

ESCROW AGREEMENT FOR SETTLEMENT PAYMENT

This ESCROW AGREEMENT FOR SETTLEMENT PAYMENT (the “Escrow Agreement”) is entered into by and between Arthur J. Gallagher & Co. and its subsidiaries (including but not limited to Arthur J. Gallagher Risk Management Services, Inc. and Gallagher Benefit Services, Inc) and the law firms of Whatley, Drake & Kallas, LLC and Cafferty Faucher LLP, and [BANK], as escrow agent.

WHEREAS, the Gallagher Defendants¹ were named as defendants in putative class actions (the “Action”) styled *In re Insurance Brokerage Antitrust Litigation*, MDL No. 1663, Civil Nos. 04-5184 and 05-1079 (GEB) (PS), in which Class Plaintiffs (exclusive of the Village of Orland hereafter “Class Plaintiffs”) alleged that the Gallagher Defendants engaged in certain conduct that, among other things, violated federal and state statutes and common law; and

WHEREAS, Class Plaintiffs and the Gallagher Defendants entered into a Settlement Agreement; and

WHEREAS, the Settlement Agreement requires the Gallagher Defendants to pay or cause to be paid into the Escrow Account the Settlement Amount within thirty (30) business days following the Effective Date.

WHEREAS, the Preliminary Approval Date occurred on [DATE].

¹ As set out in Section I of this Escrow Agreement, capitalized terms in this Escrow Agreement either (i) have the same meaning as ascribed to them in Section I of the Stipulation of Settlement Between Class Plaintiffs and Arthur J. Gallagher & Co. Defendants, dated December 29, 2006, as amended, a copy of which is annexed as Exhibit A (the “Settlement Agreement”) or (ii) have the meaning as ascribed to them in Section I of this Escrow Agreement.

NOW, THEREFORE, the Gallagher Defendants, and Co-Lead Counsel, agree as follows:

I. Definitions and Interpretations

As used in this Escrow Agreement, capitalized terms either (i) have the same meaning as ascribed to them in Section I of the Settlement Agreement or (ii) have the meaning as ascribed to them in this Escrow Agreement, including as follows:

a. **“Deposit Date”** means a date that is within thirty (30) business days following the Effective Date.

b. **“Escrow Account”** means account number _____, an interest-bearing account, established and administered pursuant to this Escrow Agreement, into which the Settlement Amount shall be deposited, as described herein.

c. **“Escrow Agent”** means [BANK].

d. **“Escrow Agreement”** means this Escrow Agreement for Settlement Payment.

e. **“Escrow Expenses”** means the reasonable out-of-pocket expenses incurred by the Escrow Agent in connection with the Escrow Account (including with respect to the payment of any taxes due on any monies in the Escrow Account), which expenses shall be paid, consistent with the terms set out in Section 4(b) below.

f. **“Escrow Funds”** means all monies that are held in the Escrow Account.

g. **“Final Disputed Amounts”** means the aggregate, without duplication, of the following: (i) the portion of the Final Escrow Expenses (defined below) (if any) disapproved by the Gallagher Defendants, and/or Co-Lead Counsel (as the case may be)

with respect to which the Escrow Agent has, by the date required in Section 5(c) below, expressed an intention to submit a dispute to the Court pursuant to Section 6 below and (ii) the portion of disapproved Escrow Expenses (if any) that are the subject of a dispute that is pending before the Court as of the date the Escrow Agent receives a Joint Written Notice (defined below) that this Escrow Agreement is to be terminated pursuant to Section 5 below.

h. **“Final Escrow Expenses”** means Escrow Expenses respecting which the Escrow Agent has not yet sought approval as of the date on which the Escrow Agent receives a Joint Written Notice that the Settlement Agreement has been terminated pursuant its terms.

i. **“Interest Rate”** means interest calculated on a simple interest basis based upon the one-year US LIBOR rate; provided that for each month during which interest is to be calculated, the rate shall be established based upon the one-year US LIBOR rate on the first (1st) day of each month, as published in *The Wall Street Journal* under the description of “Money Rates.”

j. **“Joint Written Notice”** means a written instruction or notice of the occurrence of an event provided to the Escrow Agent that is signed by the Gallagher Defendants, or Co-Lead Counsel.

k. **“Qualified Settlement Fund”** means a fund within the meaning of Treasury Regulations § 1.468B-1.

II. Appointment of and Acceptance by Escrow Agent

The Gallagher Defendants and Co-Lead Counsel, hereby jointly appoint [BANK] to act as the Escrow Agent for this Escrow Agreement, and [BANK] hereby accepts this appointment and, upon receipt of the Settlement Amount, agrees to act as the Escrow Agent pursuant to the terms and conditions set forth in this Escrow Agreement.

III. Deposits into the Escrow Account

a. Upon execution of this Escrow Agreement, the Escrow Agent shall establish the Escrow Account. The Escrow Agent shall promptly verify to the Gallagher Defendants and Co-Lead Counsel of the establishment of the Escrow Account, and provide to the Gallagher Defendants and Co-Lead Counsel all relevant account information.

b. On or before the Deposit Date, the Gallagher Defendants shall deposit or cause to be deposited by wire transfer, the Settlement Amount into the Escrow Account

c. Upon receipt of the Settlement Amount as described in Section 3(b) above, the Escrow Agent shall acknowledge the receipt of the Settlement Amount and the deposit thereof to the Gallagher Defendants and Co-Lead Counsel.

d. The Escrow Agent is instructed and authorized to invest all Escrow Funds in demand deposits held by [BANK] and guaranteed by the United States government at a market rate of interest.

e. The Escrow Agent shall hold the Escrow Funds in this Escrow Agreement and shall not withdraw any proceeds except as provided in this Escrow Agreement. The Escrow Funds (as such funds may be reduced by distributions required to be made under this Escrow Agreement) shall be held only for the purposes and subject to the terms and

conditions set forth in this Escrow Agreement, and shall not be subject to any lien, attachment, trusteeship or any other judicial process. No third parties or their respective creditors shall have any right to, or claim respecting, the Escrow Funds.

f. Any and all income earned on the Escrow Funds in the Escrow Account shall accrue to and become part of the Escrow Account.

g. The Escrow Account shall be held separately and segregated from all other funds or accounts held by the Escrow Agent.

IV. Payments and Distributions from Escrow Account

a. *Administration of Payments*

i. Every fifteen (15) days Complete Claims Solutions, LLC (“CCS”) shall advise Settlement Counsel and the Escrow Agent of those claims for which the Settlement Administration process had been completed.

ii. Within five (5) business days of receiving the above-referenced advice from CCS, the Escrow Agent shall cause checks to be issued in the amount of the claims and to the Settlement Class Members identified by CCS.

iii. The Escrow Agent shall, within five (5) business days following the end of each calendar month in which the Escrow Account is in existence, provide to the Gallagher Defendants and Co-Lead Counsel the following information respecting the Escrow Account: (1) an accounting of all Escrow Funds paid out of the Escrow Account during such calendar month, including amounts paid to the Escrow Agent, (2) the interest earned on the Escrow Account during such calendar month and (3) the balance of the Escrow Account as of the date of the accounting.

iv. The Escrow Agent shall be responsible for filing any tax forms that are necessary respecting the Escrow Account.

b. ***Expenses Respecting this Escrow Account***

i. Subject to Section 4(b)(i)(4) below, the Escrow Agent shall be reimbursed for Escrow Expenses, which reimbursements shall be made from the Escrow Funds pursuant to the following terms:

1. Invoices for Escrow Expenses shall be submitted by the Escrow Agent to the Gallagher Defendants and Co-Lead Counsel, on a timely basis, and in no event later than the month following the month in which the Escrow Expenses were incurred.

2. Upon their receipt of an invoice for Escrow Expenses, the Gallagher Defendants and Co-Lead Counsel shall, within ten (10) days of receiving the invoice, advise the Escrow Agent in writing if they approve or disapprove the invoice or any portion of it; provided further that if the Gallagher Defendants and, Co-Lead Counsel fail to disapprove all or a portion an invoice within fourteen (14) days of receiving the invoice, such invoice shall be deemed approved in its entirety.

3. Upon being notified of approval of an invoice (or upon the passage of fourteen (14) days time as provided above) for Escrow Expenses by the Gallagher Defendants and Co-Lead Counsel, the Escrow Agent is authorized to reimburse itself respecting such Escrow Expenses (or the approved portion of such Escrow Expenses) out of Escrow Funds.

4. Upon being notified of disapproval of an invoice (or any portion of an invoice) for Escrow Expenses by the Gallagher Defendants and/or Co-Lead Counsel, the Escrow Agent (a) is authorized to pay to itself any portion (if any) of the Escrow Expenses that the Gallagher Defendants and Co-Lead Counsel have approved and (b) may, in its discretion, submit any dispute with respect to disapproved Escrow Expenses (or any portion thereof) to the Court pursuant to Section 6(a) below.

V. Termination of the Escrow Agreement

a. The Gallagher Defendants and Co-Lead Counsel shall provide Joint Written Notice to the Escrow Agent advising the Escrow Agent of the termination of the Escrow Agreement; and

b. Within ten (10) business days following the Joint Written Notice described in 5(a) above, the Escrow Agent shall provide to Co-Lead Counsel any outstanding invoices for all Final Escrow Expenses (to the extent not previously invoiced).

c. Within fifteen (15) business days following the receipt of notification of any outstanding invoices for Final Escrow Expenses described in 5(b) above, Co-Lead Counsel shall advise the Escrow Agent in writing if they approve or disapprove any invoices or any portion of invoices regarding Final Escrow Expenses; provided that if Co-Lead Counsel fails to disapprove all or a portion of any invoice received pursuant to Section 5(b) above, such invoice shall be deemed approved in its entirety; provided further that if Co-Lead Counsel disapprove any invoice (or portion of any invoice) relating to Final Escrow Expenses, the Escrow Agent shall, advise Co-Lead Counsel in

writing if the Escrow Agent intends to submit a dispute regarding such disapproval to the Court pursuant to Section 6(a) below.

d. Within twenty-one (21) business days following the Joint Written Notice the Escrow Agent shall provide Settlement Counsel with a listing of all checks which have been outstanding for more than 180 days and that are considered to be "stale" under Section 4-404 of the Uniform Commercial Code. Upon receipt of such report from the Escrow Agent, the Gallagher Defendants shall direct the Escrow Agent as to the final disposition of any such remaining funds, and the Escrow Agents shall act upon such direction only after any Final Disputed Amounts are paid by the Escrow Agent consistent with the rulings of the Court pertaining to such Final Disputed Amounts.

e. Within thirty (30) business days following the Joint Written Notice described in 5(a), the Escrow Agent shall disburse and distribute Escrow Funds as follows:

(i.) The portion of the Final Escrow Expenses approved by Co-Lead Counsel pursuant to Section 5(c) to the Escrow Agent;

(ii.) Upon notification that the Court has issued a ruling respecting any dispute involving Final Disputed Amounts, the Escrow Agent shall, within five (5) days following receipt of a copy of such ruling, distribute the relevant Escrow Funds accordingly;

(iii.) The balance of the Escrow Funds, consistent with the instructions provided to the Escrow Agent pursuant to Section 5(d) above;

(iv.) When all disputes regarding Final Disputed Amounts are resolved and the Escrow Agent has distributed the relevant Escrow Funds pursuant to Section 5(d)(iii), the Escrow Account shall be terminated; and,

(v.) On the date on which the last of the disbursements are made pursuant to this Section 5, the Escrow Agent shall provide the Gallagher Defendants and Co-Lead Counsel with an accounting as to the interest that has accrued on the Escrow Funds.

VI. Settlement of Disputes

a. Any issue, claims and/or disputes arising in connection with this Escrow Agreement, including any disputes regarding the payment of Escrow Expenses or Final Escrow Expenses, shall be submitted to the Court for resolution; *provided* that any submission of a dispute to the Court shall be subject to the following:

i. any submission regarding a dispute shall be made within the time periods set out in this Escrow Agreement; *provided* that if there is no specific time period regarding a particular dispute, the submission shall be made within twenty (20) days of the date on which the submitting party first learns of the conduct or act that gives rise to the dispute;

ii. the party submitting a dispute to the Court shall provide notice of the submission pursuant to the notice provisions of this Escrow Agreement;

iii. all parties agree to be bound by the determination of the Court regarding any issues, claims and/or disputes in connection with this Escrow Agreement, which determination shall not be subject to appeal.

b. If the Escrow Agent is uncertain as to its duties or rights under this Escrow Agreement, or receives instructions, claims or demands from a party to the Escrow Agreement that, in its opinion, conflict with the terms of this Escrow Agreement, it may refrain from taking action in connection with the Escrow Funds or the funds with respect to which such uncertainty or conflict exists, until it is able to obtain a resolution of the issue pursuant to this Section 6. During the period in which the issue remains unresolved, the Escrow Agent's sole obligation with respect to the Escrow Funds that are the subject of the dispute shall be to keep safely such Escrow Funds and related books and records it holds under this Escrow Agreement; *provided* that with respect to all other Escrow Funds as to which there is no dispute, the Escrow Agent shall be bound by the terms and conditions of this Escrow Agreement.

c. Each of the parties irrevocably waives any right to trial by jury in any legal proceedings arising out of, relating to or in connection with this Escrow Agreement, or its breach, termination or validity. Each party certifies and acknowledges that:

i. No representative, agent or attorney or any other party has represented, expressly or otherwise, that such other party would not, in the event of litigation seek to enforce this waiver;

ii. Each such party understand and has considered the implications of this waiver;

iii. Each such party makes this waiver voluntarily; and

iv. Each such party has been induced to enter into this escrow agreement by, among other things, the mutual waivers and certification in this section.

VII. Provisions Regarding the Escrow Agent

a. The Escrow Agent has no duties or responsibilities except those expressly provided in this Escrow Agreement. The Escrow Agent has no liability under this Escrow Agreement except for its own bad faith, gross negligence, willful misconduct or breach of this Escrow Agreement. It may rely on any Joint Written Notice which it reasonably believes to be genuine and to have been signed or presented by a proper person or persons.

b. The Escrow Agent has no duties with respect to any agreement(s) with respect to the Escrow Funds other than as provided in this Escrow Agreement. The Escrow Agent has no interest in the Escrow Funds except as provided in this Escrow Agreement. This Section 7 shall survive notwithstanding the termination of this Escrow Agreement or the Escrow Agent's resignation or removal.

c. The Escrow Agent shall keep proper books of record and account, and make full and correct entries of the receipts and disbursements in the Escrow Account.

d. In addition to the accountings that the Escrow Agent shall provide pursuant to Section 4(a)(i) and 4(a)(iii) above, the Escrow Agent shall provide to the Gallagher Defendants and Co-Lead Counsel, upon written request and without additional

cost, a statement of transaction details on completion of any transaction involving the Escrow Account.

e. The Escrow Agent may resign as escrow agent by giving sixty (60) days notice by registered or certified mail to the Gallagher Defendants and Co-Lead Counsel consistent with Section 7(g) below. Subject to Section 7(g) below, such resignation shall take effect at the end of such sixty (60) days or on the Escrow Agent's earlier receipt of Joint Written Notice of appointment of a new escrow agent.

f. The Gallagher Defendants and Co-Lead Counsel may jointly remove the Escrow Agent by sending the Escrow Agent a Joint Written Notice regarding such removal. Such removal shall be effective on the date set forth in such Joint Written Notice.

g. Notwithstanding anything in Sections 7(e) and 7(f), the resignation or removal of the Escrow Agent shall not be effective unless and until the Gallagher Defendants and Co-Lead Counsel jointly appoint a successor escrow agent. If no Joint Written Notice of appointment of a new escrow agent has been delivered to the Escrow Agent within sixty (60) days after the Escrow Agent delivers its notice of resignation or by the effective date of its removal, the resigning or removed Escrow Agent may, at the Gallagher Defendants' and Co-Lead Counsel's expense (which expense shall be paid out of the Escrow Funds), petition the Court for appointment of a successor escrow agent. The Escrow Agent's resignation or removal shall not discharge any liability or obligations of the Escrow Agent arising before the effective date of its resignation or removal.

h. The Gallagher Defendants and Co-Lead Counsel shall jointly appoint a successor escrow agent to fill any vacancy resulting from (i) the Escrow Agent being dissolved or otherwise becoming incapable of acting, (ii) the Escrow Agent being taken over by a government official, agency, department or board, or (iii) the Escrow Agent's position becoming vacant for any other reason.

i. The Gallagher Defendants and Co-Lead Counsel shall cause any successor escrow agent appointed pursuant to this Escrow Agreement to execute, acknowledge and deliver to the Escrow Agent, and to the Gallagher Defendants and Co-Lead Counsel, an instrument in writing accepting its appointment, at which point: The Escrow Agent shall deliver to its successor, as directed in writing by the Gallagher Defendants and Co-Lead Counsel, all property and moneys it holds under this Escrow Agreement, and the books of records and account (including the accountings described in Section 4(a)(i) and 4(a)(iii) above), and any other information, required by the successor escrow agent to perform its obligations under the escrow agreement among the Gallagher Defendants and Co-Lead Counsel and such successor escrow agent.

j. The Gallagher Defendants and Co-Lead Counsel shall release the Escrow Agent with respect to all claims, damages and liabilities for anything done or omitted by the Escrow Agent in performing its duties under this Escrow Agreement, except such claims that are based upon the Escrow Agent's bad faith, gross negligence, willful misconduct or breach of this Escrow Agreement.

k. Subject to Section 7(a) above, the Escrow Agent shall not be liable for special, indirect or consequential loss or damage (including lost profits), even if the

Escrow Agent has been advised of the likelihood of such loss or damage and regardless of the form of action.

l. The Escrow Agent is acting under this Escrow Agreement as a stakeholder only and is an independent contractor with respect to each party. No provision of this Escrow Agreement is intended to create any principal, joint venture, partnership or debtor/creditor relationship between or among the Escrow Agent and any of the parties.

VIII. General Matters

a. This Escrow Agreement shall be governed by and interpreted according to the laws of the State of New Jersey, excluding its conflict of laws provisions. All disputes arising under this Escrow Agreement shall be resolved through the procedure described in Section 6(a) above.

b. This Escrow Agreement is binding on and shall inure to the benefit of the parties' heirs, executors, administrators, legal representatives, successors and permitted assigns.

c. This Escrow Agreement may be executed in one or more counterparts which, taken together, constitute one and the same instrument. Execution by facsimile or by an electronically transmitted signature shall be fully and legally binding on a party.

d. No amendment or discharge of this Escrow Agreement, or waiver under it, shall be valid or binding unless set forth in writing and duly signed by the party against whom enforcement of the amendment, discharge or waiver is sought and by the Escrow Agent. Any such waiver shall waive only the specific matter described in the writing and shall not impair the rights of the party granting the waiver in any other respect or at any

other time. Neither the waiver by a party of a breach of a provision of this Escrow Agreement, nor the failure by a party, on one or more occasions, to enforce a provision of this Escrow Agreement, or to exercise a right or privilege under this Escrow Agreement, shall constitute a waiver of any other breach of a similar nature, or a waiver of any of such provisions, rights or privileges under this Escrow Agreement.

e. The invalidity or unenforceability of any provision of this Escrow Agreement in any jurisdiction shall not affect the validity or enforceability of the rest of this Escrow Agreement in that jurisdiction or the validity or enforceability of this Escrow Agreement (including that provision) in any other jurisdiction. If any restriction or provision of this Escrow Agreement is held unreasonable, unlawful or unenforceable in any respect, such restriction or provision shall be interpreted, revised or applied in a manner that makes it lawful and enforceable to the fullest extent possible under law.

f. Notices, requests, demands and other communications under this Escrow Agreement shall be in writing and shall be deemed to have been given (unless otherwise specifically provided for in this Escrow Agreement) if delivered by hand, delivered by a nationally recognized overnight courier for next-day delivery, mailed (registered or certified mail, postage prepaid) or telecopied (which telecopy is confirmed by a transmission receipt):

If to Co-Lead Counsel:

Bryan L. Clobes, Esq.
Cafferty Faucher LLP
1717 Arch Street, 36th Floor
Philadelphia, Pennsylvania 19103
Telephone: (215) 864-2800
Facsimile: (215) 864-2810

Edith M. Kallas, Esq.
Whatley, Drake & Kallas, LLC
1540 Broadway, 37th Floor
New York, New York 10036
Telephone: (212) 447-7070
Facsimile: (212) 447-7077

If to the Gallagher Defendants:

Terry Grimm, Esq.
Winston & Strawn LLP
35 West Wacker Drive
Chicago, IL 60601-9703
Telephone: (312) 558-5600
Facsimile: (312) 558-5700

Edwin Larkin, Esq.
Winston & Strawn LLP
200 Park Avenue
New York, NY 10166-4193
Telephone: (212) 294-6700
Facsimile: (212) 294-4700

If to the Escrow Agent:

[BANK]

Notices, requests, demands and communications shall be deemed to have been given (i) on the date on which so hand-delivered (or, if not delivered before 5:00 p.m. Eastern Time, on the next business day), (ii) on the next business day if delivered by a nationally recognized overnight courier, (iii) on the third business day after the date on which

mailed or (iv) on the date on which telecopied and confirmed (or, if telecopy does not occur before 5:00 p.m. Eastern Time on a business day, on the next business day).

g. Section headings in this Escrow Agreement are for convenience only and shall not be construed as part of this Escrow Agreement.

h. The Escrow Agent represents and warrants that (i) this Escrow Agreement has been duly authorized, executed and delivered on its behalf and constitutes its legal, valid and binding obligation and (ii) its execution, delivery and performance of this Escrow Agreement does not and will not violate any statute, law, rule or regulation.

i. Terry Grimm represents that (i) he is authorized to execute and deliver this Escrow Agreement on behalf of the Gallagher Defendants and (ii) the Gallagher Defendants' execution, delivery and performance of this Escrow Agreement does not and will not violate any statute, law, rule or regulation.

j. Edith M. Kallas and Bryan L. Clobes represents that (i) they are authorized to execute and deliver this Escrow Agreement on behalf of Co-Lead Counsel and (ii) Co-Lead Counsel' execution, delivery and performance of this Escrow Agreement does not and will not violate any statute, law, rule or regulation.

k. _____ represents that (i) he is authorized to execute and deliver this Escrow Agreement on behalf of the Escrow Agent and (ii) the Escrow Agent's execution, delivery and performance of this Escrow Agreement does not and will not violate any statute, law or regulation.

l. Each party shall take (or cause to be taken) such further actions to execute, deliver and file (or cause to be executed, delivered or filed) such further documents and

instruments, and to obtain such consents, as may be necessary or reasonable requested to effectuate fully the purposes, terms and conditions of this Escrow Agreement.

m. Except as provided in this Escrow Agreement, no parties shall assign, encumber or otherwise transfer any of its rights and obligations under this Escrow Agreement to any person without the consent of the other parties. Any such purported assignment, encumbrance or other transfer shall be void and unenforceable.

n. The Escrow Agent shall keep, and shall cause its agents to keep, confidential the information it receives under this Escrow Agreement, except for:

i. information that is or becomes publicly known other than as a result of a breach of this Section 8(n);

ii. information obtained by the Escrow Agent from sources other than the Gallagher Defendants and Co-Lead Counsel or any of them are not subject to a confidentiality obligation;

iii. information requested or required to be disclosed (1) by a statute, law, rule or regulation, (2) to any government agency or regulatory body having or claiming authority to regulate or oversee the Escrow Agent's business, (3) under any subpoena, civil investigative demand or similar demand or request of a court, regulatory authority, arbitrator or arbitration to which the Escrow Agent or any affiliate, or an officer, director, employer or shareholder of the Escrow Agent or such affiliate, is a party, or (4) to any affiliate, independent or internal auditor, agent, employee or attorney of the Escrow Agent having a need to know the information, provided that the Escrow Agent advises the recipient of the confidential nature of the information being disclosed; or

iv. any other disclosure authorized by the person submitting such information.

o. All time periods set forth herein shall be computed in calendar days unless otherwise expressly provided. In computing any period of time prescribed or allowed by this Escrow Agreement or by order of court, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, or, when the act to be done is the filing of a paper in Court, a day on which weather or other conditions have made the office of the Clerk of the Court inaccessible, in which event the period shall run until the end of the next day that is not one of the aforementioned days.

Executed this ___ day of ____ 2007.

**ATTORNEYS FOR ARTHUR J.
GALLAGHER & CO., ARTHUR J.
GALLAGHER RISK MANAGEMENT
SERVICES,, INC. AND GALLAGHER
BENEFIT SERVICES, INC.**

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ESCROW AGENT
