

## SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release, effective as of the date it is fully executed, is entered into by and between the State of Alaska (hereinafter "the State"), Commerce and Industry Insurance Company (hereinafter "C&I") and Red Rose Rentals, Inc., its predecessors, successors and assigns (hereinafter collectively referred to as "Red Rose"). The State, C&I and Red Rose are sometimes hereinafter collectively referred to as the "PARTIES", and may be referenced singularly as a "PARTY".

### WITNESSETH:

WHEREAS, on or about September 21, 2001, the State filed the lawsuit entitled State of Alaska, Department of Environmental Conservation v. Wyoming Alaska Co., Inc. d.b.a. Trailside General Store, Reuel T. Call, Bonita A. Blunk, Red Rose Rentals, Inc. and Commerce & Industry Insurance Company, Case No. 3HO-00-112 CI, in the Superior Court for the State of Alaska, Third Judicial District at Homer (hereinafter "the Underlying Action");

WHEREAS, C&I issued Storage Tank Third-Party Liability Corrective Action and Cleanup Policy ST7500474 (02/03/98-02/03/99) (hereinafter the "Policy") to Trailside General Store; Wyoming Alaska Co., Inc. dba (hereinafter "WACO") providing certain insurance coverage to WACO concerning pollution conditions at the Site;

WHEREAS, in the Underlying Action, the State has alleged a right to recover past and future costs of investigation and remediation as well as damages arising from the release of contaminants and contamination of soil, surface water and groundwater at, adjacent to or from

the Trailside General Store at 345 West Sterling Highway in Homer, Alaska (hereinafter "the Site") from, *inter alia*, WACO, Red Rose and C&I.

WHEREAS, on or about July 1, 2002, the State obtained a judgment against WACO in the Underlying Action in the amount of Two Million Ninety-Two Thousand and Six Hundred Twenty Two Dollars (\$2,092,622.00);

WHEREAS, Red Rose is an additional insured under the Policy in accordance with Endorsement #8 to the Policy;

WHEREAS, WACO and Red Rose have asserted a claim under the Policy seeking defense and indemnity in connection with the claims made by the State in the Underlying Action;

WHEREAS, in the Underlying Action, the State has asserted a right to recover costs of investigation and remediation and damages directly from C&I under statutory and common law causes of action;

WHEREAS, C&I denies that it has any obligation to provide coverage under the Policy to WACO or Red Rose for the claims asserted by the State in the Underlying Action;

WHEREAS, C&I denies that it has any liability to the State for the claims asserted in the Underlying Action;

WHEREAS, Red Rose denies that it has any liability to the State for the claims asserted in the Underlying Action;

WHEREAS, WACO has filed for bankruptcy protection and such bankruptcy proceeding is pending in the United States Bankruptcy Court for the District of Utah under the

caption In re Wyoming Alaska Company, Inc. dba Trailside General Store Debtor, Bankr. No. 01-21725 GEC (hereinafter the "Bankruptcy Proceeding").

WHEREAS, the PARTIES wish to avoid the expense and disruption of litigation over the issue of whether C&I or Red Rose are liable to the State for the claims asserted in the Underlying Action and whether C&I has any obligation to provide coverage to Red Rose under the Policy or otherwise;

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the PARTIES hereto agree as follows:

A. "Policies" as used herein shall mean Storage Tank Third-Party Liability Corrective Action and Cleanup Policy No. ST7500474 (2/3/98-2/3/99) issued to WACO by C&I and any other insurance policy issued to WACO by C&I.

B. The "Site" as used herein shall mean the Trailside General Store at 345 West Sterling Highway in Homer, Alaska including the real property on which the store is or was located and the real property on which adjacent stores are located.

C. The "Underlying Action" shall mean the action entitled State of Alaska, Department of Environmental Conservation v. Wyoming Alaska Co., Inc. d.b.a. Trailside General Store, Reuel T. Call, Bonita A. Blunk, Red Rose Rentals, Inc. and Commerce & Industry Insurance Company, Case No. 3HO-00-112 CI, filed in the Superior Court for the State of Alaska, Third Judicial District at Homer.

D. "Homer Site Claims" as used herein shall mean any and all demands, claims, liabilities, causes of action, suits or requests for relief, action or forbearance of any kind, whether in law, equity or otherwise, whether alleging bodily injury, property damage, personal injury, injury, damage or harm to natural resources, or any other harm, injury, damage, cost or violation or need for remedy of any kind, and whether past, present or future, known or unknown, or asserted or unasserted arising out of or related to releases of contaminants or contamination of soil, surface water or groundwater at, adjacent to or arising from the Site, including, but not limited to, any and all claims arising out of or related to releases of contaminants from above-ground or underground storage tanks, pipelines and related pumps and fill ports at the Site and any and all claims asserted or which could have been asserted in the Underlying Action, and any claims asserting a right to defense, indemnity or other recovery or relief under the Policies, including claims for bad faith, malicious prosecution, statutory or regulatory violation or punitive, statutory or extra-contractual damages of any type. However, "Homer Site Claims" shall not include claims arising out of or related to releases of contaminants at the Site that occur after the execution of this Settlement Agreement.

E. The "Bankruptcy Proceeding" shall mean In re Wyoming Alaska Company, Inc. dba Trailside General Store Debtor, Bankr. No. 01-21725 GEC.



1. Permanent And Binding Resolution: This Settlement Agreement is a permanent and binding accord and resolution of the rights and obligations of the PARTIES with respect to all matters that are the subject of this Settlement Agreement or the Releases attached hereto.

2. Payment By C&I: In consideration of the agreement by the PARTIES to perform the obligations required of them hereunder and to release or procure the release of Red Rose and C&I to the full extent set forth in this Settlement Agreement and the Releases attached hereto as Exhibits A-C, C&I agrees to pay the single and total sum of EIGHT HUNDRED AND EIGHTEEN THOUSAND dollars (\$818,000.00) (the "Settlement Payment") to the State within thirty (30) days after (i) execution by all PARTIES of this Settlement Agreement and the Releases; and (ii) the issuance of a order approving this Settlement Agreement by the United State Bankruptcy Court for the District of Utah, the United States District Court for the District of Utah or the United States Court of Appeals for the Tenth Circuit. Payment shall be made by check or draft made payable to the State of Alaska and shall be deemed complete upon mailing.

3. Releases: The obligations of C&I under this Settlement Agreement shall be contingent upon (i) delivery and execution by the PARTIES of the Releases attached hereto and incorporated herein by reference as Exhibits A, B, C and D; and (ii) receipt by C&I of an order approving this Settlement Agreement issued by the Court presiding over the Bankruptcy Proceeding.

4. Dismissal of Underlying Action: In consideration of this Settlement Agreement and the Releases attached hereto, the State will dismiss with prejudice Red Rose and C&I from the Underlying Action within ten (10) days of receipt of the Settlement Payment.

5. Stay of the Underlying Action: The PARTIES agree that all discovery, motion practice and other proceedings in the Underlying Action will be stayed as to the PARTIES upon execution of this Settlement Agreement. The PARTIES agree to seek approval of the Court in the Underlying Action for the stay and a continuance of the trial date and pre-trial scheduling order deadlines.

6. State's Claims Against WACO: The PARTIES agree that the Settlement Payment will reduce the State's judgment against WACO in the Underlying Action by Eight Hundred and Eighteen Thousand Dollars (\$818,000.00) and that the Settlement Payment will also reduce the State's secured claim against WACO in the Bankruptcy Proceeding by Eight Hundred and Eighteen Thousand Dollars (\$818,000.00). Except as set forth in this paragraph, this Settlement Agreement will not otherwise impact or prejudice the State's claims against WACO in the Bankruptcy Proceeding.

7. Joint Motion to the Bankruptcy Court: The PARTIES agree to file a joint motion before the Court presiding over the Bankruptcy Proceeding to obtain an order approving this Settlement Agreement. If the motion is not granted or the Settlement Agreement is not approved, the PARTIES agree to jointly appeal to the United States District Court for the District of Utah. If an appeal to the United States District Court for the District of Utah does not result in an order approving the Settlement Agreement, any PARTY may withdraw from this Settlement Agreement.

8. Access to the Site: Red Rose agrees to cooperate in connection with the State's investigation and remediation of the Site and agrees to allow reasonable access to the Site to the

State and its agents to perform such investigation and remediation operations. Notwithstanding this agreement, upon execution of this Settlement Agreement and the attached Releases, Red Rose is released from any and all obligations involving testing, sampling and installation of a diversion trench treatment system at the Site under the letter agreement between Red Rose and the State of Alaska dated October 24, 2000.

9. No Volunteers: It is agreed that in making payments pursuant to this Settlement Agreement, C&I is not acting as a volunteer. The PARTIES agree that the sums paid pursuant to this Settlement Agreement represent sums incurred or which may be incurred by C&I with respect to the Homer Site Claims.

10. Waiver of Punitive/Exemplary Damages: The PARTIES forever waive any claims or causes of action against C&I (and/or its agents, representatives or employees) for bad faith, breach of contract, breach of duty, malicious prosecution, sanctions, statutory or regulatory violation, or punitive, exemplary or extracontractual damages of any type arising from, connected with, or in any way relating to the Homer Site Claims. Any and all notices of suit, claim, or occurrence previously transmitted or communicated to C&I by or on behalf of any of the PARTIES related to the Homer Site Claims with respect to any suit, claim or occurrence which is the subject of this Settlement Agreement or the Releases attached hereto shall be deemed withdrawn.

11. No Admission: By entering into this Settlement Agreement, the PARTIES do not intend to make, nor shall they be deemed to have made, any admission of any kind. The PARTIES agree that they are entering into this Settlement Agreement solely as a business



decision for the purposes of settling certain disputes between them and to avoid the cost of further litigation with respect to these disputes. This Settlement Agreement is the product of informed negotiations and compromises of previously stated legal positions. Nothing contained in this Settlement Agreement shall be construed as an admission by any PARTY as to the merit or lack of merit of any particular theory relating to the payment of claims arising from or relating to the Homer Site Claims. This Agreement does not necessarily reflect the views of C&I as to the actual scope of coverage of the Policies. Statements made in the course of negotiations have been and shall be without prejudice to the rights of the PARTIES in any disputes or transactions with any other persons or entities not party to this Settlement Agreement. With respect to all such matters or persons, the PARTIES hereby reserve all previously held positions and all other rights and privileges.

12. Use of Agreement: The PARTIES agree that this Settlement Agreement and Release and any acts in the performance of this Settlement Agreement and Release are not intended to be, nor shall they in fact be, used in any case or other proceeding for any purpose, including, but not limited to, efforts to prove either the acceptance by any PARTY hereto of any particular theory of coverage or as evidence of any obligation that any PARTY hereto has or may have to anyone. Provided, however, that nothing contained in this section shall be interpreted to restrict the right of any PARTY (a) to bring a claim or to introduce evidence predicated on a breach of this Settlement Agreement, (b) to supply a copy of any Release attached hereto or (c) to provide proof as to the fact of settlement and release provided herein if necessary to respond to a suit or claim.



13. Protection Afforded: This Settlement Agreement shall be deemed to fall within the protection afforded compromises and offers to compromise by Rule 408 of the Federal Rules of Evidence and any similar state law provision.

14. No Precedential Value: This Settlement Agreement is without prejudice or value as precedent and shall not be used in any proceeding or hearing to create, prove, or interpret the obligations under, or terms and conditions of, any other agreement or any insurance policy.

15. Characterization of Agreement: This Settlement Agreement is not a policy of insurance, and the parties do not intend that it will be interpreted as such.

16. Entire Agreement: This Settlement Agreement and Exhibits A, B, C and D (the Releases) constitute the entire agreement between the PARTIES regarding alleged insurance coverage under the Policies. Except as explicitly set forth in this Settlement Agreement and the Release, there are no representations, warranties, or inducements, whether oral, written, expressed or implied, that in any way affect or condition the validity of this Settlement Agreement or the Releases or any of their conditions or terms. All prior negotiations, oral or written, are merged in this Settlement Agreement.

17. No Assignment: The PARTIES warrant that, as of the effective date of this Settlement Agreement, they have not assigned, conveyed, or otherwise transferred any claims, demands, causes of action, rights, or obligations related in any way to the Homer Site Claims, the Policies or to the claims, losses, and expenses released herein.

18. Warranty Regarding Insolvency: Each PARTY warrants and represents that it is not insolvent and that it has not filed for bankruptcy or receivership nor does it have any present intent to do so during the next twelve (12) months.

19. Other Assurances: Each PARTY hereto shall provide such further and other written assurances reasonably necessary to effectuate the terms and intent hereof. In the event that either PARTY seeks a Court Order determining that the settlement was effective and/or in good faith, the PARTIES, to the fullest extent reasonably possible, shall cooperate and assist each other in obtaining said good faith settlement determination. In the event any claim or action is brought against C&I by any person with respect to liabilities or obligations released hereunder, the State and Red Rose agree that they will not take any position that is inconsistent with the position of C&I that no such claim will now lie against C&I.

20. Authorship: The PARTIES agree that this Settlement Agreement and the Release reflect the joint drafting efforts of all PARTIES. In the event any dispute, disagreement or controversy arises regarding this Agreement, the PARTIES shall be considered joint authors and no provision shall be interpreted against any PARTY because of authorship. Each PARTY also agrees that it is fully informed as to the meaning and intent of this Settlement Agreement and the Release and has been advised by independent counsel of its choosing in that regard.

21. Execution: This Settlement Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

22. Amendment: This Settlement Agreement may not be amended or modified except by a written instrument signed by the duly authorized representatives of all of the PARTIES.

23. Headings: The headings of sections are designed to facilitate ready reference to subject matter and shall be disregarded when resolving any dispute concerning the meaning or interpretation of any language contained in this Settlement Agreement.

24. Notices: Any statements, communications or notices to be provided pursuant to this Settlement Agreement shall be sent by certified mail to the attention of the PARTIES indicated below, until such time as notice of any change of person to be notified or change of address is forwarded to all PARTIES:

- (a) For C&I:  
Debra Nelson  
AIG Technical Services, Inc.  
80 Pine Street, 6<sup>th</sup> Floor  
New York, New York 10005

With A Copy To:

Howard B. Epstein, Esq.  
Schulte Roth & Zabel  
919 Third Avenue  
New York, New York 10024

- (b) For Red Rose Rentals:  
  
Alex "Willie" Flyum  
President  
Red Rose Rentals, Inc.



345 West Sterling Highway # 202  
Homer, Alaska 99603-7832

With a Copy To:

Thomas P. Amodio, Esq.  
Foster Pepper Rubini & Reeves  
1007 West 3<sup>rd</sup> Avenue  
Suite 100  
Anchorage, AK 99501-1990

(c) For The State of Alaska

Breck C. Tostevin, Esq.  
Assistant Attorney General  
Department of Law  
Office of the Attorney General  
Anchorage Branch  
1031 W. Fourth Avenue  
Suite 200  
Anchorage, AK 99501

25. Authority and Binding Effect:

(a) The individuals signing this Settlement Agreement and Release and the PARTIES on whose behalf such individual are signing hereby represent and warrant that they are empowered and authorized to sign on behalf of and bind the PARTIES for whom they have signed in all respects.

(b) This Settlement Agreement and Release shall be binding upon and shall inure to the benefit of the PARTIES, their heirs, successors, assigns, affiliated companies, subsidiaries, parents, stockholders, principals, agents and predecessors in interest thereto.

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement  
by their duly authorized representatives.

9307917.2

THE STATE OF ALASKA

By: Bruce M. Batelha  
Attorney General  
Printed: By ~~Bruce M. Batelha~~  
Title: Breck C. Tostevin  
Assistant Attorney General

State of ALASKA  
Third Judicial District  
County of \_\_\_\_\_

Before me, a notary public, personally appeared Breck Tostevin  
who, being duly sworn, stated that (s)he has executed the foregoing Settlement Agreement on  
behalf of the Party named above and is duly authorized to do so.

Witness my hand and notarial seal this 24<sup>th</sup> day of October,

2002



Sandra R. Dallas  
Notary Public  
SANDRA R. DALLAS  
(Printed)

My Commission expires: 9/30/06

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement  
by their duly authorized representatives.

RED ROSE RENTALS, INC.

By: \_\_\_\_\_

Printed: \_\_\_\_\_

THE STATE OF ALASKA

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

State of \_\_\_\_\_

County of \_\_\_\_\_

Before me, a notary public, personally appeared \_\_\_\_\_  
who, being duly sworn, stated that (s)he has executed the foregoing Settlement Agreement on  
behalf of the Party named above and is duly authorized to do so.

Witness my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_,  
200\_\_.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
(Printed)

My Commission expires: \_\_\_\_\_

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement  
by their duly authorized representatives.

RED ROSE RENTALS, INC.

By: Alex Flyum

Printed: Alex Flyum



Title: Its President

State of Alaska

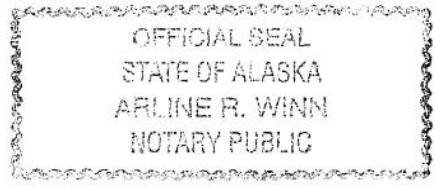
County of Third Judicial District

Before me, a notary public, personally appeared Alex Slijm  
who, being duly sworn, stated that (s)he has executed the foregoing Settlement Agreement on  
behalf of the Party named above and is duly authorized to do so.

Witness my hand and notarial seal this 30<sup>th</sup> day of October,  
2002.

Arline R. Winn  
Notary Public  
Arline R. Winn  
(Printed)

My Commission expires: 1/23/03



IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized representatives.

AIG TECHNICAL SERVICES, INC.  
as authorized agent for

COMMERCE AND INDUSTRY  
INSURANCE COMPANY

By: Nadine Hunt

Printed: Nadine Hunt

Title: Manager

State of New York

County of New York

Before me, a notary public, personally appeared Nadine Hunt who, being duly sworn, stated that (s)he has executed the foregoing Settlement Agreement on behalf of the Party named above and is duly authorized to do so.

Witness my hand and notarial seal this 13<sup>th</sup> day of November, 2002.

Glenn M. Serrano  
Notary Public

Glenn M. Serrano  
(Printed)

My Commission expires: July 6, 2003

GLENN M. SERRANO  
NOTARY PUBLIC, State of New York  
No. 02SE5014646  
Qualified In Westchester County  
Term Expires July 06, 2003

## EXHIBIT A TO SETTLEMENT AGREEMENT

### RELEASE

A. "Policies" as used herein shall mean Storage Tank Third-Party Liability Corrective Action and Cleanup Policy No. ST7500474 (2/3/98-2/3/99) issued to Trailside General Store; Wyoming Alaska Co., Inc. dba (hereinafter "WACO") by Commerce and Industry Insurance Company and any other insurance policy issued to WACO by Commerce and Industry Insurance Company.

B. The "Site" as used herein shall mean the Trailside General Store at 345 West Sterling Highway in Homer, Alaska including the real property on which the store is or was located and the real property on which adjacent stores are located.

C. The "Underlying Action" shall mean the action entitled State of Alaska, Department of Environmental Conservation v. Wyoming Alaska Co., Inc. d.b.a. Trailside General Store, Reuel T. Call, Bonita A. Blunk, Red Rose Rentals, Inc. and Commerce & Industry Insurance Company, Case No. 3HO-00-112 CI, filed in the Superior Court for the State of Alaska, Third Judicial District at Homer.

D. "Homer Site Claims" as used herein shall mean any and all demands, claims, liabilities, causes of action, suits or requests for relief, action or forbearance of any kind, whether in law, equity or otherwise, whether alleging bodily injury, property damage, personal injury, injury, damage or harm to natural resources, or any other harm, injury, damage, cost or violation or need for remedy of any kind, and whether past, present or future, known or unknown, or asserted or unasserted arising out of or related to releases of contaminants and contamination at,



adjacent to or arising from the Site, including, but not limited to, any and all claims arising out of or related to releases of contaminants from above-ground or underground storage tanks, pipelines and related pumps and fill ports at the Site and any and all claims asserted or which could have been asserted in the Underlying Action, and any claims asserting a right to defense, indemnity or other recovery or relief under the Policies, including claims for bad faith, malicious prosecution, statutory or regulatory violation or punitive, statutory or extra-contractual damages of any type. However, "Homer Site Claims" shall not include claims arising out of or related to releases of contaminants at the Site that occur after execution of the Settlement Agreement to which this Release is an attached exhibit by all PARTIES.

In consideration of the sum of EIGHT HUNDRED AND EIGHTEEN THOUSAND DOLLARS (\$818,000.00) and other good and valuable consideration furnished, the receipt and sufficiency of which is hereby acknowledged, the State of Alaska hereby releases, remises, and forever discharges Commerce and Industry Insurance Company, its predecessors, successors, assigns, parent corporations, subsidiaries, affiliates, officers, directors, employees, agents, shareholders and representatives (hereinafter collectively referred to as "C&I") from any and all duties, liabilities, responsibilities or obligations for, related to or with regard to any and all demands, claims, liabilities, causes of action, suits or requests for relief, action or forbearance of any kind, whether in law, equity or otherwise, whether directly or as a judgment creditor, whether alleging bodily injury, property damage, personal injury, injury, damage or harm to natural resources or any other harm, injury, damage, cost or violation or need for remedy of any kind, and whether past, present or future, known or unknown, or asserted or unasserted, arising

out of the Homer Site Claims (including, but not limited to, claims for bad faith, malicious prosecution, statutory or regulatory violation or punitive, statutory or other extracontractual damages of any type) and including any and all claims under the Policies.

Upon execution of this Release, C&I shall have no further duties or obligations to the State of Alaska arising out of the Homer Site Claims under the Policies or otherwise.

The State of Alaska warrants and agrees as of the effective date of this Release that it has not assigned, conveyed, or otherwise transferred any claims, demands, causes of action, rights, or obligations related in any way to the Homer Site Claims or the Policies to any other person or entity.

This Release is issued in accordance with the Settlement Agreement being executed by the State of Alaska this same date. Possession by C&I of this original or originally signed counterpart Release shall constitute conclusive proof to the State of Alaska and to any other person of the effectiveness of this Release and the Settlement Agreement and fulfillment of C&I's obligations thereunder.

The undersigned represents that (s)he has the requisite power and authority to execute and deliver this Release on behalf of the State of Alaska. This Release may be signed in one or more counterparts, each of which constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Release by their duly authorized representative.

THE STATE OF ALASKA

By: Breck Tostevin

Printed: Breck Tostevin

Title: Assistant Attorney General

State of Alaska

County of Third Judicial Dist.

Before me, a notary public, personally appeared Breck Tostevin who, being duly sworn, stated that (s)he has executed the foregoing Release on behalf of the Party named above and is duly authorized to do so.

Witness my hand and notarial seal this 20<sup>th</sup> day of Feb.

2003.

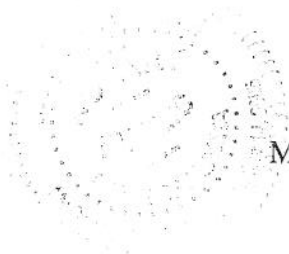
Broke Smith

Notary Public

Broke Smith

(Printed)

My Commission expires: 11-14-05



## EXHIBIT B TO SETTLEMENT AGREEMENT

### RELEASE

A. "Policies" as used herein shall mean Storage Tank Third-Party Liability Corrective Action and Cleanup Policy No. ST7500474 (2/3/98-2/3/99) issued to Trailside General Store; Wyoming Alaska Co., Inc. dba (hereinafter "WACO") by Commerce and Industry Insurance Company and any other insurance policy issued to WACO by Commerce and Industry Insurance Company.

B. The "Site" as used herein shall mean the Trailside General Store at 345 West Sterling Highway in Homer, Alaska including the real property on which the store is or was located and the real property on which adjacent stores are located.

C. The "Underlying Action" shall mean the action entitled State of Alaska, Department of Environmental Conservation v. Wyoming Alaska Co., Inc. d.b.a. Trailside General Store, Reuel T. Call, Bonita A. Blunk, Red Rose Rentals, Inc. and Commerce & Industry Insurance Company, Case No. 3HO-00-112 CI, filed in the Superior Court for the State of Alaska, Third Judicial District at Homer.

D. "Homer Site Claims" as used herein shall mean any and all demands, claims, liabilities, causes of action, suits or requests for relief, action or forbearance of any kind, whether in law, equity or otherwise, whether alleging bodily injury, property damage, personal injury, injury, damage or harm to natural resources, or any other harm, injury, damage, cost or violation or need for remedy of any kind, and whether past, present or future, known or unknown, or asserted or unasserted arising out of or related to releases of contaminants and contamination at,



adjacent to or arising from the Site, including, but not limited to, any and all claims arising out of or related to releases of contaminants from above-ground or underground storage tanks, pipelines and related pumps and fill ports at the Site and any and all claims asserted or which could have been asserted in the Underlying Action, and any claims asserting a right to defense, indemnity or other recovery or relief under the Policies, including claims for bad faith, malicious prosecution, statutory or regulatory violation or punitive, statutory or extra- contractual damages of any type. However, "Homer Site Claims" shall not include claims arising out of or related to releases of contaminants at the Site that occur after execution of the Settlement Agreement to which this Release is attached by all PARTIES.

In consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration furnished, the receipt and sufficiency of which is hereby acknowledged, the State of Alaska hereby releases, remises, and forever discharges Red Rose Rentals, Inc., its predecessors, successors, assigns, parent corporations, subsidiaries, affiliates, officers, directors, employees, agents, shareholders and representatives (hereinafter collectively referred to as "Red Rose") from any and all duties, liabilities, responsibilities or obligations for, related to or with regard to any and all demands, claims, liabilities, causes of action, suits or requests for relief, action or forbearance of any kind, whether in law, equity or otherwise, whether alleging bodily injury, property damage, personal injury, injury, damage or harm to natural resources or any other harm, injury, damage, cost or violation or need for remedy of any kind, and whether past, present or future, known or unknown, or asserted or unasserted, arising out of the Homer Site Claims

(including, but not limited to, claims for bad faith, malicious prosecution, statutory or regulatory violation or punitive, statutory or other extra-contractual damages of any type).

Upon execution of this Release, Red Rose shall have no further duties or obligations arising out of the Homer Site Claims except that Red Rose agrees to cooperate in connection with the State of Alaska's investigation and remediation of the Site and to allow access to the Site to the State of Alaska and its agents to perform such investigation and remediation operations. Notwithstanding this agreement, the State of Alaska releases all claims against Red Rose involving testing, sampling and installation of a diversion trench treatment system at the Site under the letter agreement between Red Rose and the State of Alaska dated October 24, 2000.

The State of Alaska warrants and agrees as of the effective date of this Release that it has not assigned, conveyed, or otherwise transferred any claims, demands, causes of action, rights, or obligations related in any way to the Homer Site Claims to any other person or entity.

This Release is issued in accordance with the Settlement Agreement being executed by the State of Alaska this same date. Possession by Red Rose of this original or originally signed counterpart Release shall constitute conclusive proof to the State of Alaska and to any other person of the effectiveness of this Release and the Settlement Agreement and fulfillment of Red Rose's obligations thereunder.

The undersigned represents that (s)he has the requisite power and authority to execute and deliver this Release on behalf of the State of Alaska. This Release may be signed in one or more counterparts, each of which constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Release by their duly authorized representative.

THE STATE OF ALASKA

By: Breck Tostevim

Printed: Breck Tostevim

Title: Assistant Attorney General

State of Alaska

County of Third Judicial District

Before me, a notary public, personally appeared Breck Tostevim who, being duly sworn, stated that (s)he has executed the foregoing Release on behalf of the Party named above and is duly authorized to do so.

Witness my hand and notarial seal this 20<sup>th</sup> day of February, 2003.

Brooke Smith

Notary Public  
Brooke Smith

(Printed)

My Commission expires: 11-14-05



## EXHIBIT C TO SETTLEMENT AGREEMENT

### RELEASE

A. "Policies" as used herein shall mean Storage Tank Third-Party Liability Corrective Action and Cleanup Policy No. ST7500474 (2/3/98-2/3/99) issued to Trailside General Store; Wyoming Alaska Co., Inc. dba (hereinafter "WACO") by Commerce and Industry Insurance Company and any other insurance policy issued to WACO by Commerce and Industry Insurance Company

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D. "Homer Site Claims" as used herein shall mean any and all demands, claims, liabilities, causes of action, suits or requests for relief, action or forbearance of any kind, whether in law, equity or otherwise, whether alleging bodily injury, property damage, personal injury, injury, damage or harm to natural resources, or any other harm, injury, damage, cost or violation or need for remedy of any kind, and whether past, present or future, known or unknown, or asserted or unasserted arising out of or related to releases of contaminants and contamination at,

adjacent to or arising from the Site, including, but not limited to, any and all claims arising out of or related to releases of contaminants from above-ground or underground storage tanks, pipelines and related pumps and fill ports at the Site and any and all claims asserted or which could have been asserted in the Underlying Action, and any claims asserting a right to defense, indemnity or other recovery or relief under the Policies, including claims for bad faith, malicious prosecution, statutory or regulatory violation or punitive, statutory or extra- contractual damages of any type). However, "Homer Site Claims" shall not include claims arising out of or related to releases of contaminants at the Site that occur after execution of the Settlement Agreement to which this Release is attached by all PARTIES.

In consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration furnished, the receipt and sufficiency of which is hereby acknowledged, Red Rose Rentals, Inc. on behalf of itself and all parents, subsidiaries, affiliates, wholly-owned corporations, successors, assigns, stockholders, principals, agents and predecessors in interest thereto (hereinafter collectively referred to as "Red Rose") hereby releases, remises, and forever discharges the State of Alaska from any and all duties, liabilities, responsibilities or obligations for, related to or with regard to any and all demands, claims, liabilities, causes of action, suits or requests for relief, action or forbearance of any kind, whether in law, equity or otherwise, whether alleging bodily injury, property damage, personal injury, injury, damage or harm to natural resources or any other harm, injury, damage, cost or violation or need for remedy of any kind, and whether past, present or future, known or unknown, or asserted or unasserted, arising out of the Homer Site Claims (including, but not limited to, claims for bad faith, malicious

prosecution, statutory or regulatory violation or punitive, statutory or other extra-contractual damages of any type).

Red Rose warrants and agrees as of the effective date of this Release that it has not assigned, conveyed, or otherwise transferred any claims, demands, causes of action, rights, or obligations related in any way to the Homer Site Claims to any other person or entity, nor shall Red Rose hereafter do so.

This Release is issued in accordance with the Settlement Agreement being executed by Red Rose this same date. Possession by the State of Alaska of this original or originally signed counterpart Release shall constitute conclusive proof to any person of the effectiveness of this Release and the Settlement Agreement and fulfillment of the State of Alaska's obligations thereunder.

This Release may be signed in one or more counterparts, each of which constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Release by their duly authorized representative.

RED ROSE RENTALS, INC.

By: 

Printed: Alex Flynn

Title: ITS President

State of ALASKA

County of Third Judicial District

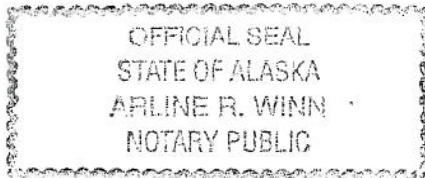
Before me, a notary public, personally appeared Alex Hyum  
who, being duly sworn, stated that (s)he has executed the foregoing Release on behalf of the  
Party named above and is duly authorized to do so.

Witness my hand and notarial seal this 30<sup>th</sup> day of October,  
2007.

Arline R. Winn  
Notary Public

Arline R. Winn  
(Printed)

My Commission expires: 1/23/03





## EXHIBIT D TO SETTLEMENT AGREEMENT

### RELEASE

A. "Policies" as used herein shall mean Storage Tank Third-Party Liability Corrective Action and Cleanup Policy No. ST7500474 (2/3/98-2/3/99) issued to Trailside General Store; Wyoming Alaska Co., Inc. dba (hereinafter "WACO") by Commerce and Industry Insurance Company and any other insurance policy issued to WACO by Commerce and Industry Insurance Company.

B. The "Site" as used herein shall mean the Trailside General Store at 345 West Sterling Highway in Homer, Alaska including the real property on which the store is or was located and the real property on which adjacent stores are located

C. The "Underlying Action" shall mean the action entitled State of Alaska, Department of Environmental Conservation v. Wyoming Alaska Co., Inc. d.b.a. Trailside General Store, Reuel T. Call, Bonita A. Blunk, Red Rose Rentals, Inc. and Commerce & Industry Insurance Company, Case No. 3HO-00-112 CI, filed in the Superior Court for the State of Alaska, Third Judicial District at Homer.

D. "Homer Site Claims" as used herein shall mean any and all demands, claims, liabilities, causes of action, suits or requests for relief, action or forbearance of any kind, whether in law, equity or otherwise, whether alleging bodily injury, property damage, personal injury, injury, damage or harm to natural resources, or any other harm, injury, damage, cost or violation or need for remedy of any kind, and whether past, present or future, known or unknown, or asserted or unasserted arising out of or related to releases of contaminants and contamination at,

adjacent to or arising from the Site, including, but not limited to, any and all claims arising out of or related to releases of contaminants from above-ground or underground storage tanks, pipelines and related pumps and fill ports at the Site and any and all claims asserted or which could have been asserted in the Underlying Action, and any claims asserting a right to defense, indemnity or other recovery or relief under the Policies, including claims for bad faith, malicious prosecution, statutory or regulatory violation or punitive, statutory or extra-contractual damages of any type). However, "Homer Site Claims" shall not include claims arising out of or related to releases of contaminants at the Site that occur after execution of the Settlement Agreement to which this Release is attached by all PARTIES

In consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration furnished, the receipt and sufficiency of which is hereby acknowledged, Red Rose Rentals, Inc. on behalf of itself and all parents, subsidiaries, affiliates, wholly-owned corporations, successors, assigns, stockholders, principals, agents and predecessors in interest thereto (hereinafter collectively referred to as "Red Rose") hereby releases, remises, and forever discharges Commerce and Industry Insurance Company, its predecessors, successors, assigns, parent corporations, subsidiaries, affiliates, officers, directors, employees, agents, shareholders and representatives (hereinafter collectively referred to as "C&I") from any and all duties, liabilities, responsibilities or obligations for, related to or with regard to any and all demands, claims, liabilities, causes of action, suits or requests for relief, action or forbearance of any kind, whether in law, equity or otherwise, whether alleging bodily injury, property damage, personal injury, injury, damage or harm to natural resources or any other harm, injury, damage, cost or

violation or need for remedy of any kind, and whether past, present or future, known or unknown, or asserted or unasserted, arising out of the Homer Site Claims (including, but not limited to, claims for bad faith, malicious prosecution, statutory or regulatory violation or punitive, statutory or other extra-contractual damages of any type) and including any and all claims under the Policies.

Upon execution of this Release, C&I shall have no further duties or obligations to Red Rose arising out of the Homer Site Claims under the Policies or otherwise.

Red Rose warrants and agrees as of the effective date of this Release that it has not assigned, conveyed, or otherwise transferred any claims, demands, causes of action, rights, or obligations related in any way to the Homer Site Claims or the Policies to any other person or entity, nor shall Red Rose hereafter do so.

This Release is issued in accordance with the Settlement Agreement being executed by Red Rose this same date. Possession by C&I of this original or originally signed counterpart Release shall constitute conclusive proof to any person of the effectiveness of this Release and the Settlement Agreement and fulfillment of C&I's obligations thereunder.

This Release may be signed in one or more counterparts, each of which constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Release by their duly authorized representative.

RED ROSE RENTALS

By:  \_\_\_\_\_

Printed: Alex Flynn

Title: Its President

State of ALASKA

~~County of~~ Third Judicial District

Before me, a notary public, personally appeared Alex Flynn  
who, being duly sworn, stated that (s)he has executed the foregoing Release on behalf of the  
Party named above and is duly authorized to do so.

Witness my hand and notarial seal this 30<sup>th</sup> day of October,  
2002.

Arline R. Winn  
Notary Public

Arline R. Winn  
(Printed)

My Commission expires: 1/23/03

