignation or Removal of the Trustee</u>	8
Section 10. <u>Termination of the Trust Account</u>	9
Section 11. <u>Qualified United States Financial Institution</u>	10
Section 12. <u>Definitions</u>	10
Section 13. <u>Governing Law; Compliance with Regulations; Venue</u>	11
Section 14. <u>Successors and Assigns</u>	11
Section 15. <u>Severability</u>	12
Section 16. <u>Entire Agreement</u>	12
Section 17. <u>Amendments</u>	12
Section 18. <u>Notices, etc.</u>	12
Section 19. <u>Headings</u>	13
Section 20. <u>Counterparts</u>	13

TRUST AGREEMENT

TRUST AGREEMENT, dated as of June [], 2000 (the "Agreement"), by and between Capco Reinsurance Company Ltd., a Barbados corporation (the "Grantor"), National Union Fire Insurance Company of Pittsburgh, Pa., a Pennsylvania corporation (together with any successors thereto by operation of law, including, without limitation, any liquidator, rehabilitator, receiver or conservator, the "Beneficiary"), and [Citibank, N.A., a national banking association organized and existing under the laws of the United States] (the "Trustee") (the Grantor, the Beneficiary and the Trustee are hereinafter each sometimes referred to individually as a "Party" and collectively as the "Parties").

WITNESSETH:

WHEREAS, the Grantor and the Beneficiary have entered into the reinsurance agreement listed on Exhibit A hereto (the "Reinsurance Agreement");

WHEREAS, the Beneficiary desires the Grantor to secure payments of all amounts at any time and from time to time owing by the Grantor to the Beneficiary under or in connection with the Reinsurance Agreement;

WHEREAS, the Grantor desires to transfer to the Trustee for deposit to a trust account (the "Trust Account") Assets (as hereinafter defined) in order to secure payments under or in connection with the Reinsurance Agreement and in order to permit the Beneficiary to take credit on financial statements required to be filed with the Insurance Department of insurance departments of the State of New York and the Commonwealth of Pennsylvania for liabilities ceded under the Reinsurance Agreement;

WHEREAS, the Trustee has agreed to act as Trustee hereunder, and in accordance with the terms hereof, to hold such Assets in trust in the Trust Account for the sole use and benefit of the Beneficiary in accordance with the provisions hereof; and

WHEREAS, this Agreement is made for the sole use and benefit of the Beneficiary and for the purpose of setting forth the duties and powers of the Trustee with respect to the Trust Account, and the Grantor's and Beneficiary's rights and obligations;

NOW, THEREFORE, for and in consideration of the premises and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties hereby agree as follows:

Section 1. Deposit of Assets to the Trust Account. } Section 1. Deposit of Assets to the Trust Account. }

(a) The Grantor hereby establishes the Trust Account in the State of New York and the Trustee hereby accepts the Trust Account herein created and declared upon the terms provided herein and shall administer the Trust Account in the Grantor's name as Trustee

for the Beneficiary. The Trust Account shall be subject to withdrawal by the Beneficiary as provided herein. The Trustee and its lawfully appointed successors are authorized and shall have power to receive such cash, securities and property as the Grantor from time to time may transfer or remit to or vest in the Trustee or place under the Trustee's possession and control, and to hold, invest, reinvest, manage and dispose of the same for the uses and purposes and in the manner and according to the provisions hereinafter set forth. The Trustee shall receive and hold the Assets in a safe place at an office of the Trustee in New York, New York.

(b) The Grantor shall transfer to the Trustee, for deposit to the Trust Account, the Assets listed on Exhibit B hereto, and shall transfer to the Trustee, for deposit to the Trust Account, such other assets as may from time to time be required by this Agreement (all such assets actually received in the Trust Account are herein referred to individually as an "Asset" and collectively as the "Assets"). The Assets shall consist only of Eligible Trust Assets (as hereinafter defined).

(c) The Grantor hereby represents, warrants and covenants (i) that any Assets transferred by the Grantor to the Trustee for deposit to the Trust Account will be in such form that the Beneficiary whenever necessary may, and the Trustee upon direction by the Beneficiary will, negotiate any such Assets without consent or signature from the Grantor or any other Person; (ii) that all Assets transferred by the Grantor to the Trustee for deposit to the Trust Account shall consist only of Eligible Trust Assets; and (iii) that the Grantor will transfer sufficient additional Assets at least equal to 102% of the Grantor's Obligations (as hereinafter defined) upon demand.

(d) All assets in the Trust Account shall be valued at their current fair market value in U.S. dollars as determined by the Trustee in its sole discretion exercised in a reasonable manner.

(e) The Trustee shall have no responsibility to determine whether the Assets in the Trust Account are sufficient to secure the Grantor's Obligations under the Reinsurance Agreement. The Beneficiary's determination of the sufficiency of the Assets is final and binding on all Parties.

Section 2. Withdrawal of Assets from the Trust Account.{tc \l 0 "1Section 2.
Withdrawal of Assets from the Trust Account."}

(a) Without notice to the Grantor, the Beneficiary, shall have the right, at any time and from time to time, to withdraw from the Trust Account, upon written notice to the Trustee delivered to the Trustee at the address indicated in Section 19 (and, as a matter of legal right, at the Trustee's principal office in the United States) (the "Withdrawal Notice") such Assets or amounts as are specified in such Withdrawal Notice. The Withdrawal Notice may designate a third party (the "Designee") to whom Assets or amounts specified therein shall be delivered. The Beneficiary need present no statement or document in addition to a Withdrawal Notice in order to withdraw any Assets; nor is such right of withdrawal or any other provision of this Agreement subject to any conditions or qualifications not contained in this Agreement.

(b) Upon receipt of a Withdrawal Notice from the Beneficiary, the Trustee shall immediately take any and all steps necessary to transfer, absolutely and unequivocally, all right, title and interest to the Assets or amounts specified in such Withdrawal Notice and shall deliver such Assets or amounts to or for the account of the Beneficiary or such Designee as specified in such Withdrawal Notice. The Trustee shall be protected in relying upon any written demand, instruction, direction, acknowledgment, statement, notice, resolution, request, consent, order, certificate, report, appraisal, opinion, telegram, cablegram, facsimile, radiogram, letter, or other communication (collectively, "Communications") of the Beneficiary for any such withdrawal. The Beneficiary shall execute a receipt evidencing the delivery of Assets or amounts when required in the normal and customary transaction of the business of banking.

(c) Except as provided in Section 4(a), the Trustee shall allow no withdrawal of Assets except on written instructions from the Beneficiary for each individual withdrawal at the time the withdrawal is executed.

(d) Without limiting any other provision of this Agreement, the Trustee shall have no responsibility whatsoever to determine that any Assets withdrawn from the Trust Account pursuant to this Section 2 will be used and applied in the manner contemplated by Section 3 of this Agreement.

Section 3. Application of Assets. {tc \l 0 "1Section 3. Application of Assets."}
Section 3. Application of Assets.

The Beneficiary hereby covenants to the Grantor that it shall use and apply any withdrawn Assets, without diminution because of the insolvency of the Beneficiary or the Grantor, for the following purposes only:

(i) to pay or reimburse the Beneficiary regarding any losses and allocated loss expenses paid or incurred by the Beneficiary but not recovered from the Grantor, for unearned premiums due to the Beneficiary, or to secure losses incurred but not reported, if not otherwise paid by the Grantor in accordance with the terms of the Reinsurance Agreement;

(ii) where the Beneficiary has received a Termination Notice (as hereinafter defined) pursuant to Section 10 of this Agreement and where all of the Grantor's Obligations have been liquidated or discharged ten days prior to the Termination Date (as hereinafter defined), to make payment to the Grantor of any amounts held in the Trust Account; and

(iii) where the Beneficiary has received a Termination Notice pursuant to Section 10 of this Agreement and where all or any part of the Grantor's Obligations remain unliquidated and undischarged ten days prior to the Termination Date, to withdraw Assets equal to such Obligations and deposit such amounts in a separate account, in the name of the Beneficiary in any Qualified United States Financial Institution (as hereinafter defined), apart from its other assets, in trust for the uses and purposes specified in subparagraph (i) of this section as may remain executory after such withdrawal and for any period after such Termination

Date. The relative rights and obligations of the Grantor and the Beneficiary under this Agreement shall apply to any "separate account" established pursuant to this subparagraph (iii).

Section 4. Redemption, Investment and Substitution of Assets. {tc \ 0 "1Section 4. Redemption, Investment and Substitution of Assets."}

(a) Upon call or maturity of a Trust Asset, the Trustee may withdraw the Asset without the consent of the Beneficiary if the Trustee provides notice to the Beneficiary, liquidates or redeems the Asset, and the proceeds are paid to the Trust Account no later than five days after the liquidation or redemption of the Asset.

(b) The Beneficiary may appoint an investment manager (the "Investment Manager") with respect to the Trust Account. The Trustee is authorized to act upon any Communications concerning the investment, reinvestment, or substitution of securities (each, an "Investment Order") received from the Investment Manager to the same extent that the Trustee would act upon an Investment Order of the Beneficiary, provided that the Trustee has received written evidence of the Investment Manager's appointment by Beneficiary, written confirmation from the Investment Manager evidencing its acceptance of such appointment, and written certification from the Investment Manager of the names of individuals authorized to give instructions with respect to the Trust Account, together with specimen signatures of those persons.

(c) Except as provided in Section 4(a), the Trustee shall allow no substitution or reinvestment of Assets except on written instructions from the Beneficiary for each individual substitution or reinvestment at the time the substitution or reinvestment is executed. From time to time, the Grantor may request that the Beneficiary give such written instructions to the Trustee, subject to the Beneficiary's sole and absolute discretion to reject such request. The Trustee shall have no responsibility whatsoever to determine the value of such substituted or reinvested securities or that such substituted or reinvested securities constitute Eligible Trust Assets. The Beneficiary's prior written approval of such substitution or reinvestment shall be deemed to approve such substituted or reinvested securities as Eligible Trust Assets.

(d) The Beneficiary and the Grantor agree that all investments and substitutions of securities referred to in paragraph (c) of this Section 4 shall be in compliance with the relevant provisions of the New York Insurance Law and the Pennsylvania Insurance Law, as set forth in the definition of "Eligible Trust Assets" in Section 13 of this Agreement. The Trustee shall have no responsibility whatsoever to determine that any Assets in the Trust Account are or continue to be Eligible Trust Assets. The Trustee, based upon Investment Orders from the Investment Manager or the Beneficiary if no Investment Manager is appointed, shall execute Investment Orders and settle securities transactions by itself or by means of an agent or broker (provided that such securities shall ultimately be held only by the Trustee and not by such agent or broker). The Trustee shall not be responsible for any act, error or omission, or for the solvency, of any Investment Manager, agent or broker unless such act, error or omission is the result, in whole or in part, of the Trustee's negligence, willful misconduct or lack of good faith. The Trustee shall not be responsible for any Loss (as hereinafter defined) suffered by the

Beneficiary or the Grantor due to the insolvency of any agent or broker unless the Trustee negligently, willfully or with lack of good faith chooses the agent or broker.

(e) Any loss, liability, claim or damage paid or incurred ("Loss") from any investment, reinvestment or substitution pursuant to the terms of this Agreement shall be borne exclusively by the Trust Account other than a Loss due to the Trustee's own negligence, willful misconduct or lack of good faith. Without limiting any other provision herein, the Trustee shall not be liable for any Loss due to changes in market rates or penalties for early redemption. Other than the execution of an Investment Order, as provided herein, the Trustee shall not be required to take any action with respect to the investment or reinvestment of the Assets.

Section 5. The Income Account. {tc \10 "1Section 5. The Income Account."}

(a) All payments of interest or dividends actually received in respect of Assets in the Trust Account shall be deposited by the Trustee in a separate account (the "Income Account") established and maintained by the Trustee at an office of the Trustee in New York, New York.

(b) In the event that the Trustee has not been paid in accordance with Section 8(a) within 90 days of the receipt by the Beneficiary of an invoice from the Trustee therefor, the Trustee may deduct its unpaid compensation and expenses from the Income Account. If all of the Trustee's compensation and expenses have been paid, the Trustee shall transfer such funds in the Income Account into the Trust Account. Such transferred funds shall then become principal and part of the Trust Account.

(c) From time to time, the Trustee may elect, but shall not be required to, credit the Income Account with the amount of interest and dividends due in respect of Assets in the Trust Account before actually receiving such payments from a payor, Depository (as hereinafter defined), broker or other agent. Any such crediting shall be at the Grantor's sole risk, and the Trustee shall be authorized to reverse any such credit in the event it does not receive good funds from such payor, Depository, broker or other agent. The Trustee shall not be required to enforce collection by legal means or otherwise of any such payment, but shall use reasonable diligence to make all such collections as may be affected in the ordinary course of business.

Section 6. Right to Vote Assets. {tc \10 "1Section 6. Right to Vote Assets."}

The Trustee will forward all annual and interim stockholder reports and all proxies and proxy materials relating to the Assets in the Trust Account to the Grantor. The Grantor or its designee shall have the full and unqualified right to vote any Assets in the Trust Account. The Grantor agrees that it shall not knowingly allow the value of the Assets to fall below 102% of Grantor's Obligations due to a vote of an Asset.

Section 7. Additional Rights and Duties of the Trustee. {tc \10 "1Section 7.
Additional Rights and Duties of the Trustee."}
}

(a) The Trustee shall notify the Grantor and the Beneficiary in writing within ten days following each deposit to or withdrawal from the Trust Account.

(b) Before accepting any Asset for deposit to the Trust Account, the Trustee shall determine that such Asset is in such form that the Beneficiary whenever necessary may, or the Trustee upon direction by the Beneficiary may, negotiate such Asset without consent or signature from the Grantor or any other Person.

(c) The Trustee may deposit any Assets in the Trust Account in a book-entry account maintained at a Federal Reserve Bank or in depositories such as the Depository Trust Company and the Participants Trust Company (the Federal Reserve Bank and such other depositories being referred to herein as "Depositories").

(d) The Trustee shall accept and may open all mail directed to the Grantor or the Beneficiary in care of the Trustee. The Trustee shall forward all mail to the addressee whether or not opened.

(e) The Trustee shall furnish to the Grantor and the Beneficiary a statement of all Assets in the Trust Account upon the inception of the Trust Account and within 15 days of the end of each calendar quarter thereafter.

(f) The Trustee shall keep full and complete records of the administration of the Trust. Upon the reasonable request of the Grantor or the Beneficiary, the Trustee shall promptly permit the Grantor, the Beneficiary or their respective agents, employees or independent auditors to examine, audit, excerpt, transcribe and copy, at a location in New York, New York, at their own expense, during the Trustee's normal business hours any books, documents, papers and records relating to the Trust Account or the Assets.

(g) The Trustee is authorized to follow and rely upon all Communications (including, without limitation, Investment Orders, Withdrawal Notices and Termination Notices), given by officers, agents and/or employees named in letters and incumbency certificates furnished to the Trustee from time to time by the Grantor, the Beneficiary or the Investment Manager, respectively, and by attorneys-in-fact acting under written authority furnished to the Trustee by the Grantor, the Beneficiary or the Investment Manager (collectively "Instructions") including, without limitation, Instructions given by letter, facsimile transmission or electronic media, if the Trustee reasonably believes such Instructions to be genuine and to have been signed, sent or presented by the proper party or parties. The Trustee shall not incur any liability to anyone resulting from actions taken by the Trustee in reliance in good faith on such Instructions. The Trustee shall not incur any liability in executing Instructions prior to receipt by it of (i) notice of the revocation of the written authority of the individual(s) named therein, or (ii) notice from any officer, agent or employee of the Grantor, the Beneficiary or the

Investment Manager named in a letter or incumbency certificate delivered hereunder prior to receipt by it of a more current certificate.

(h) The duties and obligations of the Trustee shall only be such as are specifically set forth in this Agreement, as it may from time to time be amended in accordance with the terms hereof, and no implied duties or obligations shall be read into this Agreement against the Trustee. The Trustee shall be liable only for its own negligence, willful misconduct or lack of good faith.

(i) No provision of this Agreement shall require the Trustee to take any action which, in the Trustee's reasonable judgment, would result in any violation of this Agreement or any provision of applicable law.

(j) In relation to matters arising under this Agreement, the Trustee may confer with reputable counsel, experienced in the type of transactions contemplated by this Agreement and selected by it after consultation with the Grantor and the Beneficiary, and shall, upon demand, be indemnified and held harmless from and against any and all Losses by the Grantor hereunder for any actions taken, omitted or suffered by it in connection with this Agreement or under any transaction contemplated hereby in good faith without negligence or willful misconduct and in accordance with the opinion of such counsel. The opinion of such counsel shall be full and complete authority and protection for the Trustee with respect to any action taken, suffered or omitted by it in good faith and in accordance with the opinion of such counsel, other than with respect to the withdrawal of Assets by the Beneficiary.

(k) Whenever, in the administration of the Trust Account created by this Agreement, the Trustee shall reasonably deem it necessary or desirable that a matter be proved or established prior to taking, suffering or omitting any action thereunder, subject to the requirement of reasonableness, good faith and lack of negligence and willful misconduct, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a statement or certificate signed by or on behalf of the Grantor and/or the Beneficiary and delivered to the Trustee and such certificate shall be full warrant to the Trustee for any action taken, suffered or omitted by it on reliance thereon, subject to this paragraph, but in its discretion exercised in a reasonable manner, the Trustee may in lieu thereof accept other evidence of the fact or matter or may require such other or additional evidence as it may deem reasonable.

(l) Notwithstanding anything to the contrary provided herein, the Trustee is not responsible for any Losses resulting from reasons or causes beyond its control, including, without limitation, nationalization, expropriation, currency restrictions, acts of war, terrorism, insurrection, revolution, civil unrest, riots or strikes, nuclear fusion or fission or acts of God.

(m) The Parties acknowledge that nothing in this Agreement shall obligate the Trustee to extend credit, grant financial accommodation or otherwise advance moneys for the purpose of making any payments or part thereof or otherwise carrying out any Instructions, including, without limitation, any Investment Order.

(n) The Trustee hereby indemnifies the Grantor and the Beneficiary for, and holds them harmless against, any Losses (including reasonable attorneys' fees and expenses and reasonable consulting and accountants' fees and expenses) incurred or paid, arising out of or in connection with the Trustee's negligence, willful misconduct or lack of good faith in the performance of its duties and obligations under this Agreement, including, without limitation, any Loss arising out of or in connection with the status of the Trustee as the holder of record of any or all of the Assets. The Trustee hereby acknowledges that the foregoing indemnities shall survive the resignation of the Trustee and the termination of this Agreement.

Section 8. The Trustee's Compensation, Expenses and Indemnification. {tc \l 0
"1Section 8. The Trustee's Compensation, Expenses and Indemnification."}

(a) The Beneficiary, upon receipt of an invoice from the Trustee and without offset to the Beneficiary's interest, (i) shall pay the Trustee, as compensation for its services under this Agreement, a fee computed at rates determined by the Trustee from time to time and communicated in writing to the Beneficiary and (ii) shall pay or reimburse the Trustee for all of the Trustee's expenses and disbursements in connection with its duties under this Agreement (including reasonable attorneys' fees and expenses and reasonable accounting and consulting fees and expenses), except any such expense or disbursement as may arise from the Trustee's negligence, willful misconduct or lack of good faith.

(b) The Grantor hereby indemnifies the Trustee for, and holds it harmless against, any Losses (including reasonable attorneys' fees and expenses and reasonable consulting and accountants' fees and expenses) incurred or paid (other than as a result of Trustee's negligence, willful misconduct or lack of good faith), arising out of or in connection with the performance of its duties and obligations under this Agreement, including, without limitation, any Loss arising out of or in connection with the status of the Trustee as the holder of record of any or all of the Assets. The Grantor hereby acknowledges that the foregoing indemnities shall survive the resignation of the Trustee or the termination of this Agreement and hereby grants the Trustee a lien, right of set-off and security interest in the funds in the Income Account for the payment of any claim for indemnity hereunder.

(c) No Assets shall be withdrawn from the Trust Account or used in any manner for paying compensation to, or reimbursement or indemnification of, the Trustee.

Section 9. Resignation or Removal of the Trustee. {tc \l 0 "1Section 9.
Resignation or Removal of the Trustee."}

(a) The Trustee may resign at any time by giving not less than 90 days' written notice thereof to the Beneficiary and to the Grantor. The Grantor or the Beneficiary also may remove the Trustee at any time, without assigning any reason therefore, on 90 days' prior written notice thereof to the Trustee. Any such resignation or removal shall become effective on the acceptance of appointment by a successor trustee and the transfer to such successor trustee of all Assets in the Trust Account in accordance with paragraph (b) of this Section 9.

(b) Upon receipt of the Trustee's notice of resignation, the Grantor and the Beneficiary shall promptly appoint a successor trustee. Upon receipt by the Trustee of the notice of removal, the Trustee shall forward a copy of such notice to the Grantor and the Beneficiary and the Grantor and the Beneficiary shall promptly appoint a successor trustee. Any successor trustee shall be a Qualified United States Financial Institution. Upon the acceptance of the appointment as trustee hereunder by a successor trustee, such successor trustee shall succeed to and become vested with all the rights, powers, privileges and duties of the Trustee, and the Trustee shall be discharged from any future duties and obligations under this Agreement (other than the indemnification contained in Section 7(n)), but the Trustee shall continue after its resignation to be entitled to the benefits of the indemnities provided herein for a Trustee.

Section 10. Termination of the Trust Account.{tc \10 "1Section 10. Termination of the Trust Account."}

(a) The Trust Account and this Agreement, except for the indemnities provided herein, which shall survive termination, may be terminated only after (i) the Grantor or the Beneficiary has given the Trustee written notice of its intention to terminate the Trust Account (the "Notice of Intention"), and (ii) the Trustee has given the Grantor and the Beneficiary the written notice specified in paragraph (b) of this Section 10. The Notice of Intention shall specify the date on which the notifying Party intends the Trust Account to terminate (the "Proposed Date").

(b) Within ten Business Days following receipt by the Trustee of the Notice of Intention, the Trustee shall give written notification (the "Termination Notice") to the Beneficiary and the Grantor of the date (the "Termination Date") on which the Trust Account shall terminate. The Termination Date shall be (i) the Proposed Date (or if not a Business Day, the next Business Day thereafter), if the Proposed Date is at least 30 days but no more than 45 days subsequent to the date the Termination Notice is given; (ii) 30 days subsequent to the date the Termination Notice is given (or if not a Business Day, the next Business Day thereafter), if the Proposed Date is less than 30 days subsequent to the date the Termination Notice is given; or (iii) 45 days subsequent to the date the Termination Notice is given (or if not a Business Day, the next Business Day thereafter), if the Proposed Date is more than 45 days subsequent to the date the Termination Notice is given.

(c) On the Termination Date, upon receipt of written approval of the Beneficiary, the Trustee shall transfer to the Grantor any Assets remaining in the Trust Account, at which time all duties and obligations of the Trustee with respect to such Assets shall cease. Until such Assets have been so transferred, the Beneficiary may withdraw Assets necessary to secure 102% of the Obligations and deposit the Assets into an account of the Beneficiary pending payment of the Obligations as they mature.

(d) The Grantor shall not terminate the Trust Account or this Agreement on the basis of the insolvency of the Beneficiary.

Section 11. Qualified United States Financial Institution. {tc \l 0 "1Section 11. Qualified United States Financial Institution"}

The Trustee represents and warrants to the Grantor and the Beneficiary that it is a Qualified United States Financial Institution.

Section 12. Definitions. {tc \l 0 "1Section 12. Definitions."}

Except as the context shall otherwise require, the following terms shall have the following meanings for all purposes of this Agreement (the definitions to be applicable to both the singular and the plural forms of each term defined if both such forms of such term are used in this Agreement):

The term "Affiliate" shall mean a Person that, directly or indirectly through one or more Persons, controls or is controlled by, or is under common control with, another Person.

The term "Business Day" shall mean any day on which the office of the Trustee in New York, New York is open for business.

The term "control" (including the related terms "controlling," "controlled by" and "under common control with") shall mean the possession by a Person, directly or indirectly, of the power to direct or cause the direction of the management and policies of another Person, whether through the ownership of voting securities, by contract (other than a commercial contract for goods or non-management services), or otherwise, unless the power is the result of an official position with or corporate office held by such Person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, 10% or more of the voting securities of another Person; provided, that this presumption may be rebutted by a showing that control does not exist in fact.

The term "Eligible Trust Assets" shall mean cash (United States legal tender) and other investments that meet **both each** of the following criteria: (a) **the investments are of the types specified in subsections (1), (2), (3), (8) or (10) of Section 1404(a) of the New York Insurance Law;** (b) the investments are of the types specified in PA. STAT. ANN. tit. 40 § 442.1(b); and ~~(b)~~ **(c) the** investments have not been issued by a Parent, a Subsidiary or an Affiliate of the Grantor or the Beneficiary.

The term "New York Insurance Law" shall mean Chapter 28 of the Consolidated Laws of the State of New York, as amended, and the rules and regulations promulgated thereunder from time to time.

The term "Obligations" shall mean, with respect to the Reinsurance Agreement, (a) losses and allocated loss expenses paid by the Beneficiary, but not recovered from the Grantor, (b) reserves for losses reported and outstanding, (c) reserves for losses incurred but not reported, (d) reserves for allocated loss expenses and (e) reserves for unearned premiums.

The term "Parent" shall mean a Person that controls, directly or indirectly, another Person.

The term "Pennsylvania Insurance Law" shall mean The Insurance Company Law of 1921 of the Commonwealth of Pennsylvania, as amended (PA. STAT. ANN. tit. 40 §§ 341-991.1718), and the rules and regulations promulgated thereunder from time to time.

The term "Person" shall mean and include an individual, a corporation, a limited liability company, a partnership, an association, a joint stock company, a trust, an unincorporated organization, or any similar entity or any combination of the foregoing acting in concert.

The term "Qualified United States Financial Institution" shall mean a Person that is **(a) a bank that is a member of the Federal Reserve System or chartered in the State of New York; (b) a "qualified United States financial institution" under and as defined in 31 PA. CODE § 163.1 promulgated under the Pennsylvania Insurance Law;** and ~~(b)~~**(c)** is not a Parent, a Subsidiary or an Affiliate of the Grantor or the Beneficiary.

The term "Subsidiary" shall mean a Person that is controlled, directly or indirectly, by another Person.

Section 13. Governing Law; Compliance with Regulations; Venue.{tc \ 0 "1Section 13. Governing Law; Compliance with Regulations; Venue."}

This Agreement shall be governed by and construed in accordance with the laws of the State of New York. The Parties acknowledge that the Beneficiary is domiciled in the Commonwealth of Pennsylvania. The Parties desire that the terms of this Agreement and the operation of the Trust Account are at all times in compliance with the relevant provisions of the **New York Insurance Law and the Pennsylvania Insurance Law** (including, without limitation, **Regulation 114 of the New York Insurance Law and** Title 31, Chapter 163 of the Regulations of the Pennsylvania Insurance Department) and this Agreement shall be interpreted accordingly.

The Trustee agrees, for the benefit of the other Parties (including, without limitation, any liquidator, rehabilitator, receiver or conservator and any successor, merged or consolidated entity), that the federal and state courts located in the State of New York, New York County, shall have exclusive jurisdiction to hear and determine any suit, action or proceeding, and to settle any disputes, which may arise out of or in connection with this Agreement.

Section 14. Successors and Assigns.{tc \ 0 "1Section 14. Successors and Assigns."}

No Party may assign this Agreement or any of its obligations hereunder without the prior written consent of the other Parties; provided, however, that this Agreement shall inure to the benefit of and bind those who, by operation of law, become successors to the Parties, including, without limitation, any liquidator, rehabilitator, receiver or conservator and any successor, merged or consolidated entity, and provided, further, that, in the case of the Trustee, the successor trustee is eligible to be a trustee under the terms hereof.

Section 15. Severability.{tc \0 "1Section 15. Severability."}

In the event that any provision of this Agreement shall be declared invalid or unenforceable by a court having jurisdiction, such invalidity or unenforceability shall not effect the validity or enforceability of the remaining portions of this Agreement.

Section 16. Entire Agreement.{tc \0 "1Section 16. Entire Agreement."}

This Agreement constitutes the entire agreement among the Parties, and there are no understandings or agreements, conditions or qualifications relative to this Agreement which are not fully expressed in this Agreement.

Section 17. Amendments.{tc \0 "1Section 17. Amendments."}

This Agreement may be modified or otherwise amended, and the observance of any term of this Agreement may be waived, only if such modification, amendment or waiver is in writing and signed by all of the Parties, and such modification is in compliance with all applicable law, including, without limitation, the New York Insurance Law and the Pennsylvania Insurance Law.

{tc \0 "1"}**Section 18. Notices, etc.**{tc \0 "1Section 18. Notices, etc."}

Unless otherwise provided in this Agreement, all Communications (including, without limitation, any Investment Orders or Instructions) required or permitted to be given or made under the terms hereof shall be in writing and shall be deemed to have been duly given or made (a) (i) when delivered personally, (ii) when made or given by facsimile or electronic mail, or (iii) in the case of International Priority Mail or Federal Express, upon the expiration of three days after any Communication shall have been deposited in International Priority Mail or Federal Express for transmission or upon receipt thereof, whichever shall first occur and (b) when addressed as follows:

If the Grantor:

Capco Reinsurance Company Ltd.

[]

[]

Attention: []

Fax: []

If the Beneficiary:

National Union Fire Insurance

Company of Pittsburgh, Pa.

70 Pine Street - 3rd Floor

New York, NY 10270

Attention: Jeff Schattin
Fax: (212) 509-7059

With a copy to (for all Communications
other than Investment Orders and Instructions):

American International Companies®
160 Water Street - 24th Floor
New York, NY 10038
Attention: General Counsel, Domestic Brokerage Group
Fax: (212) 820-4504

If to the Trustee:

[Citibank, N.A.
Insurance Trust Unit
111 Wall Street
14th Floor, Zone 20
New York, NY 10043
Attention: Peter von Kaufmann
Facsimile: (212) 657-2674]

Each Party may from time to time designate a different address for Communications (including, without limitation, Investment Orders) by giving written notice of such change to the other Parties; provided, however, that each Party shall at all times be entitled to give all Communications to the Trustee at its principal office in the United States. All Communications relating to the withdrawal, redemption, substitution or reinvestment of Assets and to the termination of the Trust Account shall be in writing.

Section 19. Headings.{tc \0 "1Section 19. Headings."}

The headings of the sections and the Table of Contents have been inserted for convenience of reference only, and shall not be deemed to constitute a part of this Agreement.

Section 20. Counterparts.{tc \0 "1Section 20. Counterparts."}

This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall constitute an original, but such counterparts together shall constitute one and the same Agreement.

[SIGNATURE PAGES FOLLOW]

DRAFT – 6/29/00

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed and delivered by their respective officers thereunto duly authorized as of the date first above written.

CAPCO REINSURANCE COMPANY LTD.

By: _____
Name:
Title:

NATIONAL UNION FIRE INSURANCE
COMPANY OF PITTSBURGH, PA.

By: _____
Name:
Title:

[CITIBANK, N.A.]

By: _____
Name:
Title:

DRAFT – 6/29/00
EXHIBIT A

REINSURANCE AGREEMENT

Aggregate Loss Ratio Agreement, dated as of June [], 2000, by and between National Union Fire Insurance Company of Pittsburgh, Pa. and Capco Reinsurance Company Ltd.

ASSETS DEPOSITED TO THE TRUST ACCOUNT

----- COMPARISON OF HEADERS -----

-HEADER 1-
DRAFT ~~6/22/00~~ 6/29/00

-HEADER 2-
Header Discontinued

-HEADER 3-
I

----- COMPARISON OF FOOTERS -----

-FOOTER 1-

-FOOTER 2-
~~13~~ 14
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This redlined draft, generated by CompareRite (TM) - The Instant Redliner, shows the differences between -
original document : H:\AIGRE\WARRANTY\114TRUST.DOC
and revised document: H:\AIGRE\WARRANTY\114TRUST2.DOC

CompareRite found 12 change(s) in the text
CompareRite found 3 change(s) in the notes

Deletions appear as Overstrike text
Additions appear as Bold-Underline text