

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

**Chief Clerk Use Only:**

Ancillary Matter Docket No. \_\_\_\_\_

Time Stamp:

**11 FSS 2012**

RECEIVED  
COMMONWEALTH COURT  
OF PENNSYLVANIA  
SEP 20 15 09

**IN RE:**  
  
**First Sealord Surety, Inc.**  
**In Liquidation**

**NO. 1 FSS 2012**

**Ancillary Matter Cover Sheet**

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

Commencement of Ancillary Matter:

Complaint

\_\_\_\_\_ Application

\_\_\_\_\_ Objection

\_\_\_\_\_ Other \_\_\_\_\_

Lead Plaintiff/Petitioner/Objector Name: First Sealord Surety, Inc. (In Liquidation)

Lead Defendant/Respondent Name: Kenneth L. Brier, Ted A. Drauschak, Joel Cooperman, Robert Ghegan, Gary L. Bragg, Esquire and O'Neill, Bragg & Staffin, P.C.

Plaintiff/Petitioner/Objector Attorney's Name: Steven B. Davis, Esq.; Jeffrey D. Grossman, Esq.; Nancy L. Margolis, Esq; and Caitlin E. Oberst, Esq.

\_\_\_\_\_ Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)

Nature of the Ancillary Matter:

\_\_\_\_\_ Objection to Notice of Determination to Proof of Claim No(s). \_\_\_\_\_  
(List all proof of claim numbers included in this Objection. Attach a separate sheet if necessary.)

Action by Liquidator

\_\_\_\_\_ Action by third party, as approved by the Court on

**Related Matters:** Are there any related or ancillary matters, including unresolved proofs of claim pending before the Liquidator, in this court or any other federal or state court or agency?  
 Yes  No If yes, attach a list indicating the court or agency, caption, and docket or proof of claim number(s).

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Insurance Commissioner of the Commonwealth of  
Pennsylvania in his Official Capacity as Statutory  
Liquidator of First Sealord Surety, Inc.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

MICHAEL F. CONSEDINE  
Insurance Commissioner of the  
Commonwealth of Pennsylvania,  
In his official capacity as Liquidator of  
FIRST SEALORD SURETY, INC.,  
1326 Strawberry Square  
Harrisburg, PA 17120

Plaintiff,

v.

KENNETH L. BRIER,  
203 Clwyd Road  
Bala Cynwyd, PA 19004

TED A. DRAUSCHAK,  
1205 Chestershire Place  
Pottstown, PA 19465

JOEL COOPERMAN,  
3205 Lilac Court  
Upper Gwynedd, PA 19446

ROBERT W. GHEGAN,  
6 Hylton Road  
Swedesboro, NJ 08085-2593

GARY L. BRAGG, ESQUIRE,  
108 Rolling Hill Drive  
Plymouth Meeting, PA 19462

CIVIL ACTION -- LAW

NO.

11 FSS 2012

JURY TRIAL DEMANDED

-4 SEP 2012 15 09

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COMMONWEALTH COURT  
OF PENNSYLVANIA

- and -

O'NEILL BRAGG & STAFFIN, P.C.  
720 Johnsville Boulevard  
Suite 1200  
Warminster, PA 18974

Defendants.

(Ancillary to *In re First Sealord Surety, Inc.*  
*in Liquidation*)

**NOTICE**

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

*You should take this paper to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help. If you cannot afford to hire a lawyer, this office may be able to provide you with information about agencies that may offer legal services to eligible persons at a reduced fee or no fee.*

Central Pennsylvania Legal  
Services, Inc.  
213 North Front Street  
Harrisburg, Pennsylvania 17101  
(717) 232-0581

and

Public Services and Lawyers  
Referral Committee  
Dauphin County Bar Association  
213 North Front Street  
Harrisburg, Pennsylvania 17101  
(717) 232-7536

**AVISO**

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademas, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las priviones de estda demanda. Usted puede perer dinero o sus propiedades u otros derechos importantes para usted.

*Lleva esta demanda a un abogado inmediatamente. Si no tiene abogado o si no tiene el dinero suficiente de pagartal servicio. Vaya en persona o llame por telefono a la oficina cuya direccion se encuentra escrita abajo para averiguar donde se puede conseguir asistencia legal. Si usted no puede pagar por los servicios de un abogado, es posible que esta oficina le pueda proveer informacion sobre agencias que ofrezcan servicios legales sin cargo o bajo costo a personas que cualifican.*

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and

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## COMPLAINT

Plaintiff, Michael F. Consedine, Insurance Commissioner of the Commonwealth of Pennsylvania, in his official capacity as Statutory Liquidator of First Sealord Surety, Inc. (“FSSI”) (the “Liquidator”), *see Consedine v. First Sealord Surety, Inc.*, No. 1 FSS 2012 (Pa. Commw. Ct.), and pursuant to his authority under the Insurance Department Act of 1921, 40 P.S. § 221.1, *et seq.* (“Article V”), brings this civil action and Complaint against certain former directors and officers of FSSI, as specifically identified below (“Defendants”), for, *inter alia*, breach of fiduciary duties, negligent misrepresentation, civil conspiracy, professional negligence and voidable preference payments.

## INTRODUCTION

1. As former officers and/or directors of FSSI, and/or general counsel to FSSI, Defendants each owed FSSI clear and well-defined fiduciary and other duties of care under Pennsylvania law, including the obligation to serve FSSI in good faith and in the best interests of FSSI, with such care, skill and diligence as a person of ordinary prudence would use under similar circumstances.
2. Once FSSI was within the zone of insolvency, Defendants owed these duties not only to FSSI itself, but also to the creditors of FSSI, including but not limited to bond obligees and other bond claimants.
3. At various points beginning in 2008 and ending when these Defendants were relieved by the Liquidator of their services to FSSI in 2012, Defendants breached their aforementioned duties and obligations, to the extreme detriment of the estate of FSSI and FSSI’s creditors.

4. Among the wrongful and actionable conduct detailed below, Defendants' breaches include: (a) the diversion of more than \$4,275,000.00 of FSSI's cash to an affiliate under common control, Broadlands Financial Group, LLC ("Broadlands"); (b) the wrongful raiding of over \$3,500,000.00 in cash collateral and wrongful application of this collateral to operating expenses; (c) under-reserving and under-reporting to FSSI's actuaries, auditors and the Pennsylvania Insurance Department (the "Department") of known and anticipated bond claims losses and bond claims loss expenses, and the related over-valuing and erroneous reporting of FSSI's anticipated subrogation and salvage recoveries; (d) the secretive diversion of their time, attention and other resources from FSSI to the betterment of multiple real estate development and hotel companies owned and operated by certain Defendants in breach of those Defendants' fiduciary duties and express employment contracts; and (e) the wrongful payments of more than \$95,000.00 from FSSI's funds to certain company insiders, including Defendants, for purported, accrued vacation pay and other services just prior to conceding insolvency, in violation of Article V.

5. All of the Defendants' actionable misconduct resulted in the estate of FSSI and its creditors sustaining ascertained and identified compensatory damages in the liquidated amounts detailed below that, in the aggregate, exceed Seven Million Eight Hundred and Seventy Thousand Dollars (\$7,870,000.00), as well as additional damages in amounts to be determined.

6. These Defendants have failed to exercise reasonable or responsible care in the performance of their respective officer, director and professional duties, and in the stewardship of FSSI.

7. Their individual and collective misconduct has harmed the estate of FSSI and its creditors, precipitated the financial collapse of FSSI, and made necessary the institution of liquidation proceedings under Article V.

8. The Liquidator brings these claims of FSSI on behalf of the estate of FSSI and its creditors, under the authority granted the Liquidator pursuant to Pennsylvania law, and the Liquidator seeks damages in excess of Seven Million Eight Hundred and Seventy Thousand Dollars (\$7,870,000.00) and other relief to which the Liquidator is justly entitled, for the benefit of the estate of FSSI and its creditors.

#### **JURISDICTION, VENUE AND AUTHORITY OF THE LIQUIDATOR**

9. The Commonwealth Court of Pennsylvania has jurisdiction over this matter and the Defendants pursuant to 42 Pa. C.S. § 761(a) and pursuant to Article V, 40 P.S. §§ 221.4(b)(iii) and 221.4(d).

10. Venue is proper in this Court under 40 P.S. §§ 221.4(b) and (d). FSSI is a Pennsylvania domiciled surety, which had its principal place of business at 789 East Lancaster Avenue Suite 200, Villanova, Pennsylvania 19085.

11. Article V, 40 P.S. §§ 221.23, including but not limited to subsections (6), (12), (13) and (19), and § 221.26(b), empowers and authorizes the Liquidator to bring these claims against Defendants for the benefit and protection of FSSI's creditors, the estate of FSSI and other protected entities and persons.

#### **PARTIES**

12. Plaintiff, Michael F. Consedine, is the Insurance Commissioner for the Commonwealth of Pennsylvania, acting in his official capacity as statutory Liquidator of FSSI

(the “Liquidator”) pursuant to an Order of this Court dated February 8, 2012 (the “Liquidation Order”). *See* Exhibit “A.”

13. The Liquidator has his principal offices located at 1326 Strawberry Square, Harrisburg, Pennsylvania 17102.

14. Defendant Kenneth L. Brier (“Brier”) is an adult individual residing at 203 Clwyd Road, Bala Cynwyd, Pennsylvania 19004.

15. At relevant times, Brier served as an officer of FSSI, holding the title and position of President and Chief Executive Officer, and as a director and chairman of FSSI’s Board of Directors.

16. Defendant Ted A. Drauschak (“Drauschak”) is an adult individual residing at 1205 Chestershire Place, Pottstown, Pennsylvania 19465.

17. At relevant times, Drauschak served as an officer of FSSI, holding the title and position of Executive Vice President. Drauschak also served as a director on FSSI’s Board of Directors and as an officer and President of Broadlands.

18. Defendant Joel Cooperman (“Cooperman”) is an adult individual residing at 3205 Lilac Court, Upper Gwynedd, Pennsylvania 19446.

19. At relevant times, Cooperman served as an officer of FSSI, holding the title and position of corporate Treasurer, and until approximately 2008, as FSSI’s Chief Financial Officer. Also at relevant times, Cooperman also served as director on FSSI’s Board of Directors.

20. Defendant Robert Ghegan (“Ghegan”) is an adult individual residing at 6 Hylton Road, Swedesboro, New Jersey 08085-2593.

21. At relevant times, Ghegan served as an officer of FSSI, succeeding Cooperman in the title and position of Chief Financial Officer.

22. Defendant Gary L. Bragg, Esquire (“Bragg”) is an adult individual residing at 108 Rolling Hill Drive, Plymouth Meeting, Pennsylvania 19462.

23. At relevant times, Bragg served as an officer of FSSI with the title and position of corporate Secretary, and also as outside counsel in a general capacity to FSSI, and its parent and affiliate companies. Bragg is also an employee, shareholder and agent of Defendant, O’Neill, Bragg & Staffin, P.C.

24. O’Neill, Bragg & Staffin, P.C. (“OBS, P.C.”) is a Pennsylvania Professional Corporation and law firm located at 720 Johnsville Boulevard, Suite 1220, Warminster, Pennsylvania 18974.

25. At relevant times, OBS, P.C. employed Defendant Bragg, was the firm FSSI had engaged through Bragg for legal advice and assistance, and all conduct of Bragg described hereinafter was taken within the context of an agency/principal relationship between Bragg and OBS.

26. The persons identified in Paragraphs 14 - 25 above are referred to herein collectively as “Defendants.”

#### **FORMATION AND BACKGROUND OF FSSI**

27. In 1992, Brier and Drauschak founded FSSI’s predecessor, Mountbatten Surety Company (“Mountbatten”), with private funding.

28. Cooperman joined Mountbatten in 1994, as its Chief Financial Officer, and in August of that year, Mountbatten became a publicly held company.

29. In 1998, the Fidelity & Deposit Company of Maryland, a subsidiary of Zurich U.S. (“Zurich”), purchased all outstanding shares of Mountbatten.

30. Zurich ran Mountbatten from 1998 until 2003, during which time Brier, Drauschak, and Cooperman remained as its managers and senior officers.

31. In 2003, Zurich approached Brier and Drauschak with an opportunity for Mountbatten's management to buy back the company and, in April of 2003, with capital from investors, Sealord LLC formed and purchased Mountbatten from Zurich.

32. Sealord Holdings, Inc. was formed as a wholly owned subsidiary of Sealord LLC and FSSI was formed as wholly owned subsidiary of Sealord Holdings, Inc.

33. FSSI then became the successor to Mountbatten, with Brier installed as FSSI's President, Chief Executive Officer, and Chairman of its Board of Directors; Drauschak as its Executive Vice President and member of its Board of Directors; and Cooperman as Chief Financial Officer, Treasurer and member of its Board of Directors.

34. Bragg was also installed as FSSI's corporate Secretary and, throughout FSSI's existence, served with OBS, P.C. as its outside counsel in a general counsel capacity, as well as general counsel to FSSI's parent and affiliate entities.

35. Brier, Drauschak and Cooperman, along with others, held equity in Sealord LLC, and through their ownership interests, in the subsidiaries of Sealord LLC, including FSSI and Broadlands.

36. In 2008, Ghegan replaced Cooperman as FSSI's Chief Financial Officer.

37. From its inception in 2003, FSSI operated as a surety company, issuing bonds on construction contracts which generally obligated FSSI to perform on bonded contracts and pay proper bond claimants, if and when its bonded contractors defaulted and the bond applied to the claimed losses.

38. In exchange for issuing bonds, FSSI received premium revenue.

39. FSSI employed underwriters, engineers, accountants, attorneys, claims professionals, managers and administrative staff to run its day-to-day operations.

40. Sureties domiciled in Pennsylvania, like FSSI, are regulated by the Department, and FSSI quarterly and annually filed financial statements with the Department, as well as other filings incidental to its business operations.

41. At all relevant times, as officers and/or directors and/or counsel to FSSI, Defendants owed FSSI fiduciary and other duties of care under Pennsylvania law, including the obligation to serve FSSI in good faith and in the best interests of FSSI, with such care, skill and diligence as a person or professional of ordinary prudence would use under similar circumstances. Once FSSI was within the zone of insolvency, Defendants owed these duties not only to FSSI itself, but also to the creditors of FSSI, including but not limited to bond obligees and other bond claimants.

#### **FORMATION AND BACKGROUND OF BROADLANDS**

42. For each construction project FSSI bonded, it was important for the bonded contractor to properly pay its subcontractors and suppliers that contributed labor or materials to the bonded project.

43. If such payments were not properly made, FSSI would be at greater risk of receiving and having exposure on bond claims.

44. To mitigate this risk from time to time, FSSI implemented a program known as “funds control” whereby the monthly project funds owed its bonded contractor would be paid to FSSI or an affiliate of FSSI, so that the surety or its affiliate could monitor and coordinate the payment of project funds to ensure proper payments therefrom and minimize the risk of bond claims.

45. Broadlands, a wholly owned subsidiary of Sealord Holdings, Inc., also formed in 2003.

46. At relevant times, Broadlands operated out of its principal office located at 789 East Lancaster Avenue, Suite 200, Villanova, Pennsylvania -- the same location as FSSI's principal office.

47. At the time of formation, Broadlands, or its subsidiary, HM Exchequer, LLC, primarily existed to perform funds control operations on certain FSSI bonded projects.

48. In time, Broadlands diversified its business, mainly by performing funds control operations for parties other than FSSI, including banks in connection with monitoring and mitigating risk on its banking clients' construction loans.

49. Broadlands grew its revenue stemming from funds control services for construction lenders, but in 2008 this business and associated revenue to Broadlands precipitously and dramatically dropped.

50. In an attempt to make up for this sharp loss in revenue, beginning sometime in 2008 and continuing thereafter, Broadlands marketed itself as an experienced consultant in the niche construction sector of alternative energy projects.

51. Drauschak, with the assistance of others, prospected for this business in connection with energy projects or prospects situated within the United States, Canada, Europe, Libya, India and the Middle East.

52. Brier, Cooperman, Drauschak and others referred to this marketing effort as "elephant hunting," to signify the vast revenue they had hoped these efforts on behalf of Broadlands would reap.

53. Elephant hunting quickly became very expensive with Drauschak and others traveling across the globe to generate leads and land work.

54. From this effort, spanning more than three years, Broadlands only signed a handful of engagements, and none reaped the profits that elephant hunting intended to capture.

55. Most, if not all, of the engagements conditioned significant payments to Broadlands on government approvals or project financing that never materialized.

56. None of the elephant hunting business activities of Broadlands benefitted the surety; nor did Broadlands's funds control operations for entities other than FSSI.

#### **IMPROPER DIVERSION OF FSSI ASSETS TO BROADLANDS**

57. During the elephant hunting period, beginning sometime in 2008 and continuing through 2011, Brier, Cooperman, Drauschak and Ghegan, through their actions and omissions taken in breach of their legal obligations to FSSI, periodically transferred huge sums of FSSI's cash to Broadlands and thereby developed an ever-increasing balance owed, but never satisfied, from Broadlands to FSSI.

58. For example, by the end of January of 2009, FSSI carried a receivable from Broadlands of \$664,637.

59. By the end of 2009, this receivable nearly quadrupled to \$2,655,323.

60. During May of 2010, the Department questioned FSSI's management about this growing debt from Broadlands, which FSSI carried on its books.

61. In a June 3, 2010 letter to the Department from Ghegan, FSSI reported that the receivable would be significantly reduced by the end of 2010.

62. Instead, by year end 2010, the receivable grew by another approximately \$2 million, to a staggering \$5,551,249.

63. For what purposes Broadlands required these funds – assuming it did require capital – is presently unknown. But what is certain is that, from approximately 2008 through the end of 2010, Brier, Drauschak and Cooperman diverted over \$9.8 million of FSSI’s cash to Broadlands, an unregulated affiliate and subsidiary of Sealord Holdings, Inc., which the Defendants controlled.

64. And by year end 2010, according to FSSI’s books and records, Broadlands owed FSSI over \$5.5 million.

65. Moreover, Brier, Drauschak and Cooperman orchestrated this diversion of FSSI’s funds without implementing any prudent protections whatsoever for the benefit of FSSI – to which they each owed fiduciary obligations as directors and officers of FSSI.

66. Through the end of 2010 and into 2011, these Defendants failed to put into place any proper controls in connection with their diversion of FSSI’s cash to Broadlands.

67. The diversion of cash from FSSI to Broadlands did not result from any arms-length transaction or arrangement between FSSI and Broadlands – for example, through this period, there was no basis for the depletion of FSSI’s cash under the terms of the Sealord LLC intercompany services agreement; FSSI held no note payable from or loan contract with Broadlands; there existed no maximum amount to be diverted or loaned, no repayment schedule and no security to collateralize Broadlands’s massive debt to FSSI; FSSI was not entitled to any interest as compensation for this financing and; FSSI was not entitled to any penalty payments or other remedies in the event of non-payment from Broadlands.

68. The diversion of millions of FSSI’s money to Broadlands had no benefit whatsoever to FSSI, and could not be justified from the perspective of FSSI on the basis of any prudent business reason or logic.

69. No prudent Chief Financial Officer for FSSI would have allowed these conditions and circumstances to exist, yet FSSI's CFO, Ghegan, allowed Broadlands to deplete the surety's cash, at least until 2011, without placing any controls upon Broadlands or other protections favoring FSSI.

70. Indeed, the over \$5.5 million owed to FSSI at the end of 2010 only became payable under a formal note in 2011, after the Department again raised concern with these Defendants, specifically regarding FSSI's practice of treating the Broadlands receivable as an asset upon FSSI's balance sheet.

71. In the first quarter of 2011, Brier, Drauschak and Cooperman met and/or discussed with the Department the claimed ability of Broadlands to repay the debt, and the debt's impact upon FSSI's ability to meet its current and anticipated obligations.

72. Brier, Drauschak and Cooperman assured the Department that the Broadlands energy project contracts would generate more than enough revenue (as much as \$8 million) for Broadlands to repay the debt.

73. These Defendants also explained to the Department their objective for FSSI to be acquired in a sale or other arrangement, and they were actively discussing acquisition scenarios with various suitors or potential suitors.

74. To address the Department's concerns regarding FSSI's balance sheet and have the Department allow FSSI an opportunity to proceed with a sale process, FSSI proposed that the debt Broadlands then owed FSSI – over \$5.5 million – could be moved up to the holding company level, such that Sealord Holdings, Inc. would issue FSSI a note for the value of the receivable (the "Note") and Sealord Holdings, Inc. would secure repayment under the Note with certain of Broadlands's contract receivables.

75. FSSI filed with the Department an application for prior notice of a transaction via a “Form D,” detailing the terms of this financial arrangement.

76. Upon the Form D, signed by Cooperman and Bragg, FSSI misrepresented “Surety believes the security for the Note [*i.e.* the specified Broadlands’s energy project, contract receivables] is commercially reasonable.”

77. On March 21, 2011, the Department approved FSSI’s Form D application detailing this arrangement and allowed FSSI to treat a portion of the receivable, now owed by FSSI’s holding company parent, as an asset.

78. But, it was only after the Department expressed its concern with the ongoing diversion of FSSI’s funds to Broadlands that the Defendants implemented any controls upon the repayment of the balance Broadlands owed to FSSI or any collars on lending from FSSI.

79. At the Department’s insistence, the Form D also imposed a cap of \$437,000 on any further debt accruing before June 15, 2011, and prohibited any further lending to Broadlands by FSSI after June 15, 2011.

80. However, even the Department-imposed restrictions were not enough to dissuade Brier, Drauschak, Cooperman and Ghegan from funneling additional FSSI funds – over \$700,000 – to Broadlands during 2011.

81. Soon after the Department’s March 21, 2011 approval of FSSI’s Form D, FSSI came under a routine rating review with A.M. Best.

82. To maintain its “A-” rating, FSSI understood that a capital infusion of \$2 million would be required.

83. FSSI’s management understood that a downward rating adjustment from A.M. Best would dash all hopes of FSSI being sold; and Brier, Drauschak and Cooperman convinced

two of FSSI's original investors to contribute the vast majority of capital required (contributing together \$1,855,000) to maintain the "A-" rating.

84. With this capital, together with modest capital paid by these three Defendants, Sealord Holdings, Inc. paid \$2 million on the Note; the effect of which was to maintain FSSI's "A-" rating and leave a balance of approximately \$4.275 million remaining on the Note as presently outstanding.

85. Brier, Drauschak, Cooperman and Ghegan breached their fiduciary duties to FSSI by their willful, reckless and/or negligent actions and omissions, in causing FSSI to divert over \$9,884,287 of its cash to Broadlands during 2008, 2009, 2010 and 2011, without any benefit whatsoever to FSSI.

86. As a direct and proximate result of these breaches, FSSI has suffered damages in the amount of approximately \$4.275 million, which Sealord Holdings, Inc. will never repay.

#### **WRONGFUL RAIDING OF CASH COLLATERAL**

87. A surety may hold cash belonging to bonded contractors or depositors on their behalf, as collateral to secure those bonded contractors' obligations owed to the surety.

88. Under no proper circumstances may a surety apply a contractor's cash collateral to any losses other than those occasioned by the issuance of bonds for the contractor to whom the collateral applies.

89. This arrangement – and the impropriety of applying a contractor's cash collateral for any other purpose – is universally understood within the surety industry.

90. Like other sureties, FSSI held cash collateral for many of its bonded contractors.

91. To memorialize this arrangement, FSSI and the bonded contractor (or depositor on that contractor's behalf) would typically enter into a form of Collateral Agreement. A sample form of FSSI's Collateral Agreement is attached as Exhibit "B."

92. In material part, the collateral agreements between FSSI and most of the bonded contractors or depositors state: "... said cash ... are deposited with the Company [FSSI] to indemnify it against any and all claims, damages, actions, losses, liabilities, charges, expenses, demands and costs of whatsoever nature ... arising out of the execution of any bonds ... which the Company has heretofore executed ... at the request of, or on the indemnity of, the Depositor or the Principal." *Id.* at p. 1.

93. In early 2011, FSSI lacked cash to meet current payable obligations of FSSI, including infusions of cash to Broadlands.

94. This was obviously concerning to the Defendants, each of whom held an interest in FSSI as a going concern, and some of whom held the objective of selling FSSI and were in various stages of discussions with potential suitors.

95. To financially engineer FSSI's sources and use of capital in order to meet then existing payable demands, Cooperman decided to transfer to FSSI's operating accounts cash collateral from segregated accounts in FSSI's name, each of which was associated with and held a sole contractor's posted collateral.

96. Once transferred into FSSI's operating accounts, Cooperman and Ghegan would then wrongfully coordinate the expenditure of this cash collateral to the business expenses of FSSI (and probably Broadlands).

97. These transfers were conducted by wire transfer instructions to the bank in which FSSI had deposited the cash collateral into segregated accounts in FSSI's name; directing that bank to transfer the cash collateral from the segregated accounts into FSSI's operating accounts.

98. Cooperman, Drauschak and Ghegan each signed, or authorized their signatures upon, some or all of these wire transfer instructions.

99. The improper transfers identified thus far began on February 28, 2011, with the transfer of collateral funds belonging to twelve bonded contractors, comprising an aggregate \$1,260,821.83, from segregated bank accounts FSSI controlled to FSSI's operating accounts.

100. Similar transfers of other cash collateral amounts, from segregated accounts FSSI controlled into FSSI's operating accounts, that have been identified thus far, include the following: on April 29, 2011, an aggregate \$1,050,958.12 belonging to eight bonded contractors; on May 6, 2011, an aggregate \$134,175 belonging to three bonded contractors; on May 16, 2011, an aggregate \$600,000 belonging to one bonded contractor; and on June 14, 2011, another \$500,000 belonging to one bonded contractor.

101. These identified cash collateral transfers and subsequent expenditures through FSSI's operating accounts totaled \$3,545,954.95.

102. In May of 2011, Cooperman informed Brier and Drauschak of this improper activity.

103. At Brier's instruction, on May 17, 2011 Cooperman prepared a written memorandum to Bragg detailing his misconduct.

104. Bragg, in his role as attorney and general counsel to FSSI, reviewed the circumstances to determine whether the transfer and application of cash collateral to operating expenses was improper or illegal.

105. Bragg advised the Defendants that nothing illegal or improper had occurred.

106. Bragg did not advise that Cooperman breached the collateral agreements or breached any other duties FSSI owed to the depositors of the cash collateral wrongfully taken.

107. Bragg did not advise that FSSI must return the funds to the accounts associated with the depositors whose cash was wrongfully transferred and spent.

108. Bragg did not advise that FSSI was within the zone of insolvency and that it owed fiduciary duties to the depositors and other creditors of FSSI, which Cooperman and other Defendants, by these transfers, had breached; and at no time prior to the entry of the Liquidation Order did any of the Defendants disclose to the Department that FSSI had misused cash collateral to fund operating expenses at various points through 2011.

109. Similarly, with knowledge of this wrongful activity at least as early as May of 2011, neither Brier nor Drauschak took measures to ensure the repayment of cash collateral wrongfully spent.

110. Nor did Brier or Drauschak implement any controls to ensure against the further wrongful use of cash collateral by Cooperman or others.

111. In fact, after receiving Bragg's advice, on June 14, 2011, Cooperman and Ghegan wrongfully directed the transfer of another \$500,000 from the cash collateral account associated with one bonded contractor to FSSI's operating account, and FSSI subsequently and improperly spent these collateral funds as well.

112. The acts and omissions of Cooperman, Brier, Drauschak, Bragg and Ghegan, as detailed above, comprise breaches of their respective fiduciary obligations, professional duties of care, and other obligations arising as officers or directors of, and counsel to, FSSI.

113. These acts and omissions caused FSSI to wrongfully spend cash collateral on the operating expenses of FSSI and, probably, Broadlands.

114. In total, from February 2011 through June 2011, these Defendants' wrongful acts and omissions caused FSSI to transfer an aggregate \$3,545,954.95 from the segregated, cash collateral accounts into FSSI's operating accounts.

115. By February 8, 2012, when this Court entered an Order of Liquidation against FSSI, all of these funds had been spent.

116. Of the more than \$3.5 million of diverted collateral, it appears that FSSI applied little or none of that money properly to losses occasioned by FSSI having issued bonds associated with the depositors' transferred funds.

117. Accordingly, as a result of each of the Defendants' foregoing and detailed breaches of fiduciary and other duties with respect to cash collateral, FSSI and the creditors of FSSI have suffered damages in excess of \$3,500,000.

#### **DEFENDANTS' RECKLESS RESERVING PRACTICES**

118. Reserving by a surety, generally, is the process through which a surety determines the amount of money needed to provide for the ultimate cost of adjusting and paying on claims related to bond losses.

119. Proper reserving and reporting to the Department is necessary to ensure compliance with minimum capital requirements for sureties under Pennsylvania law.

120. These statutory capital requirements are determined by formula and are referred to and expressed as a Risk Based Capital ("RBC") ratio.

121. A statutory formula sets forth the minimum required RBC ratio levels based on a variety of factors.

122. If a surety's RBC ratio falls below the required minimum, Departmental intervention may be required.

123. As a regulated surety under Pennsylvania law, FSSI was required to set and report to the Department its reserves and related RBC ratio.

124. In doing so, under past and current permitted practices, FSSI may offset its claim exposure reserves (losses) by anticipated salvage and subrogation recoveries (anticipated recoveries).

125. These anticipated recoveries would typically include payments FSSI expected to receive for construction work it performed following a bonded contractor's default, indemnity payments FSSI expected to receive from indemnitors to reimburse FSSI for bond-related losses, and any third-party recoveries FSSI expected to obtain in mitigation of its losses.

126. Accordingly, the reserves FSSI maintained and reported to the Department would ultimately comprise its net reserve position, *i.e.* its gross claim reserves minus its salvage and subrogation collections and anticipated recoveries.

127. As a function of this formula, either an under-estimation of claims and related expenses exposures, or an over-estimation of anticipated subrogation and salvage recoveries, would distort FSSI's proper and accurate reserve position.

128. In practice, FSSI did both.

129. FSSI reported reserves to the Department on a quarterly and annual basis.

130. During 2010 through the end of 2011, when Defendants knew FSSI was insolvent or within the zone of insolvency, rather than accurately report its reserve position, Defendants Drauschak, Cooperman and Ghegan intentionally and/or recklessly and/or negligently misled FSSI's outside actuaries and auditors, and the Department, by under-reserving for anticipated

claims and claims loss expenses, and over-reserving for anticipated subrogation and salvage recoveries.

131. Defendants Drauschak and Cooperman had an interest in maintaining and reporting an acceptable RBC ratio, so as to not trigger close Departmental scrutiny.

132. These Defendants also had an interest in FSSI appearing as a solvent enterprise, to mislead FSSI's investors and attract potential suitors to purchase the company.

133. These Defendants also had an interest in the continued diversion of FSSI's capital to Broadlands.

134. The under-reserving for claims and over-reserving for anticipated salvage and subrogation furthered each of these interests.

135. To artificially inflate FSSI's anticipated salvage and subrogation recoveries, Drauschak and Cooperman periodically reviewed the anticipated salvage or subrogation recoveries calculated by FSSI's claims department and adjusted some of these anticipated recoveries upward, without sufficient facts to justify such adjustments.

136. In 2010 and in 2011, as Defendants became focused on selling FSSI and diverted more and more of FSSI's cash to Broadlands, Cooperman and Drauschak inflated FSSI's anticipated salvage and subrogation values.

137. Cooperman and Drauschak also failed to report certain claims in certain reporting periods, improperly pushing reserving for those claims into subsequent reporting periods in order to smooth financial results.

138. One particularly egregious practice was the failure to reserve for known claims expense obligations, specifically payments FSSI owed to its outside counsel who were defending FSSI on various bond claims and suits pending around the country.

139. Indeed, even with invoices received from these firms in excess of \$500,000, Cooperman insisted that these obligations be left off of FSSI's claims expense reserves.

140. But these obligations to FSSI's outside defense counsel were indisputably required to be reported in connection with FSSI's reserves, as "loss adjustment expenses," in connection with FSSI's statutory filings, both quarterly and annually, with the Department.

141. At all relevant times, Ghegan and Cooperman were both aware of the omission of unpaid attorneys' fees from FSSI's reported reserves.

142. However, both Ghegan and Cooperman each made affirmative misrepresentations on FSSI's statutory filings and/or management letters, improperly verifying that complete and accurate data had been provided.

143. These actions misled FSSI's auditors and actuaries, as well as the Department, by having the effect of inflating FSSI's anticipated recoveries and diminishing its anticipated losses.

144. To illustrate the magnitude of these reckless reserving practices, in the fall of 2011, one potential suitor conducted an independent review of randomly selected claims files and reported to FSSI that over \$1,000,000 in anticipated salvage recoveries booked to FSSI's reserves had no corresponding support.

145. Similarly, another suitor ultimately reported to FSSI that FSSI's then booked salvage and subrogation recoveries, totaling \$7,172,302, should be written down to \$2,522,175.

146. That same suitor determined that FSSI's reported loss reserves should be strengthened from the then reported \$8.9 million to \$17.1 million; and loss adjustment expenses, including the then unreserved outstanding attorneys' fees obligations, ought to be set at over \$3.7 million.

147. All of the foregoing improper reserving practices delayed the detection of FSSI's true financial condition by the non-Defendant members of FSSI's board, as well as FSSI's outside actuary, outside auditor, A.M. Best and the Department, until late 2011 when these improprieties were finally brought to light.

148. By failing to properly implement and set proper controls around FSSI's reserving practices for losses and loss adjustment expenses, and for anticipated salvage and subrogation recoveries, Drauschak, Cooperman and Ghegan breached their fiduciary duties to FSSI, and they masked and caused a deepening of FSSI's ultimate insolvency, expanding FSSI's debts and artificially prolonging FSSI's corporate life.

149. This reckless reserving by Drauschak, Cooperman and Ghegan also cost FSSI needless time and money in the various sale processes with potential suitors over the course of 2010 and 2011, such as attorney's fees paid to Bragg for negotiating and drafting various sale and purchase documents for deals never consummated.

150. The foregoing reserving practices implemented by Drauschak, Cooperman and Ghegan comprise breaches of their respective fiduciary obligations owed to FSSI and the creditors of FSSI and resulted in damages of a presently undetermined amount.

**IMPROPER ANCILLARY BUSINESS PURSUITS  
OF BRIER, DRAUSCHAK AND COOPERMAN**

151. During their tenure at FSSI, Brier, Drauschak and Cooperman pursued multiple business interests entirely unrelated to FSSI.

152. These ancillary business pursuits included real estate development and hotel operations.

153. Brier, Drauschak and Cooperman all have equity stakes in one or more of these ancillary businesses.

154. While employed by FSSI, Brier, Drauschak and Cooperman each individually spent substantial time, and directed other FSSI employees to spend substantial time, working for these entities.

155. FSSI's former main office, where Brier, Drauschak and Cooperman worked, housed multiple file drawers full of documents relating to these hotels and real estate development projects and prospects, including marketing materials, construction records and financial documents.

156. Drauschak even marketed hotel development projects outside of the United States, while he travelled overseas at FSSI's expense supposedly "elephant hunting" for Broadlands.

157. Drauschak's assistant, an FSSI employee, during certain extended periods spent the majority of her working days on hotel development business for Brier, Drauschak and Cooperman.

158. Other FSSI employees similarly worked substantial hours for these businesses at the direction of Brier, Drauschak or Cooperman.

159. Brier, Drauschak and Cooperman each held employment agreements with Sealord Holdings, Inc. and FSSI (attached hereto as Exhibit "C").

160. Brier and Drauschak's agreements limited the time each of them could spend on unapproved ancillary business pursuits to an average of less than five hours per week. Cooperman's agreement did not allow for any unapproved ancillary business pursuits.

161. In addition, these employment agreements did not authorize Brier, Drauschak or Cooperman to direct FSSI's other employees or apply other FSSI resources to their ancillary business pursuits; yet they each periodically directed FSSI employees and applied other FSSI resources to these ancillary businesses – without reimbursement to FSSI.

162. By their conduct, Brier, Drauschak and Cooperman violated the terms of their respective employment agreements.

163. By their conduct, Brier, Drauschak and Cooperman also diverted resources from FSSI without reimbursement to FSSI, and breached their fiduciary duties to FSSI.

164. In the period just prior to this Court entering the February 8, 2012 Order of Liquidation, Brier, Drauschak and Cooperman directed certain FSSI employees to destroy or otherwise gather and ship the majority of business records relating to these ancillary businesses off the premises of FSSI's main office; thus leaving the Liquidator with little ability to investigate the full extent of Brier, Drauschak and Cooperman's conduct and the damages FSSI and the creditors of FSSI sustained as a direct and proximate result of the breaches detailed above.

165. The wrongful conduct and breaches of Brier, Drauschak and Cooperman in this regard caused FSSI to sustain actual damages of a presently undetermined amount.

#### **IMPROPER PRE-PETITION PAYMENTS**

166. Immediately preceding this Court's institution of liquidation proceedings, Brier, Drauschak and Cooperman improperly directed payments from FSSI to themselves and another FSSI employee.

167. Specifically, on January 3, 2012, at the direction of Brier, Drauschak and Cooperman, each of them and another FSSI employee received an aggregate \$87,452 from FSSI, as purported accrued vacation pay.

168. Specifically, Brier, Drauschak and Cooperman caused the payment of \$31,475 to Brier; \$24,380 to Drauschak; \$16,380 to another FSSI employee; and \$15,217 to Cooperman.

169. Cooperman also caused a payment to be made to Bragg and/or OBS, P.C., in the amount of \$9,240 in February, 2012, for purported legal services rendered.

170. These payments – all to company insiders – further depleted FSSI’s assets by an aggregate \$96,692.00 during a period when FSSI was clearly insolvent, and just before this Court placed FSSI into liquidation.

### COUNT I

#### **Wrongful Diversion of FSSI’s Assets to Broadlands In Breach of Fiduciary Duties (Liquidator v. Brier, Drauschak, Cooperman and Ghegan)**

171. Paragraphs 1 through 170 are incorporated herein by reference as if fully set forth at length.

172. As directors and officers of FSSI, Brier, Drauschak, Cooperman and Ghegan had fiduciary duties to FSSI and the creditors of FSSI during the period of their respective tenure as set forth above.

173. These Defendants breached their fiduciary duties to FSSI by their willful, reckless and/or negligent actions or omissions in connection with the diversion of FSSI’s cash to Broadlands, as more particularly described in Paragraphs 1 through 86, incorporated herein by reference.

174. The foregoing willful, reckless and/or negligent actions, errors and/or omissions constitute breaches of the fiduciary duties Brier, Drauschak, Cooperman and Ghegan each owed to FSSI during the time of their individual tenure as directors and/or officers of FSSI.

175. The foregoing breaches of fiduciary and other duties directly and proximately caused the estate of FSSI and FSSI's creditors to suffer ascertained and identified damages in excess of \$4,275,000.00, as set forth above.

WHEREFORE, Plaintiff, Michael F. Consedine, the Insurance Commissioner of the Commonwealth of Pennsylvania, acting in his official capacity as the Statutory Liquidator of FSSI, requests that on Count I, judgment be entered in his favor and against Defendants, Brier, Drauschak, Cooperman and Ghegan, jointly and severally, in an amount in excess of \$4,275,000.00, together with all other compensatory damages, exemplary and punitive damages, costs, interest, attorney's fees and such other relief as the Court deems appropriate.

## COUNT II

### **Civil Conspiracy to Divert FSSI Assets to Broadlands In Breach of Fiduciary Duties (Liquidator v. Brier, Drauschak and Cooperman)**

176. Paragraphs 1 through 175 are incorporated herein by reference as if fully set forth at length.

177. Brier, Drauschak and Cooperman conspired, combined, agreed, or assented to wrongfully deplete, divert, or waste FSSI's assets by, among other things, their individual and collective conspiracy to improperly divert FSSI assets to Broadlands, in breach of their fiduciary and other duties they owed to FSSI and the creditors of FSSI.

178. The conspiracy of Brier, Drauschak, Cooperman, and Ghegan directly and proximately caused the estate of FSSI and FSSI's creditors to suffer damages exceeding \$4,275,000.00.

WHEREFORE, Plaintiff, Michael F. Consedine, the Insurance Commissioner of the Commonwealth of Pennsylvania, acting in his official capacity as the Statutory Liquidator of FSSI, requests that on Count II, judgment be entered in his favor and against Defendants Brier, Drauschak, Cooperman and Ghegan, jointly and severally, in an amount in excess of \$4,275,000.00, together with all other compensatory damages, exemplary and punitive damages, costs, interest, attorney's fees and such other relief as the Court deems appropriate.

### **COUNT III**

#### **Raiding of Cash Collateral In Breach of Fiduciary Duties (Liquidator v. All Defendants)**

179. Paragraphs 1 through 170 are incorporated herein by reference as if fully set forth at length.

180. As directors and/or officers of FSSI, Defendants had fiduciary duties to FSSI and the creditors of FSSI during the period of their respective tenure as set forth above.

181. All Defendants orchestrated, facilitated, permitted, encouraged and/or failed to prevent the wrongful raiding of cash collateral held by FSSI, in breach of the collateral agreements and other duties owed the depositors of cash collateral, and in breach of these Defendants' fiduciary duties to FSSI, all by their willful, reckless, and/or negligent actions or omissions described in Paragraphs 1 through 170, incorporated by reference as if fully set forth herein.

182. The foregoing actions, errors, and/or omissions constitute breaches of the fiduciary and other duties Defendants owed to FSSI, and Defendants owed to the depositors of the cash collateral (also creditors of FSSI), during the time of their individual tenure as directors and/or officers of FSSI.

183. The foregoing breaches, by Defendants' actions, errors and/or omissions, directly and proximately caused the estate of FSSI and FSSI's creditors to suffer damages in an ascertained and identified amount in excess of \$3,500,000.00, as set forth above.

WHEREFORE, Plaintiff, Michael F. Consedine, the Insurance Commissioner of the Commonwealth of Pennsylvania, acting in his official capacity as the Statutory Liquidator of FSSI, requests that on Count III, judgment be entered in his favor and jointly and severally against Defendants, in an amount in excess of \$3,500,000.00, together with all other compensatory damages, exemplary and punitive damages, costs, interest, attorney's fees and such other relief as the Court deems appropriate.

#### **COUNT IV**

##### **Civil Conspiracy to Raid Cash Collateral In Breach of Fiduciary Duties (Liquidator v. All Defendants)**

184. Paragraphs 1 through 170 and 179 through 183 are incorporated herein by reference as if fully set forth at length.

185. Defendants conspired, combined, agreed, or assented to wrongfully deplete, divert, or waste FSSI's assets by, among other things, their individual and collective conspiracy to raid cash collateral of FSSI's bonded contractors, in breach of their fiduciary and other duties they owed to FSSI and the depositors of the cash collateral wrongfully spent.

186. Defendants' conspiracy directly and proximately caused the estate of FSSI and FSSI's creditors to suffer ascertained and identified damages in excess of \$3,500,000.00.

WHEREFORE, Plaintiff, Michael F. Consedine, the Insurance Commissioner of the Commonwealth of Pennsylvania, acting in his official capacity as the Statutory Liquidator of FSSI, requests that on Count IV, judgment be entered in his favor and against Defendants, jointly and severally, in an amount in excess of \$3,500,000.00, together with all other compensatory damages, exemplary and punitive damages, costs, interest, attorney's fees and such other relief as the Court deems appropriate.

#### **COUNT V**

#### **Professional Negligence (Liquidator v. Bragg and OBS, P.C.)**

187. Paragraphs 1 through 170 are incorporated herein by reference as if fully set forth at length.

188. Bragg and OBS, P.C. owed a duty to provide their client, FSSI, with legal representation in accordance with the prevailing professional standards of conduct in the Commonwealth of Pennsylvania.

189. The care, skill, or knowledge exhibited by Bragg and the agents of OBS, P.C., in connection with the representation of their client, FSSI, within the context of legal advice Bragg provided concerning certain Defendants' raiding of cash collateral, fell outside of those professional standards.

190. The professional negligence of Bragg and OBS, P.C. through its agents breached the applicable standards of care and directly and proximately caused FSSI, the estate of FSSI and FSSI's creditors to suffer damages in excess of \$3,500,000.00.

191. In addition to Bragg's liability to the Liquidator for professional negligence, under *respondeat superior* and other vicarious liability principles, OBS, P.C. is independently liable to Plaintiff for all damages directly and proximately caused by the professional negligence of Bragg and the agents of OBS, P.C.

WHEREFORE, Plaintiff, Michael F. Consedine, the Insurance Commissioner of the Commonwealth of Pennsylvania, acting in his official capacity as the Statutory Liquidator of FSSI, requests that on Count V, judgment be entered in his favor and against Defendants Bragg and OBS, P.C., jointly and severally, in an amount in excess of \$3,500,000.00, together with all other compensatory damages, exemplary and punitive damages, costs, interest, attorney's fees and such other relief as the Court deems appropriate.

#### **COUNT VI**

##### **Reckless Reserving in Breach of Fiduciary Duties (Liquidator v. Cooperman, Drauschak and Ghegan)**

192. Paragraphs 1 through 170 are incorporated herein by reference as if fully set forth at length.

193. As directors and officers of FSSI, Cooperman, Drauschak and Ghegan owed fiduciary duties to FSSI and creditors of FSSI during the period of their respective tenure as set forth above.

194. These Defendants wrongly diminished FSSI's loss and loss expense reserves, wrongly inflated FSSI's anticipated salvage and subrogation reserves, and/or inaccurately reported these reserves to others, all in breach of their fiduciary duties to FSSI and the creditors of FSSI by their willful, reckless and/or negligent actions or omissions.

195. The foregoing actions, errors and/or omissions constitute breaches of the fiduciary duties Cooperman, Drauschak and Ghegan owed to FSSI and the creditors of FSSI during the time of their individual tenure as directors and/or officers of FSSI.

196. The foregoing breaches, by these Defendants' actions, errors and/or omissions, directly and proximately caused the estate of FSSI and FSSI's creditors to suffer damages as set forth above, in a presently undetermined amount.

WHEREFORE, Plaintiff, Michael F. Consedine, the Insurance Commissioner of the Commonwealth of Pennsylvania, acting in his official capacity as the Statutory Liquidator of FSSI, requests that on Count VI, judgment be entered in his favor and against Defendants Cooperman, Drauschak and Ghegan, jointly and severally, in a presently undetermined amount, together with all other compensatory damages, exemplary and punitive damages, costs, interest, attorney's fees and such other relief as the Court deems appropriate.

## **COUNT VII**

### **Fraudulent Reserving (Liquidator v. Cooperman, Drauschak and Ghegan)**

197. Paragraphs 1 through 170 are incorporated herein by reference as if fully set forth at length.

198. The reserving practices of Cooperman, Drauschak and Ghegan, and their disclosures on behalf of FSSI, constitute misrepresentations as to the true financial condition of FSSI.

199. The statutory filing statements submitted to the Department by Cooperman and Ghegan on behalf of FSSI, and the management letters to FSSI's actuary and auditor, contain misrepresentations as to the true financial condition of FSSI.

200. Such misrepresentations were made falsely, with knowledge of their falsity or with recklessness as to their truth or falsity.

201. Cooperman, Drauschak and Ghegan intended that FSSI's auditor, actuary and the Department rely on these misrepresentations.

202. FSSI's auditor, actuary and the Department actually did rely on these misrepresentations to their detriment and the detriment of the estate of FSSI and the creditors of FSSI.

203. The fraudulent reserving practices and statements of Cooperman, Drauschak and Ghegan directly and proximately caused the estate of FSSI and FSSI's creditors to suffer damages as set forth above, in a presently undetermined amount.

WHEREFORE, Plaintiff, Michael F. Consedine, the Insurance Commissioner of the Commonwealth of Pennsylvania, acting in his official capacity as the Statutory Liquidator of FSSI, requests that on Count VII, judgment be entered in his favor and against Defendants, Cooperman, Drauschak and Ghegan, jointly and severally, in a presently undetermined amount, together with all other compensatory damages, exemplary and punitive damages, costs, interest, attorney's fees and such other relief as the Court deems appropriate.

#### **COUNT VIII**

##### **Civil Conspiracy to Engage in Reckless Reserving (Liquidator v. Cooperman, Drauschak and Ghegan)**

204. Paragraphs 1 through 170 and 192 through 203 are incorporated herein by reference as if fully set forth at length.

205. Cooperman, Drauschak and Ghegan conspired, combined, agreed, or assented to wrongfully misrepresent FSSI's assets and liabilities by, among other things, their individual and

collective conspiracy to engage in reckless reserving practices, in breach of their fiduciary and other duties they owed to FSSI and creditors of FSSI.

206. The conspiracy of Cooperman, Drauschak and Ghegan directly and proximately caused the estate of FSSI and FSSI's creditors to suffer damages as set forth, in a presently undetermined amount.

WHEREFORE, Plaintiff, Michael F. Consedine, the Insurance Commissioner of the Commonwealth of Pennsylvania, acting in his official capacity as the Statutory Liquidator of FSSI, requests that on Count VIII, judgment be entered in his favor and against Defendants, Cooperman, Drauschak and Ghegan, jointly and severally, in a presently undetermined amount, together with all other compensatory damages, exemplary and punitive damages, costs, interest, attorney's fees and such other relief as the Court deems appropriate.

### **COUNT IX**

#### **Statutory Voidable Transfers (Liquidator v. Brier, Drauschak and Cooperman)**

207. Paragraphs 1 through 170 are incorporated herein by reference as if fully set forth at length.

208. The provisions of the Insurance Department Act, including 40 P.S. § 221.30, permit Plaintiff to avoid certain transfers of monies or property of FSSI to its former directors and officers and/or others that were made during the period of up to one year prior to the filing of a successful petition for liquidation under Article V, and to avoid all such transfers made within four months prior to the filing of the petition for liquidation. The successful Petition for Order of Liquidation of FSSI was filed on February 6, 2012.

209. Brier, Drauschak and Cooperman are liable to Plaintiff pursuant to the foregoing statutory provision, for both the payments they directed and actually received, due to their participation in the transfer of monies or property of FSSI during the relevant time periods.

210. Moreover, as officers and employees acting on behalf and in control of FSSI, Brier, Drauschak and Cooperman are jointly and severally liable for these preferential transfers that they caused FSSI to make during the relevant time period.

211. The foregoing acts of Brier, Drauschak and Cooperman caused FSSI to suffer damages in the amount of \$96,692.00.

WHEREFORE, Plaintiff, Michael F. Consedine, the Insurance Commissioner of the Commonwealth of Pennsylvania, acting in his official capacity as the Statutory Liquidator of FSSI, requests that on Count IX, judgment be entered in his favor and against Defendants, Brier, Drauschak and Cooperman, jointly and severally, in an amount of at least \$96,692, together with all other compensatory damages, exemplary and punitive damages, costs, interest, attorney's fees and such other relief as the Court deems appropriate.

### **COUNT X**

#### **Statutory Voidable Transfers (Liquidator v. Bragg and OBS, P.C.)**

212. Paragraphs 1 through 170 are incorporated herein by reference as if fully set forth at length.

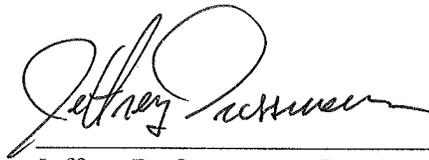
213. The provisions of the Insurance Department Act, including 40 P.S. § 221.30, permit Plaintiff to avoid certain transfers of monies or property of FSSI to its former directors and officers and/or others that were made during the period of up to one year prior to the filing of a successful petition for liquidation under Article V, and to avoid all such transfers made within

four months prior to the filing of the petition for liquidation. The successful Petition for Order of Liquidation of FSSI was filed on February 6, 2012.

214. Bragg and OBS, P.C. are jointly and severally liable to Plaintiff pursuant to the foregoing statutory provision, for their receipt of funds of FSSI during the relevant time periods.

215. The foregoing acts caused FSSI to suffer damages in the amount of at least \$9,240.00.

WHEREFORE, Plaintiff, Michael F. Consedine, the Insurance Commissioner of the Commonwealth of Pennsylvania, acting in his official capacity as the Statutory Liquidator of FSSI, requests that on Count X, judgment be entered in his favor and against Defendants Bragg and OBS, P.C., jointly and severally, in an amount of \$9,240.00, together with all other compensatory damages, exemplary and punitive damages, costs, interest, attorney's fees and such other relief as the Court deems appropriate.



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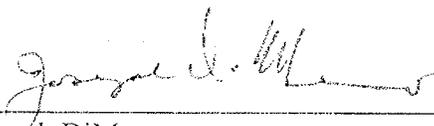
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Attorneys for Plaintiff, Michael F. Consedine,  
Insurance Commissioner of the Commonwealth of  
Pennsylvania in his Official Capacity as Statutory  
Liquidator of First Sealord Surety, Inc.

Dated: September 4, 2012

VERIFICATION

I, Joseph DiMemmo, Deputy Insurance Commissioner of the Pennsylvania Insurance Department, Office of Liquidations, Rehabilitations and Special Funds, am authorized by Michael F. Consedine, Insurance Commissioner of the Commonwealth of Pennsylvania, pursuant to 40 P.S. § 221.23, to act on his behalf in his capacity as Liquidator of First Sealord Surety, Inc. I hereby verify that the facts set forth in the foregoing Complaint are true and correct to the best of my knowledge, information or belief. This statement is made subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.



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Joseph DiMemmo  
Deputy Insurance Commissioner of the  
Pennsylvania Insurance Department

Dated: September 4, 2012

# **EXHIBIT A**

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

In Re: First Sealord Surety, Inc.                     :  
in Liquidation   :    No. 1 FSS 2012

**ORDER OF LIQUIDATION**

**AND NOW**, this 8th day of February, 2012, upon consideration of the Petition for Liquidation of First Sealord Surety, Inc. (“First Sealord”) filed by Michael F. Consedine, Insurance Commissioner of the Commonwealth of Pennsylvania, and upon the unanimous consent of the Board of Directors of First Sealord and of the Board of Directors of Sealord Holdings, Inc., the sole shareholder of First Sealord, the Petition is GRANTED.

It is hereby **ORDERED** that:

1. First Sealord shall be liquidated pursuant to Article V of The Insurance Department Act of 1921, Act of May 17, 1921 (Act), P.L. 789, *as amended*, added by the Act of December 14, 1977, P.L. 280, 40 P.S. §§ 221.1 – 221.63.
2. Insurance Commissioner Michael F. Consedine and his successors in office are hereby appointed Statutory Liquidator of First Sealord and directed to take possession of First Sealord’s property, business and affairs in accordance with Article V of the Act.
3. The Liquidator is hereby vested with all the powers, rights and duties authorized under Article V and other applicable statutes and regulations.

## ASSETS OF THE ESTATE

4. The Liquidator is vested with title to all property, assets, contracts and rights of actions (collectively “assets”) of First Sealord of whatever nature and wherever located, as of the date of filing of the Petition for Liquidation. All assets of First Sealord are hereby found to be *in custodia legis* of this Court and this Court asserts jurisdiction as follows: (a) *in rem* jurisdiction over all assets of First Sealord wherever they may be located and regardless of whether they are held in the name of First Sealord or in any other name; (b) exclusive jurisdiction over all determinations as to whether assets belong to First Sealord or to another party; (c) exclusive jurisdiction over all determinations of the validity and amounts of claims against First Sealord; and (d) exclusive jurisdiction over the determination of the priority of all claims against First Sealord.

5. The filing or recording of this Order with the Clerk of the Commonwealth Court or with the Recorder of Deeds of the county in which First Sealord’s principal office or place of business is located (Delaware County), shall impart the same notice as is imparted by any deed, bill of sale or other evidence of title duly filed or recorded with that Recorder of Deeds.

6. The Liquidator is directed to take possession of all assets that are the property of First Sealord.

7. The Liquidator is directed to continue telephone, data-processing, water, electric, sewage, garbage, delivery, trash removal and utility services needed by the estate of First Sealord by establishing a new account for the Liquidator as of the date of this Order.

8. First Sealord’s directors, officers and employees shall: (a) surrender peaceably to the Liquidator the premises where First Sealord conducts its business; (b) deliver all keys or access codes thereto and to any safe deposit boxes;

(c) advise the Liquidator of the combinations and access codes of any safe or safekeeping devices of First Sealord or any password or authorization code or access code required for access to data processing equipment; and (d) deliver and surrender peaceably to the Liquidator all the assets, books, records, files, credit cards, and other property of First Sealord in their possession or control, wherever located, and otherwise advise and cooperate with the Liquidator in identifying and locating any of the foregoing.

9. First Sealord's directors, officers and employees are enjoined from taking any action, without approval of the Liquidator, to transact further business on behalf of First Sealord. They are further enjoined from taking any action that would waste the assets of First Sealord or would interfere with the Liquidator's efforts to wind up the affairs of First Sealord.

10. Except as otherwise provided in this Order, executory contracts to which First Sealord is a party as of the date of this Order may be affirmed or disavowed by the Liquidator.

11. All banks, investment bankers, companies, other entities or other persons having in their possession assets which are, or may be, the property of First Sealord, shall, unless otherwise instructed by the Liquidator, deliver the possession of the same immediately to the Liquidator, and shall not disburse, convey, transfer, pledge, assign, hypothecate, encumber or in any manner dispose of the same without the prior written consent of, or unless directed in writing by, the Liquidator.

12. All persons and entities are enjoined from disposing of or destroying any records pertaining to any transactions between First Sealord and any party.

13. The amount recoverable by the Liquidator from any reinsurer shall not be reduced as a result of this Order of Liquidation, regardless of any provision in a reinsurance contract or other agreement. Payment made directly by the reinsurer to an insured or other creditor of First Sealord shall not diminish the reinsurer's obligation to First Sealord, except to the extent provided by law.

#### **TERMINATION OF POLICIES**

14. Any First Sealord surety bond, surety undertaking or policy still in force at the time of the Liquidation will continue only until the earlier of the following: (1) thirty (30) days after the entry of this order; (2) the expiration of the bond, undertaking or policy by its own terms; or (3) the date when the obligee or insured replaces the surety bond, surety undertaking or policy with equivalent coverage in another reinsurer or surety, or otherwise terminates the policy.

#### **PROOF OF CLAIM FILING**

15. All claims against the estate of First Sealord, together with proper proof thereof, shall be filed on or before October 5, 2012. No person shall participate in any distribution of the assets of First Sealord unless his, her or its claim has been filed with the Liquidator in accordance with the time limit established by the Liquidator, subject to the provisions for the late filing of claims pursuant to Section 537 of the Act, 40 P.S. §221.37.

16. No judgment or order against First Sealord or its insureds entered after the date of filing of the Petition for Liquidation, and no judgment or order against First Sealord or its insureds entered at any time by default or by collusion, will be considered as evidence of liability or quantum of damages by the Liquidator in evaluating a claim against the estate of First Sealord.

17. In addition to the notice requirements of Section 524 of the Act, 40 P.S. §221.24, the Liquidator shall publish notice in newspapers of general circulation, where First Sealord has its principal places of business, and in the national edition of a national publication such as USA Today that: (a) specifies the last day for the filing of claims; (b) explains the procedure by which claims may be submitted to the Liquidator; (c) provides the address of the Liquidator's office for the submission of claims; and (d) notifies the public of the right to present a claim, or claims, to the Liquidator.

18. Within thirty (30) days of giving notice of the order of liquidation, as set forth in Section 524 of the Act, 40 P.S. §221.24, and of the procedures for filing claims against the estate of First Sealord, the Liquidator shall file a compliance report with the Court noting, in reasonable detail, the date that and manner by which these notices were given.

#### **ADMINISTRATIVE EXPENSES**

19. The Liquidator shall pay as costs and expenses of administration pursuant to Section 544 of the Act, 40 P.S. §221.44, the actual, reasonable and necessary costs of preserving or recovering the assets of First Sealord.

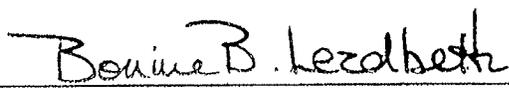
20. Distribution of the assets of First Sealord in payment of the costs and expenses of estate administration including, but not limited to, compensation for services of employees and professional consultants, such as attorneys, actuaries and accountants, shall be made under the direction and approval of the Court. This includes reimbursement to the Pennsylvania Insurance Department for expenses it has incurred in compensating professional consultants,

attorneys and other persons it has engaged on behalf of First Sealord for the preservation of its assets.

**STAY OF LITIGATION**

21. Unless the Liquidator consents thereto in writing, no action at law or in equity, including, but not limited to, an arbitration or mediation, the filing of any judgment, attachment, garnishment, lien or levy of execution process against First Sealord or its assets, shall be brought against First Sealord or the Liquidator, whether in this Commonwealth or elsewhere, nor shall any such existing action be maintained or further prosecuted after the effective date of this Order. All above-enumerated actions currently pending against First Sealord in the courts of the Commonwealth of Pennsylvania or elsewhere are hereby stayed; relief sought in these actions shall be pursued, as is appropriate, either by filing a proof of claim against the estate of First Sealord pursuant to Section 538 of the Act, 40 P.S. §221.38, or by applying to intervene.

22. All secured creditors or parties, pledges, lienholders, collateral holders or other person claiming secured, priority or preferred interests in any property or assets of First Sealord are hereby enjoined from taking any steps whatsoever to transfer, sell, assign, encumber, attach, dispose of, or exercise, purported rights in or against any property or assets of First Sealord except as provided in Section 543 of the Act, 40 P.S. §221.43.

  
\_\_\_\_\_  
BONNIE BRIGANCE LEADBETTER,  
Judge

Certified from the Record

# **EXHIBIT B**



**FIRST SEALORD SURETY, INC.**

Principal Office  
789 E. Lancaster Avenue  
Villanova, PA 19085  
610.664.2324

**COLLATERAL AGREEMENT**

THIS AGREEMENT is made between \_\_\_\_\_  
of \_\_\_\_\_ (hereinafter called the "Depositor")  
and First Sealord Surety, Inc., 789 East Lancaster Avenue, Villanova, PA 19085 (hereinafter called the "Company").

WITNESSETH:

WHEREAS, in consideration of the deposit of collateral security described in the receipt hereto annexed, the Company has executed or procured the execution of, or may hereafter execute or procure the execution of obligations of Guaranty or Suretyship ("Bonds" or "Undertakings") on behalf of \_\_\_\_\_

\_\_\_\_\_ (the "Principal").

NOW, THEREFORE, in consideration of the premises and other good and valuable considerations, receipt whereof is hereby acknowledged, it is agreed:

FIRST. The said cash, property, irrevocable letters of credit ("ILOC") and/or securities described under "Receipt for Collateral" are deposited with the Company to indemnify it against any and all claims, damages, actions, losses, liabilities, charges, expenses, demands and costs of whatsoever nature including, without limitation, premiums, counsel and attorneys' fees arising out of the execution of any bonds or undertakings, any renewal, extension thereof or substitution therefor, or any other document which the Company has heretofore executed or procured the execution or which the Company may hereafter execute or procure the execution of at the request of, or on the indemnity of, the Depositor or the Principal.

SECOND. The Depositor hereby expressly releases and discharges the Company of and from any loss, liability or responsibility for, because or on account of the failure or insolvency of any trust company or depository in which said collateral may be deposited. The Depositor also releases and discharges the Company of any liability or responsibility for any loss, expense, or damage of or to the said collateral arising from any other cause whatsoever except the gross negligence of the Company, and in the event that any of said collateral consists of bonds and/or other interest bearing obligations having coupons attached, there shall be no duty upon the part of the Company, in the absence of an express, written direction by the Depositor to do so, to detach, as they mature and collect the proceeds of any interest coupon of any such bond and/or other obligation. The right, however, is hereby expressly granted the Company at its discretion or option to detach upon maturity and collect any such interest coupon, bond and or other obligation. In the event, however, of such a direction or the exercise of the option to collect as aforesaid, the right is granted to the Company to decide (which shall be final) whether the proceeds of any coupons shall be returned to the Depositor or shall, subject to the terms hereof be held by the Company as additional collateral.

THIRD. In the event cash or non-interest bearing securities or instruments are deposited with the Company as collateral, there shall be no duty upon the part of the Company to deposit or place such collateral in an interest-bearing account or arrangement.

FOURTH. In case of depreciation of said securities or any of them, immediately upon the Company's demand, a deposit of cash by Depositor shall be made forthwith, or at the option of the Depositor, additional satisfactory securities deposited so that the value of the collateral and cash equal the present market value of the said securities.

FIFTH. Should the Depositor refuse upon demand to make the said cash payment and/or deposit of securities, herein required, the Company may summarily apply to a Court of Equity of competent jurisdiction for a decree specifically requiring the said deposit of cash and or deposit of such securities to be made. All costs associated with such application, including attorneys' fees, shall be paid by Depositor, or if not properly paid, the Company may take any and all actions set forth in this Agreement or in any other agreement executed by Depositor in favor of the Company.

SIXTH. The Depositor grants to the Company the irrevocable right, power and authority to, at any time or times, in the event that the said Company shall incur or sustain or become liable for, or be threatened with, any loss, expense, charge, cost, liability or damage by reason of the execution of any of the aforesaid Bonds or Undertakings, or if the premiums thereon shall not have been paid, without further demand or notice, and without advertisement, sell, assign, deliver and transfer the whole or any part of the said securities, substitutes or additions (at its option) at any broker's board or at any public or private sale, or at any other available market, the Depositor hereby ratifying and confirming any action of the said Company in connection therewith. And upon such sale or sales, the right is also granted to the Company to become purchasers thereof, freed from and discharged of any equity of redemption. All legal or other costs, charges and expenses for the sale and delivery of any securities are to be deducted from the proceeds of such sale and the residue held as security for, and applied on the liability arising on any of the said Bonds or Undertakings, the overplus, if any, subject to the terms hereof, to be returned to the Depositor. But if there be any deficiency, the Depositor shall forthwith reimburse the Company for any unsatisfied loss or liability.

SEVENTH. The Company agrees, upon full compliance with and fulfillment of all the terms and conditions of all of the said Bonds or Undertakings and the agreements contained in any applications pursuant to which they are or may have been executed, that it will return to the Depositor the said property, cash, ILOC and/or securities or so much thereof then remaining, which the Depositor hereby agrees to accept in full accord and satisfaction of and for the deposit herein made, provided the Company has received evidence satisfactory to the Company of its discharge from all liability under any of the aforesaid Bonds or Undertakings.

Delivery by the Company of collateral or proceeds or any part thereof to anyone or more Depositors hereunder shall be deemed delivery to all Depositors. No interest will be paid by the Company on any funds deposited with or held by it as collateral. No right or interest of the Depositor under this agreement shall be assigned without the written consent of the Company endorsed hereon by an officer of the Company at its Home Office, 789 East Lancaster Avenue, Villanova, PA 19085.

EIGHTH. The Company may at any time and from time to time, file this Agreement, financing statements, continuation statements and amendments thereto that describe the collateral and which contain any other information required by the Uniform Commercial Code for the sufficiency or filing office acceptance of any financing statement, continuation statement or amendment, including whether the Depositor is an organization, the type of organization and any organization identification number issued to the Depositor. The Depositor agrees to furnish any such information to the Company promptly upon request. Any such financing statements, continuation statements or amendments may be signed by the Company on behalf of the Depositor, and may be filed at any time in any jurisdiction whether or not Revised Article 9 of the Uniform Commercial Code is then in effect in that jurisdiction. The Depositor agrees to cooperate and join, at its expense, with the Company in taking such steps as are necessary, in the Company's judgment, to perfect or continue the perfected status of the security interests granted hereunder.

This Agreement is given in connection with, and pursuant to, the General Indemnity Agreement entered into between the Company and the Depositor.

It is agreed that this instrument shall inure to the benefit of and be binding upon the Depositor and the Company, his, their and its respective heirs, executors, administrators, successors and assigns.

SIGNED, SEALED and DATED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ .

Witness or Attest:

\_\_\_\_\_

By: \_\_\_\_\_  
\_\_\_\_\_, Individually

\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_  
\_\_\_\_\_, Individually

First Sealord Surety, Inc.

\_\_\_\_\_

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

**RECEIPT FOR COLLATERAL**

Receipt from the Depositor named in the within agreement the following property as collateral security:

Subject to all and singular the terms of the within agreement.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ .

First Sealord Surety, Inc.

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

**RETURN FOR COLLATERAL**

RECEIVED from First Sealord Surety, Inc.:

\_\_\_\_\_ in full return of the collateral security deposited under the terms of the within agreement and the undersigned hereby releases First Sealord Surety, Inc. from any and all liability by reason of the said deposit and agreement.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ .

Witness:

\_\_\_\_\_  
(Seal)

# **EXHIBIT C**

## EMPLOYMENT AGREEMENT

EMPLOYMENT AGREEMENT (this "Agreement") dated as of April 4<sup>th</sup>, 2003 among Mountbatten, Inc., a Pennsylvania corporation having its principal place of business at 33 Rock Hill Road, Bala Cynwyd, Pennsylvania 19004 ("Mountbatten"), and Mountbatten's wholly owned subsidiary, The Mountbatten Surety Company, Inc., a Pennsylvania property and casualty insurance company having its principal place of business at 33 Rock Hill Road, Bala Cynwyd, Pennsylvania 19004 ("Surety"), and Kenneth L. Brier, an individual residing at 203 Clwyd Road, Bala Cynwyd, Pennsylvania, 19004 (the "Executive").

### WITNESSETH:

WHEREAS, Sealord LLC, a Delaware limited liability company ("Sealord") has entered into a Stock Purchase Agreement dated as of April 3, 2003 with Fidelity & Deposit Company of Maryland (the "Purchase Agreement") whereby Sealord will acquire all of the outstanding shares of capital stock of Mountbatten and will thereby also acquire all of the outstanding shares of capital stock of Surety and the other subsidiaries of Mountbatten (the "Acquisition");

WHEREAS, in connection with the Acquisition, Sealord is selling limited liability company interests (the "Units") in Sealord for net proceeds to Sealord of \$10,000,000 to a limited number of sophisticated investors (the "Investors") in a private placement (the "Offering");

WHEREAS, the Executive has served as Chairman of the Board and President of Mountbatten and Surety (collectively, the "Employers") for the past 11 years and the agreement of the Executive to continue as such is a condition precedent to the investment in the Units by the Investors;

WHEREAS, in consideration of its contribution of the proceeds of the Offering to the capital to Mountbatten which in turn will be contributed by Mountbatten to Surety as surplus, Sealord shall be a third party beneficiary of this Agreement and shall be entitled to the same rights to enforce this Agreement as either of the Employers and shall be considered an "Employer" for purposes of this Agreement; and

WHEREAS, the parties are entering into this Agreement to set forth and confirm their respective rights and obligations with respect to the Executive's employment by the Employers;

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties hereto, intending to be legally bound hereby, mutually agree as follows:

1. Certain Definitions. In addition to the terms defined elsewhere in this Agreement, the following terms shall have the following meanings:

(a) "Accrued Obligations" means (i) the Executive's Base Salary accrued through the effective date of the termination of the Executive's employment hereunder, (ii) any Bonus payable to the Executive pursuant to Section 7(b) for the year in which such termination is effective and (iii) any amount in respect of Excise Tax required to be paid to the Executive pursuant to Section 5.

(b) "Agreement" has the meaning assigned to it in the Recitals.

(c) "Approval" has the meaning assigned to it in Section 7(a).

(d) "Base Salary" has the meaning assigned to it in Section 7(a).

(e) "Benefit Obligations" means the aggregate premiums that would be payable by the Executive to maintain in effect throughout the period from the date of the Executive's termination through the remainder of the Term had the Executive remained employed (assuming no increase in insurance premium rates) the same benefits provided to the Executive by the Employers pursuant to Section 7(c) hereof immediately prior to the date of such termination.

(f) "Boards" has the meaning assigned to it in Section 3(a).

(g) "Bonus" has the meaning assigned to it in Section 7(b).

(h) "Cause" means (i) the Executive's willful and continued failure substantially to perform his material duties with the Employers as set forth in this Agreement after notice thereof from the Employers to the Executive and a reasonable opportunity for the Executive to cure such failure, breach or violation in all material respects, (ii) the commission by the Executive of any activities constituting a material violation or breach under any federal, state or local law or regulation applicable to the activities of any Employer, (iii) any fraud, breach of fiduciary duty, dishonesty or misappropriation or other intentional material damage to the property or business of any Employer by the Executive, (iv) the Executive's repeated absences other than for physical or mental impairment or illness, (v) the Executive's admission or conviction of, or plea of nolo contendere to, any felony that, in the reasonable judgment of the Boards, adversely affects any Employer's reputation or the Executive's ability to carry out his obligations under this Agreement or (vi) the Executive's non-compliance with the provisions of Section 6(b) after notice thereof from the Employers to the Executive and a reasonable opportunity for the Executive to cure such non-compliance. Notwithstanding the foregoing, the Employers may not terminate the Executive's employment under clauses (i), (iii) or (iv) of this definition unless the Executive is given written notice, in accordance with the By-laws of the Employers, of a special meeting of the Boards to consider the termination

of the Executive's employment hereunder for Cause and the opportunity to address the Boards at such special meeting.

(i) "Change in Control" means (i) the consummation of a merger or other business combination involving, or the acquisition of membership interests or shares of, Sealord or Mountbatten (or Surety if Surety is a successor to Mountbatten) by any "person" or "group" (as such terms are used in Rule 13d-3 under the Securities Exchange Act of 1934 as now or hereafter amended (the "Exchange Act")) in a transaction or series of transactions, after which Sealord, the "beneficial owners" (as defined in Rule 13d-3 and 13d-5 under the Exchange Act) of Sealord's membership interests or the beneficial owners of Mountbatten's or Surety's common stock do not collectively beneficially own 50% or more of the voting equity securities of the entity surviving such merger or other business combination; (ii) the sale, lease, exchange or other transfer in a transaction or series of transactions of all or substantially all of the assets of Surety or Mountbatten to any "person" or "group" (as defined above) other than any person 50% or more of the voting power of which is beneficially owned, directly or indirectly, by the beneficial owners of 50% or more of the Company's voting power, but excluding therefrom the sale and reinvestment of Surety's investment portfolio, (iii) such time as Nicholas Bratt, Markus Rohrbasser and Edmond Villani and any transferee of Edmond Villani pursuant to Section 7.1(c) of the Operating Agreement together with their Permitted Transferees (as defined in the Operating Agreement), do not collectively beneficially own 50% or more of the Units that Nicholas Bratt, Markus Rohrbasser and Edmond Villani collectively beneficially owned on the Effective Date subject to adjustments for unit splits, reverse splits, combinations, reclassifications and similar transactions, (iv) a transaction constituting a Capital Transaction as defined in the Operating Agreement or (v) as the result of or in connection with any cash tender offer or exchange offer, merger or other business combination, sale of assets or contested election of directors or any combination of the foregoing transactions (each, a "Transaction"), other than a Transaction among any of Sealord, Mountbatten or Surety, the persons who constituted a majority of the members of the Boards (or, in the case of Sealord, its Board of Managers) on the Effective Date and persons whose election as members of the Boards (or, in the case of Sealord, its Board of Managers) was approved by such members then still in office or whose election was previously so approved after the Effective Date, but before the event that constitutes a Change in Control, no longer constitute such a majority of the members of the Boards (or, in the case of Sealord, its Board of Managers) then in office. A Transaction constituting a Change in Control shall only be deemed to have occurred upon the closing of the Transaction.

(j) "Change in Control Payment" means any payment provided for in Section 4.

(k) "COBRA" means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.

(l) "Code" has the meaning assigned to it in Section 5.

(m) "Competitive Business" has the meaning assigned to it in Section 10(b).

(n) "Confidential or Proprietary Information" means all information of any nature and in any form that is owned by the Employers and that is not publicly available or generally known to persons engaged in the business of issuing surety bonds or any information with respect to Sealord or its members including, without limitation, information with respect to the Employers' financial matters, bondholders, bonded principals, employees and industry contacts.

(o) "Disability Insurance Coverage" has the meaning assigned to it in Section 7(c)(i).

(p) "Effective Date" has the meaning assigned to it in Section 2(a).

(q) "Excise Tax" has the meaning assigned to it in Section 5.

(r) "Executive" has the meaning assigned to it in the Recitals.

(s) "Extension Period" has the meaning assigned to it in Section 2(a).

(t) "Good Reason" means (i) the Executive's Position or the scope of the Executive's authority, duties or responsibilities as described in this Agreement are materially diminished without the Executive's written consent, provided that the Employers shall have 30 days to cure any diminishment not effected in bad faith after written notice thereof from the Executive or (ii) a material breach by either Employer of its respective obligations to the Executive under this Agreement, which breach is not cured in all material respects within 30 days (except in the case of a payment default for which the cure period shall be 10 days) following written notice thereof from the Executive to the Employers.

(u) "Initial Term" has the meaning assigned to it in Section 2(a).

(v) "Investors" has the meaning assigned to it in the Recitals.

(w) "Life Insurance Coverage" has the meaning assigned to it in Section 7(c)(ii).

(x) "Liquidation" means the liquidation of Sealord pursuant to Section 10.1(c) of the Operating Agreement.

(y) "Make-Whole Obligation" has the meaning assigned to it in Section 3(a)(i).

(z) "Mountbatten" has the meaning assigned to it in the Recitals.

(aa) "Operating Agreement" means the Amended and Restated Limited Liability Company Agreement of Sealord.

(bb) "Permanent Disability" means a physical or mental disability such that the Executive is substantially unable to perform those duties that he would otherwise be expected to continue to perform and the nonperformance of such duties has continued for a period of 90 consecutive days.

(cc) "Position" has the meaning assigned to it in Section 2(a).

(dd) "Principals" means Kenneth L. Brier, Ted A. Drauschak and Joel D. Cooperman.

(ee) "Purchase Agreement" has the meaning assigned to it in the Recitals.

(ff) "Sealord" has the meaning assigned to it in the Recitals.

(gg) "Severance Obligation" means 2.5 times the sum of (i) the Executive's annual Base Salary as of the effective date of the termination of the Executive's employment hereunder and (ii) any Bonus that would be payable to the Executive for the year in which such termination occurs.

(hh) "Surety" has the meaning assigned to it in the Recitals.

(ii) "Term" has the meaning assigned to it in Section 2(a).

(jj) "Transaction" has the meaning assigned to it in Section 1(i).

(kk) "Units" has the meaning assigned to it in the Recitals.

## 2. Employment and Term.

(a) Effective on the later of the date hereof or the date of closing of the Acquisition (the "Effective Date"), (i) Mountbatten shall employ the Executive, and the Executive shall be employed by Mountbatten, as the Chairman of the Board and President of Mountbatten and (ii) Surety shall employ the Executive, and the Executive shall be employed by Surety, as the Chairman of the Board and President of Surety (with all such positions described in clauses (i) and (ii) being collectively referred to herein as the "Position"), in accordance with the terms and subject to the conditions set forth herein for a term (the "Initial Term") that shall commence on the Effective Date and, subject to Section 3, shall continue for a period of five years. Subject to Section 3, the Initial Term shall be extended for successive one year periods (each such successive one year period, if any, an "Extension Period" and all such Extension Periods together with the Initial Term, the "Term") unless written notice to the contrary is given by either of the Employers or the Executive to the other party in accordance with the terms hereof at least 90 days before the commencement of each

Extension Period. Mountbatten and Surety shall be jointly and severally liable to the Executive with respect to (i) all liabilities of Surety to the Executive hereunder and (ii) all liabilities of Mountbatten to the Executive hereunder; provided, however, that Mountbatten shall not be responsible for any liability of Surety to the Executive to the extent that such liability has been discharged by Surety, and Surety shall not be responsible for any liability of Mountbatten to the Executive to the extent that such liability has been discharged by Mountbatten.

(b) Unless otherwise provided herein or agreed by the parties hereto, all of the terms and conditions of this Agreement shall continue in full force and effect throughout the Term and, with respect to those terms and conditions that apply after the Term, after the Term.

### 3. Termination.

(a) Termination by the Employers. Notwithstanding Section 2(b), the Employers, by action of their Boards of Directors (the "Boards") and effective as specified in a written notice thereof to the Executive in accordance with the terms hereof, shall have the right to terminate the Executive's employment hereunder at any time during the Term hereof, for Cause or other than for Cause, or on account of the Executive's Permanent Disability.

(i) Termination by the Employers without Cause. In the event the Executive's employment hereunder is terminated by the Employers without Cause (which, by way of clarification, shall not include a termination by reason of the Executive's death or Permanent Disability), the Employers shall make, or cause to be made, the following payments to the Executive:

(A) the Severance Obligation payable in a lump sum on the effective date of such termination; and

(B) the Accrued Obligations and the Benefit Obligations payable in a lump sum on the effective date of such termination.

(ii) Termination upon the Death of the Executive. In the event of the death of the Executive, the Executive's employment hereunder shall be deemed to be terminated and the Employers shall make, or cause to be made, the following payments to the estate or other specified beneficiary of the Executive, which payments shall be in addition to the life insurance benefits of the Executive specified in Section 7(c)(ii):

(A) the then monthly Base Salary of the Executive payable for a period of three months following the date of the Executive's death;

(B) the Accrued Obligations as of the date of the Executive's death payable in a lump sum within 15 days after the date of such death;

(C) premium amounts required to continue in effect for the dependents of the Executive the insurance benefits specified in clause (iii) of Section 7(c) for a period of one year after the termination payable in a lump sum within 15 days after the date of such death to the extent such dependants are eligible to elect COBRA continuation coverage under applicable law; and

(D) any Change in Control Payment payable pursuant to Section 4.

(iii) Termination upon the Permanent Disability of the Executive. In order to terminate the Executive's employment hereunder on account of Permanent Disability, the Employers must provide the Executive with written notice of the Boards' good faith determination to terminate the Executive's employment hereunder for reason of Permanent Disability not less than 30 days prior to such termination, which notice shall specify the date of termination. Until the specified effective date of termination by reason of Permanent Disability, the Executive shall continue to receive compensation at the rates set forth in Section 7. The Employers shall not take any action that would reasonably be expected to impair any rights of the Executive under any disability insurance policy maintained by the Employers at the commencement of the aforesaid 90-day period. In the event the Executive's employment hereunder terminates by reason of the Permanent Disability of the Executive, the Employers shall make, or cause to be made, the following payments to the Executive, which payments shall be in addition to the disability insurance benefits of the Executive specified in Section 7(c)(i):

(A) premium amounts required to continue in effect the insurance benefits specified in clause (iii) of Section 7(c) for a period of one year after the Liquidation to the extent the Executive is eligible to elect COBRA continuation coverage under applicable law;

(B) the Accrued Obligations as of the date of such termination payable in a lump sum on the date of such termination;

(C) monthly payments to the Executive for the remainder of the Term in the amount by which the Executive's then-monthly Base Salary exceeds the Disability Insurance Coverage (as defined in Section 7(c)(i), as grossed up to reflect the fact that the disability benefits are not subject to federal income tax (the "Make-Whole Obligation"), provided that the Employers shall have no obligation with respect to the Make-Whole Obligation except to the extent that any payments in respect thereof are fully offset by payments to the Employers under a "key-man" insurance policy maintained by the Company and, provided further, that the Employers shall have no liability to the Executive if the Employers have used commercially reasonable efforts to obtain "key-man" insurance on commercially reasonable terms and conditions and have been unable to do so or for any deficiency of such policy;

(D) any Change in Control Payment payable pursuant to Section 4.

(iv) Termination for Cause. In the event that the Executive's employment hereunder is terminated by the Employers for Cause, the Employers' only obligation shall be to pay to the Executive the Accrued Obligations in a lump sum on the effective date of such termination. In the event that such termination is effected pursuant to clauses (ii) or (v) of Section 1(h), the Accrued Obligations shall not include any Bonus.

(v) Termination in Connection with a Liquidation. In the event of the Liquidation of Sealord, the Executive's employment hereunder shall be deemed to be terminated by the Employers and the Employers' only obligation shall be to make a lump-sum payment to the Executive on the date of such Liquidation in that amount as equals the sum of:

(A) the Accrued Obligations,

(B) one-half of the Executive's then-annual Base Salary, and

(C) premium amounts required to continue in effect the insurance benefits specified in clause (iii) of Section 7(c) for a period of one year after the Liquidation to the extent the Executive is eligible to elect COBRA continuation coverage under applicable law.

(b) Termination by the Executive. Notwithstanding Section 2(b), the Executive shall have the right to terminate his employment hereunder at any time during the Term hereof for Good Reason or for any reason other than Good Reason.

(i) Termination with Good Reason. In the event that the Executive's employment hereunder is terminated by the Executive with Good Reason, the Employers shall make, or cause to be made, the following payments to the Executive:

(A) the Severance Obligation payable in a lump sum on the effective date of such termination; and

(B) the Accrued Obligations and the Benefit Obligations payable in a lump sum on the effective date of such termination.

(ii) Termination without Good Reason. In the event that the Executive's employment hereunder is terminated by the Executive without Good Reason, the Employers' sole obligation shall be to pay the Executive the Accrued Obligations in a lump sum on the effective date of such termination.

(c) Miscellaneous.

(i) Any notice of termination of this Agreement by the Employers to the Executive or by the Executive to the Employers shall be given in accordance with the provisions of Section 12(c).

(ii) In order to receive any payments due to the Executive upon a termination, the Executive shall execute and deliver a Release of the Employers in a form mutually agreed to among the Executive and the Employers.

(iii) Notwithstanding anything to the contrary contained herein, in the event that the Executive receives any Change in Control Payment pursuant to Section 4, the Executive shall not be entitled to receive any payment in respect of the Severance Obligation, and, if the Executive receives a Change in Control Payment, the Employers shall not have any obligation to make any payment in respect of the Severance Obligation.

4. Change in Control Payments. The Employers shall make a Change in Control Payment to the Executive in the amount and upon the terms and conditions hereinafter set forth in this Section 4.

(a) Upon the closing of a Transaction (i) that constitutes a Change in Control (x) while the Executive is employed hereunder or (y) within a period of six months following the termination of the Executive's employment hereunder because of his death or Permanent Disability, and (ii) that was authorized by a vote of the Board of Managers of Sealord which such vote did not constitute a Super-Majority Vote (as defined in the Operating Agreement), the Employers shall pay to the Executive on the date of the closing of such Transaction that amount as equals 2.5 times the sum of (A) the Executive's annual Base Salary as of the effective date of such Change in Control and (B) any Bonus that would be payable to the Executive for the year in which such Change in Control is effective.

(b) Upon the closing of a Transaction (i) that constitutes a Change in Control (x) while the Executive is employed hereunder or (y) within a period of six months following the termination of the Executive's employment hereunder because of his death or Permanent Disability, (ii) that was authorized by a vote of the Board of Managers of Sealord which such vote constituted a Super-Majority Vote and (iii) that would result in consideration payable to each holders of Class A Units of Sealord as of the date hereof by reason of the closing of such Transaction such that the holder would realize an internal rate of return (taking into account all cash and non-cash distributions theretofore made in respect of a Class A Unit and calculated net of tax distributions) of 20% or greater on such holder's investment in such holder's Class A Units as of the date hereof, the Employers shall pay to the Executive on the date of the Closing of such Transaction that amount as equals 1.0 times the sum of (A) the Executive's annual Base Salary as of the effective date of such Change in Control and (B) any Bonus that would have been payable to the Executive for the year in which the Change in

Control is effective. For the avoidance of doubt, the consideration payable to a holder of Class A Units shall exclude any fees and expenses in connection with such Transaction, including any payments to employees, pursuant to this Section 4(b) or otherwise.

5. Excise Taxes. In the event that the independent public accountants of either of the Employers or the Internal Revenue Service determines that any payment, coverage or benefit provided to the Executive pursuant hereto is subject to the excise tax imposed by Section 4999 of the Internal Revenue Code of 1986, as amended (the "Code") or any successor provision thereof or any interest or penalties incurred by the Executive with respect to such excise tax (such excise tax, together with any such interest and penalties, are hereinafter collectively referred to as the "Excise Tax"), the Employers, within 30 days thereafter, shall pay to the Executive, in addition to any other payment, coverage or benefit due and owing hereunder, an amount determined by multiplying the rate of Excise Tax then imposed by Section 4999 by the amount of the "excess parachute payment" received by the Executive, determined without regard to any payments made to the Executive pursuant to this Section 5, and dividing the product so obtained by the amount obtained by subtracting the aggregate local, state and federal income and FICA and health insurance taxes applicable to the receipt by the Executive of the "excess parachute payment" and taking into account the deductibility for federal income tax purposes of the payment of state and local income taxes thereon (as affected by those provisions of the Code that act to reduce the deductibility of itemized deductions), from the amount obtained by subtracting from 1.00 the rate of Excise Tax then imposed by Section 4999 of the Code, it being the intention of the parties hereto that the Executive's net after tax position (after taking into account any interest or penalties imposed with respect to such taxes) upon the receipt of the payments provided for by this Agreement be no less advantageous to the Executive than the net after tax position to the Executive that would have been obtained had Sections 280G and 4999 of the Code not been applicable to such payments. Except as otherwise provided herein, all determinations to be made under this Section 5 shall be made by tax counsel whose selection shall be reasonably acceptable to the Executive and the Employers and whose fees and costs shall be paid for by the Employers.

6. Duties of the Executive.

(a) Subject to the ultimate control and discretion of the Boards of the Employers, the Executive shall serve in the Position and perform all duties and services commensurate with the Position. Throughout the Term, the Executive shall perform all duties reasonably assigned or delegated to him under the Operating Agreement, the By-laws of Surety and Mountbatten or from time to time by the Boards consistent with the Position. Without limiting the foregoing, the Executive shall not cause Sealord or its subsidiaries to take any action that is inconsistent with the Operating Agreement and the annual budget of Sealord, as approved in accordance with the terms of the Operating Agreement. Except for travel normally incidental and reasonably necessary to the business of Surety and

Mountbatten and the duties of the Executive hereunder, the duties of the Executive shall be performed from offices located in or within a five-mile radius of Bala Cynwyd, Pennsylvania.

(b) The Executive shall devote substantially all of the Executive's business time and attention to the performance of the Executive's duties hereunder and, during the term of his employment hereunder, the Executive shall not engage in any other business enterprise that requires any significant amount of the Executive's personal time or attention, unless granted the prior permission of the Boards. The foregoing provision shall not prevent the Executive's purchase, ownership or sale of any interest in, or the Executive's engaging (but not to exceed an average of five hours per week) in, any business that does not compete with the business of Surety or Mountbatten or the Executive's involvement in charitable or community activities, provided, that the time and attention that the Executive devotes to such business and charitable or community activities does not materially interfere with the performance of his duties hereunder.

(c) The Executive shall be entitled to 25 days of vacation leave during each calendar year with full compensation, and to be taken at such time or times, as the Executive and Surety shall mutually determine. To the extent the Executive has not used his vacation time during a calendar year, the Executive may carry forward such unused vacation time, or by notice to the Employers within 90 days after the end of a calendar year, may elect to be paid cash in lieu thereof based upon the Executive's then Base Salary. The Executive shall be entitled to an unlimited amount of leave with full compensation if the Executive is called to active military service by the United States of America.

7. Compensation. For all services to be rendered by the Executive hereunder:

(a) Base Salary. The Employers shall pay the Executive a base salary (the "Base Salary") at an annual rate of \$443,142, subject to annual increases in amounts determined by the Boards, and further subject to approval by Sealord as specified in Section 5.1 of the Operating Agreement (an "Approval"), plus such other compensation as may from time to time be determined by the Employers, subject to the Approval of Sealord. Such Base Salary and other compensation provided for herein shall be payable in accordance with the Employers' normal payroll practices as in effect from time to time. The Executive shall have the right, in his sole discretion, to irrevocably defer all or part of his minimum, base compensation to any subsequent year(s) and from time to time as he may designate in writing.

(b) Bonus. The Employers may pay the Executive an annual bonus (the "Bonus") based on the consolidated results of operations of Mountbatten for each fiscal year ending during the Term in such amount as receives the Approval of Sealord.

(c) Insurance.

(i) Disability. The Employers shall reimburse the Executive for disability insurance on commercially reasonable terms and conditions, including (A) premiums paid by the Executive for monthly disability insurance coverage in the amount of up to \$975 (the "Disability Insurance Coverage"), subject to periodic increases for inflation, (B) any tax liability incurred by the Executive with respect to such premium payments and (C) any tax liability incurred by the Executive with respect to disability insurance payments received by the Executive, if any, up to the amount of the Disability Insurance Coverage.

(ii) Life Insurance. The Employers shall reimburse the Executive for life insurance coverage on commercially reasonable terms and conditions for a policy of the Executive, in the amount of \$2,000,000 (the "Life Insurance Coverage") for the benefit of such persons as the Executive may designate. The Employers shall reimburse the Executive or his beneficiaries under such policy, as the case may be, for (A) any tax liability incurred by any of them with respect to such premium payments and (B) any tax liability incurred by the Executive's beneficiaries with respect to life insurance payments received by them, if any, up to the amount of the Life Insurance Coverage. The reimbursement obligation set forth in this paragraph, together with the reimbursement obligation set forth in paragraph 7(c)(i) with respect to the Executive and the other Principals shall not exceed \$45,000 annually, subject to periodic increases for inflation.

(iii) Health Insurance. The Employers shall provide and pay for health insurance coverage for the Executive and his immediate family with terms and conditions substantially similar to the terms and conditions of the health insurance coverage provided to the Executive and his immediate family by the Employers immediately prior to the parties' entrance into this Agreement. Upon the expiration of any obligation of the Employers to provide health insurance coverage to the Executive and his dependents upon the terms of this Agreement, the Employers, as long as either one of them maintains health insurance coverage for its employees, shall offer to include the Executive and his dependents under such health insurance coverage provided that the Executive or such dependents monthly reimburse the Employers for the cost of such health insurance.

(iv) General Medical, Life and Disability Benefits. The Executive shall, at his option, be entitled to participate in and receive benefits from or under any medical, term life and disability insurance plans and such other benefit plans the Employers may in their discretion establish for their employees or executives in lieu of the insurance coverage provided under paragraphs (i), (ii) and (iii).

(d) Other Benefits.

(i) The Employers shall pay to the Executive an automobile allowance of \$700 per month payable on the first day of each month or at the time of his

salary payments, as the Employers may elect. The Employers shall bear all gas, insurance, repairs, maintenance and other operating expenses for the automobile. The Executive shall be liable for any tax liability he incurs with respect to such benefits.

(ii) The Employers shall pay for an annual physical examination of the Executive. The Executive agrees that the results of such examination shall be made available to the Employers on a confidential basis.

(iii) The Employers will pay the costs for the Executive's membership in a fitness program. To the extent that the Executive's participation in a fitness program reduces the cost of providing health insurance coverage to the Executive the Employers shall be entitled to the benefit of such reduction.

8. Expenses. The Employers shall promptly reimburse the Executive for (i) all reasonable expenses paid or incurred by the Executive in connection with the performance of the Executive's duties and responsibilities hereunder, except expenses relating to the Executive's automobile, (ii) all reasonable professional expenses, such as licenses and dues and professional educational expenses, paid or incurred by the Executive during the Term and (iii) subject to compliance with the Employers' policy regarding reimbursement of entertainment expenses, all reasonable expenses paid or incurred by the Executive in connection with the Executive's entertainment of customers and potential customers of the Employers, in each case upon the presentation of expense vouchers or other appropriate documentation therefor.

9. Indemnification. The Employers shall indemnify the Executive, to the fullest extent permitted by applicable law, for any and all liabilities to which the Executive or his estate may be subject as a result of, in connection with or arising out of his service as an employee, an officer or a director of the Employers hereunder or his service as an employee, officer or director of another enterprise at the request of Sealord, Mountbatten or Surety, as well as the costs and expenses (including attorneys' fees) of any legal action brought or threatened to be brought against him or the Employers as a result of, in connection with or arising out of such employment, provided, however, that if the Executive's employment shall have been terminated by the Employers for Cause, then the Employers shall have no obligation whatsoever to indemnify the Executive for any claim arising out of the matter that constituted the Cause for which the Executive's employment was terminated or for any other conduct of the Executive not within the scope of the Executive's duties under this Agreement. The Employers shall advance professional fees and disbursements to the Executive in connection with any such legal action, provided the Executive delivers to the Employers his undertaking to repay any expenses so advanced in the event it is ultimately determined that the Executive is not entitled to indemnification against such expenses. Expenses reasonably incurred by the Executive in successfully establishing the right to indemnification or to the advancement of expenses, in whole or in part, pursuant to this Section 9, shall also be indemnified by the Employers. The Executive shall be entitled to the full protection of any

insurance policies that the Employers may elect to maintain generally for the benefit of their respective directors and officers. The rights granted under this Section 9 shall survive the termination of this Agreement.

10. Covenants.

(a) Confidential Information. The Executive understands that, in the course of the Executive's employment by the Employers, the Executive has received and will receive Confidential and Proprietary Information concerning the business of the Employers and that the Employers desire to protect. The Executive agrees that the Executive will not at any time during or after the period of the Executive's employment by the Employers reveal to anyone outside the Employers or Sealord, or use for the Executive's own benefit, any Confidential or Proprietary Information except as required in the performance of the Executive's duties to the Employers (and, with respect to information about Sealord or its members, only upon the express written consent of Sealord). Upon termination of this Agreement, upon the request of the Employers, the Executive shall promptly deliver to the Employers any and all written materials, records and documents, including all copies thereof, made by the Executive or coming into the Executive's possession during the Term and retained by the Executive containing or concerning Confidential or Proprietary Information and all other written materials furnished to the Executive by the Employer for the Executive's use during the Term and retained by the Executive, including all copies thereof, whether of a confidential nature or otherwise. The obligations imposed by this Section 10(a) shall cease if such Confidential or Proprietary Information shall have become, through no fault of the Executive, publicly known or generally known to persons engaged in the business of the Employers or if the Executive, after giving the Employer notice and an opportunity to obtain a protective order, is required by law to make disclosure of such information.

(b) Non-Competition. Except as provided below and except in a case where the Executive has terminated this Agreement for Good Reason or the Employers have terminated this Agreement without Cause, during the Executive's employment with the Employers, and for one year thereafter, the Executive shall not, (i) directly or indirectly, engage or participate in, become a director, officer or employee of, render advisory or other services for or make any financial investment in, any firm, corporation or other business entity or enterprise that is engaged in the business of underwriting surety bonds (a "Competitive Business") or (ii) solicit or participate in any effort or act to induce any bonded principals, bondholders or any other person or entity who has, or has agreed to establish, business relationships with the Employers at the date of termination to transfer such business to a Competitive Business. Notwithstanding the foregoing, the Executive may own debt or equity securities of other entities so long as (i) such other entities do not engage in a Competitive Business, (ii) the Executive's ownership of such securities does not interfere with the Executive's performance of his duties hereunder and (iii) such securities are listed on a

national securities exchange or traded in the over-the-counter market, provided the Executive does not own more than 4.99% of the outstanding amount of such securities.

(c) Non-Solicitation of Employees. The Executive agrees that he will not at any time during or after the period of his employment by the Employers, solicit, employ, retain as a consultant or attempt to entice away from the Employers, any of their respective affiliates or any successor to any of the foregoing any individual who is, has agreed to be or within one year of such solicitation, employment, retention or enticement has been, employed or retained by Mountbatten, Surety, any of their respective affiliates or any successor to any of the foregoing.

(d) Non-Disparagement. Unless otherwise required by applicable law, the Executive agrees that the Executive will not at any time during or after the period of the Executive's employment by the Employers make any statement that criticizes, denigrates or otherwise reflects adversely on the Employers or Sealord. Unless otherwise required by applicable law, the Employers and Sealord agree that they will not at any time during or after the period of the Executive's employment by the Employers make any statement that criticizes, denigrate or otherwise reflects adversely on the Executive.

11. Representation and Warranty of the Executive. The Executive represents and warrants that he is not under any obligation, contractual or otherwise, to any other firm or corporation, that would prevent his entry into the employ of the Employers or his performance of the terms of this Agreement.

12. Miscellaneous.

(a) Reimbursement of Expenses. The Employers agree to reimburse the Executive for the reasonable fees and expenses of the Executive's attorneys and for court and related costs in any proceeding to enforce the provisions of this Agreement in which the Executive is successful on the merits.

(b) Entire Agreement; Amendment. This Agreement contains the entire agreement between the Employers and the Executive with respect to the subject matter hereof, and may not be amended, waived, changed, modified or discharged except by an instrument in writing executed by the parties hereto.

(c) Assignability. The services of the Executive hereunder are personal in nature, and neither this Agreement nor the rights or obligations of the Employers hereunder may be assigned by the Employers, whether by operation of law or otherwise, without the Executive's prior written consent, except in connection with a sale of the business conducted in accordance with the Operating Agreement. Any assignment in violation of the terms hereof shall be null and void. This Agreement shall be binding upon, and inure to the benefit of, the Employers and their permitted successors and assigns hereunder. This Agreement

shall not be assignable by the Executive, but shall inure to the benefit of the Executive's heirs, executors, administrators and legal representatives.

(d) Notices. Any notice that may be given hereunder shall be in writing and be deemed given when hand delivered and acknowledged or, if mailed, one day after mailing by registered or certified mail, return receipt requested, to either party hereto at their respective addresses stated above, or at such other address as either party may be similar notice designate, provided that a photocopy of such notice is dispatched at the same time as the notice is mailed. Copies of such notices also shall be sent to the Employers' counsel, attention: Frederick W. Dreher, Esq., Duane Morris LLP, One Liberty Place, Philadelphia, Pennsylvania 19103-7396 (facsimile no.: 215-979-1213) and to the Executive's counsel, attention: Gary Bragg, O'Neill, Bragg & Staffin, P.C., Suite 500, 531 Plymouth Road, Plymouth Meeting, Pennsylvania 19462.

(e) Specific Performance. The parties agree that irreparable damage would occur in the event that any of the provisions of Section 10 were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the parties shall be entitled to an injunction or injunctions to prevent breaches of Section 10 and to enforce specifically the terms and provisions of Section 10, this being in addition to any other remedy to which any party is entitled at law or in equity.

(f) No Third Party Beneficiaries. With the exception of Sealord, which is a third party beneficiary of this Agreement and which shall be entitled to the same rights to enforce this Agreement as either of the Employers, nothing in this Agreement, express or implied, is intended to confer upon any person or entity other than the parties (and the Executive's heirs, executors, administrators and legal representatives) any rights or remedies of any nature under or by reason of this Agreement.

(g) Successor Liability. The Employers shall require any subsequent successor, whether direct or indirect, by purchase, merger, consolidation or otherwise, to all or substantially all of the business and/or assets of the Employers to assume expressly and agree to perform this Agreement in the same manner and to the same extent that the Employers would be required to perform it if no such succession had taken place.

(h) Mitigation. The Executive shall not be required to mitigate the amount of any payment provided for in this Agreement by seeking other employment or otherwise, nor shall the amount of any payment or benefit provided for in this Agreement be reduced by any compensation earned by the Executive as the result of employment by another employer or by retirement benefits payable after the termination of this Agreement, except that the Employers shall not be required to provide the Executive and his eligible dependents with medical insurance coverage as long as the Executive and his eligible dependents are receiving comparable medical insurance coverage from another employer.

(i) Arbitration. Any dispute that may arise between the parties hereto shall be submitted to binding arbitration in accordance with the Rules of the American Arbitration Association; provided that any such dispute shall first be submitted to the Boards in an effort to resolve such dispute without resort to arbitration, and provided, further, that the Boards or Sealord shall have a period of 60 days within which to respond to Executive's submitted dispute, and if the Boards fail to respond within said time, or the Executive's dispute is not resolved, the matter may then be submitted for arbitration.

(j) Waiver of Breach. The failure at any time to enforce or exercise any right under any of the provisions of this Agreement or to require at any time performance by the other parties of any of the provisions hereof shall in no way be construed to be a waiver of such provisions or to affect either the validity of this Agreement or any part hereof, or the right of any party hereafter to enforce or exercise its rights under each and every provision in accordance with the terms of this Agreement.

(k) No Attachment. Except as required by law, no right to receive payments under this Agreement shall be subject to anticipation, commutation, alienation, sale, assignment, encumbrance, charge, pledge or hypothecation or to execution, attachment, levy or similar process or assignment by operation of law, and any attempt, voluntary or involuntary, to effect any such action shall be null, void and of no effect; provided, however, that nothing in this Section 12(k) shall preclude the assumption of such rights by executors, administrators or other legal representatives of the Executive or his estate and their assigning any rights hereunder to the person or persons entitled hereto.

(l) Severability. The invalidity or unenforceability of any term, phrase, clause, paragraph, restriction, covenant, agreement or other provisions hereof shall in no way affect the validity or enforceability of any other provision, or any part thereof, but this Agreement shall be construed as if such invalid or unenforceable term, phrase, clause, paragraph, restriction, covenant, agreement or other provision had never been contained herein unless the deletion of such term, phrase, clause, paragraph, restriction, covenant, agreement or other provision would result in such a material change as to cause the covenants and agreements contained herein to be unreasonable or would materially and adversely frustrate the objectives of the parties as expressed in this Agreement.

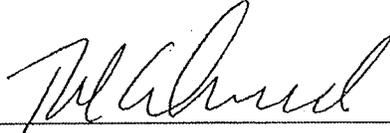
(m) Survival of Benefits. Any provision of this Agreement that provides a benefit to the Executive and that by the express terms hereof does not terminate upon the expiration of the Term shall survive the expiration of the Term and shall remain binding upon the Employers until such time as such benefits are paid in full to the Executive or his estate.

(n) Construction. This Agreement shall be governed by and construed in accordance with the internal laws of the Commonwealth of Pennsylvania, without giving effect to principles of conflict of laws. All headings in this Agreement have been inserted

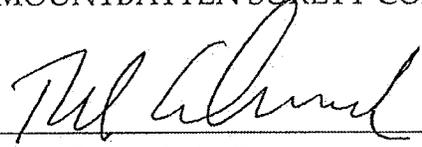
solely for convenience of reference only, are not to be considered a part of this Agreement and shall not affect the interpretation of any of the provisions of this Agreement.

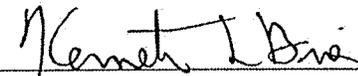
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

MOUNTBATTEN, INC.

By:  Exec VP.  
Ted A. Drauschak, Executive Vice President

THE MOUNTBATTEN SURETY COMPANY, INC.

By:  Exec VP  
Ted A. Drauschak, Executive Vice President

  
Kenneth L. Brier

## EMPLOYMENT AGREEMENT

EMPLOYMENT AGREEMENT (this "Agreement") dated as of April 4<sup>th</sup>, 2003 among Mountbatten, Inc., a Pennsylvania corporation having its principal place of business at 33 Rock Hill Road, Bala Cynwyd, Pennsylvania 19004 ("Mountbatten"), and Mountbatten's wholly owned subsidiary, The Mountbatten Surety Company, Inc., a Pennsylvania property and casualty insurance company having its principal place of business at 33 Rock Hill Road, Bala Cynwyd, Pennsylvania 19004 ("Surety"), and Ted A. Drauschak, an individual residing at 1205 Chestershire Place, Pottstown, Pennsylvania, 19465 (the "Executive").

### WITNESSETH:

WHEREAS, Sealord LLC, a Delaware limited liability company ("Sealord") has entered into a Stock Purchase Agreement dated as of April 3, 2003 with Fidelity & Deposit Company of Maryland (the "Purchase Agreement") whereby Sealord will acquire all of the outstanding shares of capital stock of Mountbatten and will thereby also acquire all of the outstanding shares of capital stock of Surety and the other subsidiaries of Mountbatten (the "Acquisition");

WHEREAS, in connection with the Acquisition, Sealord is selling limited liability company interests (the "Units") in Sealord for net proceeds to Sealord of \$10,000,000 to a limited number of sophisticated investors (the "Investors") in a private placement (the "Offering");

WHEREAS, the Executive has served as Executive Vice President of Mountbatten and Surety (collectively, the "Employers") for the past 11 years and the agreement of the Executive to continue as such is a condition precedent to the investment in the Units by the Investors;

WHEREAS, in consideration of its contribution of the proceeds of the Offering to the capital to Mountbatten which in turn will be contributed by Mountbatten to Surety as surplus, Sealord shall be a third party beneficiary of this Agreement and shall be entitled to the same rights to enforce this Agreement as either of the Employers and shall be considered an "Employer" for purposes of this Agreement; and

WHEREAS, the parties are entering into this Agreement to set forth and confirm their respective rights and obligations with respect to the Executive's employment by the Employers;

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties hereto, intending to be legally bound hereby, mutually agree as follows:

1. Certain Definitions. In addition to the terms defined elsewhere in this Agreement, the following terms shall have the following meanings:

(a) "Accrued Obligations" means (i) the Executive's Base Salary accrued through the effective date of the termination of the Executive's employment hereunder, (ii) any Bonus payable to the Executive pursuant to Section 7(b) for the year in which such termination is effective and (iii) any amount in respect of Excise Tax required to be paid to the Executive pursuant to Section 5.

(b) "Agreement" has the meaning assigned to it in the Recitals.

(c) "Approval" has the meaning assigned to it in Section 7(a).

(d) "Base Salary" has the meaning assigned to it in Section 7(a).

(e) "Benefit Obligations" means the aggregate premiums that would be payable by the Executive to maintain in effect throughout the period from the date of the Executive's termination through the remainder of the Term had the Executive remained employed (assuming no increase in insurance premium rates) the same benefits provided to the Executive by the Employers pursuant to Section 7(c) hereof immediately prior to the date of such termination.

(f) "Boards" has the meaning assigned to it in Section 3(a).

(g) "Bonus" has the meaning assigned to it in Section 7(b).

(h) "Cause" means (i) the Executive's willful and continued failure substantially to perform his material duties with the Employers as set forth in this Agreement after notice thereof from the Employers to the Executive and a reasonable opportunity for the Executive to cure such failure, breach or violation in all material respects, (ii) the commission by the Executive of any activities constituting a material violation or breach under any federal, state or local law or regulation applicable to the activities of any Employer, (iii) any fraud, breach of fiduciary duty, dishonesty or misappropriation or other intentional material damage to the property or business of any Employer by the Executive, (iv) the Executive's repeated absences other than for physical or mental impairment or illness, (v) the Executive's admission or conviction of, or plea of nolo contendere to, any felony that, in the reasonable judgment of the Boards, adversely affects any Employer's reputation or the Executive's ability to carry out his obligations under this Agreement or (vi) the Executive's non-compliance with the provisions of Section 6(b) after notice thereof from the Employers to the Executive and a reasonable opportunity for the Executive to cure such non-compliance. Notwithstanding the foregoing, the Employers may not terminate the Executive's employment under clauses (i), (iii) or (iv) of this definition unless the Executive is given written notice, in accordance with the By-laws of the Employers, of a special meeting of the Boards to consider the termination

of the Executive's employment hereunder for Cause and the opportunity to address the Boards at such special meeting.

(i) "Change in Control" means (i) the consummation of a merger or other business combination involving, or the acquisition of membership interests or shares of, Sealord or Mountbatten (or Surety if Surety is a successor to Mountbatten) by any "person" or "group" (as such terms are used in Rule 13d-3 under the Securities Exchange Act of 1934 as now or hereafter amended (the "Exchange Act")) in a transaction or series of transactions, after which Sealord, the "beneficial owners" (as defined in Rule 13d-3 and 13d-5 under the Exchange Act) of Sealord's membership interests or the beneficial owners of Mountbatten's or Surety's common stock do not collectively beneficially own 50% or more of the voting equity securities of the entity surviving such merger or other business combination; (ii) the sale, lease, exchange or other transfer in a transaction or series of transactions of all or substantially all of the assets of Surety or Mountbatten to any "person" or "group" (as defined above) other than any person 50% or more of the voting power of which is beneficially owned, directly or indirectly, by the beneficial owners of 50% or more of the Company's voting power, but excluding therefrom the sale and reinvestment of Surety's investment portfolio, (iii) such time as Nicholas Bratt, Markus Rohrbasser and Edmond Villani and any transferee of Edmond Villani pursuant to Section 7.1(c) of the Operating Agreement together with their Permitted Transferees (as defined in the Operating Agreement), do not collectively beneficially own 50% or more of the Units that Nicholas Bratt, Markus Rohrbasser and Edmond Villani collectively beneficially owned on the Effective Date subject to adjustments for unit splits, reverse splits, combinations, reclassifications and similar transactions, (iv) a transaction constituting a Capital Transaction as defined in the Operating Agreement or (v) as the result of or in connection with any cash tender offer or exchange offer, merger or other business combination, sale of assets or contested election of directors or any combination of the foregoing transactions (each, a "Transaction"), other than a Transaction among any of Sealord, Mountbatten or Surety, the persons who constituted a majority of the members of the Boards (or, in the case of Sealord, its Board of Managers) on the Effective Date and persons whose election as members of the Boards (or, in the case of Sealord, its Board of Managers) was approved by such members then still in office or whose election was previously so approved after the Effective Date, but before the event that constitutes a Change in Control, no longer constitute such a majority of the members of the Boards (or, in the case of Sealord, its Board of Managers) then in office. A Transaction constituting a Change in Control shall only be deemed to have occurred upon the closing of the Transaction.

(j) "Change in Control Payment" means any payment provided for in Section 4.

(k) "COBRA" means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.

- (l) "Code" has the meaning assigned to it in Section 5.
- (m) "Competitive Business" has the meaning assigned to it in Section 10(b).
- (n) "Confidential or Proprietary Information" means all information of any nature and in any form that is owned by the Employers and that is not publicly available or generally known to persons engaged in the business of issuing surety bonds or any information with respect to Sealord or its members including, without limitation, information with respect to the Employers' financial matters, bondholders, bonded principals, employees and industry contacts.
- (o) "Disability Insurance Coverage" has the meaning assigned to it in Section 7(c)(i).
- (p) "Effective Date" has the meaning assigned to it in Section 2(a).
- (q) "Excise Tax" has the meaning assigned to it in Section 5.
- (r) "Executive" has the meaning assigned to it in the Recitals.
- (s) "Extension Period" has the meaning assigned to it in Section 2(a).
- (t) "Good Reason" means (i) the Executive's Position or the scope of the Executive's authority, duties or responsibilities as described in this Agreement are materially diminished without the Executive's written consent, provided that the Employers shall have 30 days to cure any diminishment not effected in bad faith after written notice thereof from the Executive or (ii) a material breach by either Employer of its respective obligations to the Executive under this Agreement, which breach is not cured in all material respects within 30 days (except in the case of a payment default for which the cure period shall be 10 days) following written notice thereof from the Executive to the Employers.
- (u) "Initial Term" has the meaning assigned to it in Section 2(a).
- (v) "Investors" has the meaning assigned to it in the Recitals.
- (w) "Life Insurance Coverage" has the meaning assigned to it in Section 7(c)(ii).
- (x) "Liquidation" means the liquidation of Sealord pursuant to Section 10.1(c) of the Operating Agreement.
- (y) "Make-Whole Obligation" has the meaning assigned to it in Section 3(a)(i).
- (z) "Mountbatten" has the meaning assigned to it in the Recitals.

(aa) "Operating Agreement" means the Amended and Restated Limited Liability Company Agreement of Sealord.

(bb) "Permanent Disability" means a physical or mental disability such that the Executive is substantially unable to perform those duties that he would otherwise be expected to continue to perform and the nonperformance of such duties has continued for a period of 90 consecutive days.

(cc) "Position" has the meaning assigned to it in Section 2(a).

(dd) "Principals" means Kenneth L. Brier, Ted A. Drauschak and Joel D. Cooperman.

(ee) "Purchase Agreement" has the meaning assigned to it in the Recitals.

(ff) "Sealord" has the meaning assigned to it in the Recitals.

(gg) "Severance Obligation" means 2.5 times the sum of (i) the Executive's annual Base Salary as of the effective date of the termination of the Executive's employment hereunder and (ii) any Bonus that would be payable to the Executive for the year in which such termination occurs.

(hh) "Surety" has the meaning assigned to it in the Recitals.

(ii) "Term" has the meaning assigned to it in Section 2(a).

(jj) "Transaction" has the meaning assigned to it in Section 1(i).

(kk) "Units" has the meaning assigned to it in the Recitals.

## 2. Employment and Term.

(a) Effective on the later of the date hereof or the date of closing of the Acquisition (the "Effective Date"), (i) Mountbatten shall employ the Executive, and the Executive shall be employed by Mountbatten, as Executive Vice President of Mountbatten and (ii) Surety shall employ the Executive, and the Executive shall be employed by Surety, as Executive Vice President of Surety (with all such positions described in clauses (i) and (ii) being collectively referred to herein as the "Position"), in accordance with the terms and subject to the conditions set forth herein for a term (the "Initial Term") that shall commence on the Effective Date and, subject to Section 3, shall continue for a period of five years. Subject to Section 3, the Initial Term shall be extended for successive one year periods (each such successive one year period, if any, an "Extension Period" and all such Extension Periods together with the Initial Term, the "Term") unless written notice to the contrary is given by either of the Employers or the Executive to the other party in accordance with the terms hereof at least 90 days before the commencement of each Extension Period. Mountbatten and

Surety shall be jointly and severally liable to the Executive with respect to (i) all liabilities of Surety to the Executive hereunder and (ii) all liabilities of Mountbatten to the Executive hereunder; provided, however, that Mountbatten shall not be responsible for any liability of Surety to the Executive to the extent that such liability has been discharged by Surety, and Surety shall not be responsible for any liability of Mountbatten to the Executive to the extent that such liability has been discharged by Mountbatten.

(b) Unless otherwise provided herein or agreed by the parties hereto, all of the terms and conditions of this Agreement shall continue in full force and effect throughout the Term and, with respect to those terms and conditions that apply after the Term, after the Term.

### 3. Termination.

(a) Termination by the Employers. Notwithstanding Section 2(b), the Employers, by action of their Boards of Directors (the "Boards") and effective as specified in a written notice thereof to the Executive in accordance with the terms hereof, shall have the right to terminate the Executive's employment hereunder at any time during the Term hereof, for Cause or other than for Cause, or on account of the Executive's Permanent Disability.

(i) Termination by the Employers without Cause. In the event the Executive's employment hereunder is terminated by the Employers without Cause (which, by way of clarification, shall not include a termination by reason of the Executive's death or Permanent Disability), the Employers shall make, or cause to be made, the following payments to the Executive:

(A) the Severance Obligation payable in a lump sum on the effective date of such termination; and

(B) the Accrued Obligations and the Benefit Obligations payable in a lump sum on the effective date of such termination.

(ii) Termination upon the Death of the Executive. In the event of the death of the Executive, the Executive's employment hereunder shall be deemed to be terminated and the Employers shall make, or cause to be made, the following payments to the estate or other specified beneficiary of the Executive, which payments shall be in addition to the life insurance benefits of the Executive specified in Section 7(c)(ii):

(A) the then monthly Base Salary of the Executive payable for a period of three months following the date of the Executive's death;

(B) the Accrued Obligations as of the date of the Executive's death payable in a lump sum within 15 days after the date of such death;

(C) premium amounts required to continue in effect for the dependents of the Executive the insurance benefits specified in clause (iii) of Section 7(c) for a period of one year after the termination payable in a lump sum within 15 days after the date of such death to the extent such dependants are eligible to elect COBRA continuation coverage under applicable law; and

(D) any Change in Control Payment payable pursuant to Section 4.

(iii) Termination upon the Permanent Disability of the Executive. In order to terminate the Executive's employment hereunder on account of Permanent Disability, the Employers must provide the Executive with written notice of the Boards' good faith determination to terminate the Executive's employment hereunder for reason of Permanent Disability not less than 30 days prior to such termination, which notice shall specify the date of termination. Until the specified effective date of termination by reason of Permanent Disability, the Executive shall continue to receive compensation at the rates set forth in Section 7. The Employers shall not take any action that would reasonably be expected to impair any rights of the Executive under any disability insurance policy maintained by the Employers at the commencement of the aforesaid 90-day period. In the event the Executive's employment hereunder terminates by reason of the Permanent Disability of the Executive, the Employers shall make, or cause to be made, the following payments to the Executive, which payments shall be in addition to the disability insurance benefits of the Executive specified in Section 7(c)(i):

(A) premium amounts required to continue in effect the insurance benefits specified in clause (iii) of Section 7(c) for a period of one year after the Liquidation to the extent the Executive is eligible to elect COBRA continuation coverage under applicable law;

(B) the Accrued Obligations as of the date of such termination payable in a lump sum on the date of such termination;

(C) monthly payments to the Executive for the remainder of the Term in the amount by which the Executive's then-monthly Base Salary exceeds the Disability Insurance Coverage (as defined in Section 7(c)(i), as grossed up to reflect the fact that the disability benefits are not subject to federal income tax (the "Make-Whole Obligation"), provided that the Employers shall have no obligation with respect to the Make-Whole Obligation except to the extent that any payments in respect thereof are fully offset by payments to the Employers under a "key-man" insurance policy maintained by the Company and, provided further, that the Employers shall have no liability to the Executive if the Employers have used commercially reasonable efforts to obtain "key-man" insurance on commercially reasonable terms and conditions and have been unable to do so or for any deficiency of such policy;

(D) any Change in Control Payment payable pursuant to Section 4.

(iv) Termination for Cause. In the event that the Executive's employment hereunder is terminated by the Employers for Cause, the Employers' only obligation shall be to pay to the Executive the Accrued Obligations in a lump sum on the effective date of such termination. In the event that such termination is effected pursuant to clauses (ii) or (v) of Section 1(h), the Accrued Obligations shall not include any Bonus.

(v) Termination in Connection with a Liquidation. In the event of the Liquidation of Sealord, the Executive's employment hereunder shall be deemed to be terminated by the Employers and the Employers' only obligation shall be to make a lump-sum payment to the Executive on the date of such Liquidation in that amount as equals the sum of:

(A) the Accrued Obligations,

(B) one-half of the Executive's then-annual Base Salary, and

(C) premium amounts required to continue in effect the insurance benefits specified in clause (iii) of Section 7(c) for a period of one year after the Liquidation to the extent the Executive is eligible to elect COBRA continuation coverage under applicable law.

(b) Termination by the Executive. Notwithstanding Section 2(b), the Executive shall have the right to terminate his employment hereunder at any time during the Term hereof for Good Reason or for any reason other than Good Reason.

(i) Termination with Good Reason. In the event that the Executive's employment hereunder is terminated by the Executive with Good Reason, the Employers shall make, or cause to be made, the following payments to the Executive:

(A) the Severance Obligation payable in a lump sum on the effective date of such termination; and

(B) the Accrued Obligations and the Benefit Obligations payable in a lump sum on the effective date of such termination.

(ii) Termination without Good Reason. In the event that the Executive's employment hereunder is terminated by the Executive without Good Reason, the Employers' sole obligation shall be to pay the Executive the Accrued Obligations in a lump sum on the effective date of such termination.

(c) Miscellaneous.

(i) Any notice of termination of this Agreement by the Employers to the Executive or by the Executive to the Employers shall be given in accordance with the provisions of Section 12(c).

(ii) In order to receive any payments due to the Executive upon a termination, the Executive shall execute and deliver a Release of the Employers in a form mutually agreed to among the Executive and the Employers.

(iii) Notwithstanding anything to the contrary contained herein, in the event that the Executive receives any Change in Control Payment pursuant to Section 4, the Executive shall not be entitled to receive any payment in respect of the Severance Obligation, and, if the Executive receives a Change in Control Payment, the Employers shall not have any obligation to make any payment in respect of the Severance Obligation.

4. Change in Control Payments. The Employers shall make a Change in Control Payment to the Executive in the amount and upon the terms and conditions hereinafter set forth in this Section 4.

(a) Upon the closing of a Transaction (i) that constitutes a Change in Control (x) while the Executive is employed hereunder or (y) within a period of six months following the termination of the Executive's employment hereunder because of his death or Permanent Disability, and (ii) that was authorized by a vote of the Board of Managers of Sealord which such vote did not constitute a Super-Majority Vote (as defined in the Operating Agreement), the Employers shall pay to the Executive on the date of the closing of such Transaction that amount as equals 2.5 times the sum of (A) the Executive's annual Base Salary as of the effective date of such Change in Control and (B) any Bonus that would be payable to the Executive for the year in which such Change in Control is effective.

(b) Upon the closing of a Transaction (i) that constitutes a Change in Control (x) while the Executive is employed hereunder or (y) within a period of six months following the termination of the Executive's employment hereunder because of his death or Permanent Disability, (ii) that was authorized by a vote of the Board of Managers of Sealord which such vote constituted a Super-Majority Vote and (iii) that would result in consideration payable to each holders of Class A Units of Sealord as of the date hereof by reason of the closing of such Transaction such that the holder would realize an internal rate of return (taking into account all cash and non-cash distributions theretofore made in respect of a Class A Unit and calculated net of tax distributions) of 20% or greater on such holder's investment in such holder's Class A Units as of the date hereof, the Employers shall pay to the Executive on the date of the Closing of such Transaction that amount as equals 1.0 times the sum of (A) the Executive's annual Base Salary as of the effective date of such Change in Control and (B) any Bonus that would have been payable to the Executive for the year in which the Change in

Control is effective. For the avoidance of doubt, the consideration payable to a holder of Class A Units shall exclude any fees and expenses in connection with such Transaction, including any payments to employees, pursuant to this Section 4(b) or otherwise.

5. Excise Taxes. In the event that the independent public accountants of either of the Employers or the Internal Revenue Service determines that any payment, coverage or benefit provided to the Executive pursuant hereto is subject to the excise tax imposed by Section 4999 of the Internal Revenue Code of 1986, as amended (the "Code") or any successor provision thereof or any interest or penalties incurred by the Executive with respect to such excise tax (such excise tax, together with any such interest and penalties, are hereinafter collectively referred to as the "Excise Tax"), the Employers, within 30 days thereafter, shall pay to the Executive, in addition to any other payment, coverage or benefit due and owing hereunder, an amount determined by multiplying the rate of Excise Tax then imposed by Section 4999 by the amount of the "excess parachute payment" received by the Executive, determined without regard to any payments made to the Executive pursuant to this Section 5, and dividing the product so obtained by the amount obtained by subtracting the aggregate local, state and federal income and FICA and health insurance taxes applicable to the receipt by the Executive of the "excess parachute payment" and taking into account the deductibility for federal income tax purposes of the payment of state and local income taxes thereon (as affected by those provisions of the Code that act to reduce the deductibility of itemized deductions), from the amount obtained by subtracting from 1.00 the rate of Excise Tax then imposed by Section 4999 of the Code, it being the intention of the parties hereto that the Executive's net after tax position (after taking into account any interest or penalties imposed with respect to such taxes) upon the receipt of the payments provided for by this Agreement be no less advantageous to the Executive than the net after tax position to the Executive that would have been obtained had Sections 280G and 4999 of the Code not been applicable to such payments. Except as otherwise provided herein, all determinations to be made under this Section 5 shall be made by tax counsel whose selection shall be reasonably acceptable to the Executive and the Employers and whose fees and costs shall be paid for by the Employers.

6. Duties of the Executive.

(a) Subject to the ultimate control and discretion of the Boards of the Employers, the Executive shall serve in the Position and perform all duties and services commensurate with the Position. Throughout the Term, the Executive shall perform all duties reasonably assigned or delegated to him under the Operating Agreement, the By-laws of Surety and Mountbatten or from time to time by the Boards consistent with the Position. Without limiting the foregoing, the Executive shall not cause Sealord or its subsidiaries to take any action that is inconsistent with the Operating Agreement and the annual budget of Sealord, as approved in accordance with the terms of the Operating Agreement. Except for travel normally incidental and reasonably necessary to the business of Surety and

Mountbatten and the duties of the Executive hereunder, the duties of the Executive shall be performed from offices located in or within a five-mile radius of Bala Cynwyd, Pennsylvania.

(b) The Executive shall devote substantially all of the Executive's business time and attention to the performance of the Executive's duties hereunder and, during the term of his employment hereunder, the Executive shall not engage in any other business enterprise that requires any significant amount of the Executive's personal time or attention, unless granted the prior permission of the Boards. The foregoing provision shall not prevent the Executive's purchase, ownership or sale of any interest in, or the Executive's engaging (but not to exceed an average of five hours per week) in, any business that does not compete with the business of Surety or Mountbatten or the Executive's involvement in charitable or community activities, provided, that the time and attention that the Executive devotes to such business and charitable or community activities does not materially interfere with the performance of his duties hereunder.

(c) The Executive shall be entitled to 25 days of vacation leave during each calendar year with full compensation, and to be taken at such time or times, as the Executive and Surety shall mutually determine. To the extent the Executive has not used his vacation time during a calendar year, the Executive may carry forward such unused vacation time, or by notice to the Employers within 90 days after the end of a calendar year, may elect to be paid cash in lieu thereof based upon the Executive's then Base Salary. The Executive shall be entitled to an unlimited amount of leave with full compensation if the Executive is called to active military service by the United States of America.

7. Compensation. For all services to be rendered by the Executive hereunder:

(a) Base Salary. The Employers shall pay the Executive a base salary (the "Base Salary") at an annual rate of \$249,581, subject to annual increases in amounts determined by the Boards, and further subject to approval by Sealord as specified in Section 5.1 of the Operating Agreement (an "Approval"), plus such other compensation as may from time to time be determined by the Employers, subject to the Approval of Sealord. Such Base Salary and other compensation provided for herein shall be payable in accordance with the Employers' normal payroll practices as in effect from time to time. The Executive shall have the right, in his sole discretion, to irrevocably defer all or part of his minimum, base compensation to any subsequent year(s) and from time to time as he may designate in writing.

(b) Bonus. The Employers may pay the Executive an annual bonus (the "Bonus") based on the consolidated results of operations of Mountbatten for each fiscal year ending during the Term in such amount as receives the Approval of Sealord.

(c) Insurance.

(i) Disability. The Employers shall reimburse the Executive for disability insurance on commercially reasonable terms and conditions, including (A) premiums paid by the Executive for monthly disability insurance coverage in the amount of up to \$600 (the "Disability Insurance Coverage"), subject to periodic increases for inflation, (B) any tax liability incurred by the Executive with respect to such premium payments and (C) any tax liability incurred by the Executive with respect to disability insurance payments received by the Executive, if any, up to the amount of the Disability Insurance Coverage.

(ii) Life Insurance. The Employers shall reimburse the Executive for life insurance coverage on commercially reasonable terms and conditions for a policy of the Executive, in the amount of \$2,000,000 (the "Life Insurance Coverage") for the benefit of such persons as the Executive may designate. The Employers shall reimburse the Executive or his beneficiaries under such policy, as the case may be, for (A) any tax liability incurred by any of them with respect to such premium payments and (B) any tax liability incurred by the Executive's beneficiaries with respect to life insurance payments received by them, if any, up to the amount of the Life Insurance Coverage. The reimbursement obligation set forth in this paragraph, together with the reimbursement obligation set forth in paragraph 7(c)(i) with respect to the Principals shall not exceed \$45,000 annually, subject to periodic increases for inflation.

(iii) Health Insurance. The Employers shall provide and pay for health insurance coverage for the Executive and his immediate family with terms and conditions substantially similar to the terms and conditions of the health insurance coverage provided to the Executive and his immediate family by the Employers immediately prior to the parties' entrance into this Agreement. Upon the expiration of any obligation of the Employers to provide health insurance coverage to the Executive and his dependents upon the terms of this Agreement, the Employers, as long as either one of them maintains health insurance coverage for its employees, shall offer to include the Executive and his dependents under such health insurance coverage provided that the Executive or such dependents monthly reimburse the Employers for the cost of such health insurance.

(iv) General Medical, Life and Disability Benefits. The Executive shall, at his option, be entitled to participate in and receive benefits from or under any medical, term life and disability insurance plans and such other benefit plans the Employers may in their discretion establish for their employees or executives in lieu of the insurance coverage provided under paragraphs (i), (ii) and (iii).

(d) Other Benefits.

(i) The Employers shall pay to the Executive an automobile allowance of \$700 per month payable on the first day of each month or at the time of his

salary payments, as the Employers may elect. The Employers shall bear all gas, insurance, repairs, maintenance and other operating expenses for the automobile. The Executive shall be liable for any tax liability he incurs with respect to such benefits.

(ii) The Employers shall pay for an annual physical examination of the Executive. The Executive agrees that the results of such examination shall be made available to the Employers on a confidential basis.

(iii) The Employers will pay the costs for the Executive's membership in a fitness program. To the extent that the Executive's participation in a fitness program reduces the cost of providing health insurance coverage to the Executive the Employers shall be entitled to the benefit of such reduction.

8. Expenses. The Employers shall promptly reimburse the Executive for (i) all reasonable expenses paid or incurred by the Executive in connection with the performance of the Executive's duties and responsibilities hereunder, except expenses relating to the Executive's automobile, (ii) all reasonable professional expenses, such as licenses and dues and professional educational expenses, paid or incurred by the Executive during the Term and (iii) subject to compliance with the Employers' policy regarding reimbursement of entertainment expenses, all reasonable expenses paid or incurred by the Executive in connection with the Executive's entertainment of customers and potential customers of the Employers, in each case upon the presentation of expense vouchers or other appropriate documentation therefor.

9. Indemnification. The Employers shall indemnify the Executive, to the fullest extent permitted by applicable law, for any and all liabilities to which the Executive or his estate may be subject as a result of, in connection with or arising out of his service as an employee, an officer or a director of the Employers hereunder or his service as an employee, officer or director of another enterprise at the request of Sealord, Mountbatten or Surety, as well as the costs and expenses (including attorneys' fees) of any legal action brought or threatened to be brought against him or the Employers as a result of, in connection with or arising out of such employment, provided, however, that if the Executive's employment shall have been terminated by the Employers for Cause, then the Employers shall have no obligation whatsoever to indemnify the Executive for any claim arising out of the matter that constituted the Cause for which the Executive's employment was terminated or for any other conduct of the Executive not within the scope of the Executive's duties under this Agreement. The Employers shall advance professional fees and disbursements to the Executive in connection with any such legal action, provided the Executive delivers to the Employers his undertaking to repay any expenses so advanced in the event it is ultimately determined that the Executive is not entitled to indemnification against such expenses. Expenses reasonably incurred by the Executive in successfully establishing the right to indemnification or to the advancement of expenses, in whole or in part, pursuant to this Section 9, shall also be indemnified by the Employers. The Executive shall be entitled to the full protection of any

insurance policies that the Employers may elect to maintain generally for the benefit of their respective directors and officers. The rights granted under this Section 9 shall survive the termination of this Agreement.

10. Covenants.

(a) Confidential Information. The Executive understands that, in the course of the Executive's employment by the Employers, the Executive has received and will receive Confidential and Proprietary Information concerning the business of the Employers and that the Employers desire to protect. The Executive agrees that the Executive will not at any time during or after the period of the Executive's employment by the Employers reveal to anyone outside the Employers or Sealord, or use for the Executive's own benefit, any Confidential or Proprietary Information except as required in the performance of the Executive's duties to the Employers (and, with respect to information about Sealord or its members, only upon the express written consent of Sealord). Upon termination of this Agreement, upon the request of the Employers, the Executive shall promptly deliver to the Employers any and all written materials, records and documents, including all copies thereof, made by the Executive or coming into the Executive's possession during the Term and retained by the Executive containing or concerning Confidential or Proprietary Information and all other written materials furnished to the Executive by the Employer for the Executive's use during the Term and retained by the Executive, including all copies thereof, whether of a confidential nature or otherwise. The obligations imposed by this Section 10(a) shall cease if such Confidential or Proprietary Information shall have become, through no fault of the Executive, publicly known or generally known to persons engaged in the business of the Employers or if the Executive, after giving the Employer notice and an opportunity to obtain a protective order, is required by law to make disclosure of such information.

(b) Non-Competition. Except as provided below and except in a case where the Executive has terminated this Agreement for Good Reason or the Employers have terminated this Agreement without Cause, during the Executive's employment with the Employers, and for one year thereafter, the Executive shall not, (i) directly or indirectly, engage or participate in, become a director, officer or employee of, render advisory or other services for or make any financial investment in, any firm, corporation or other business entity or enterprise that is engaged in the business of underwriting surety bonds (a "Competitive Business") or (ii) solicit or participate in any effort or act to induce any bonded principals, bondholders or any other person or entity who has, or has agreed to establish, business relationships with the Employers at the date of termination to transfer such business to a Competitive Business. Notwithstanding the foregoing, the Executive may own debt or equity securities of other entities so long as (i) such other entities do not engage in a Competitive Business, (ii) the Executive's ownership of such securities does not interfere with the Executive's performance of his duties hereunder and (iii) such securities are listed on a

national securities exchange or traded in the over-the-counter market, provided the Executive does not own more than 4.99% of the outstanding amount of such securities.

(c) Non-Solicitation of Employees. The Executive agrees that he will not at any time during or after the period of his employment by the Employers, solicit, employ, retain as a consultant or attempt to entice away from the Employers, any of their respective affiliates or any successor to any of the foregoing any individual who is, has agreed to be or within one year of such solicitation, employment, retention or enticement has been, employed or retained by Mountbatten, Surety, any of their respective affiliates or any successor to any of the foregoing.

(d) Non-Disparagement. Unless otherwise required by applicable law, the Executive agrees that the Executive will not at any time during or after the period of the Executive's employment by the Employers make any statement that criticizes, denigrates or otherwise reflects adversely on the Employers or Sealord. Unless otherwise required by applicable law, the Employers and Sealord agree that they will not at any time during or after the period of the Executive's employment by the Employers make any statement that criticizes, denigrate or otherwise reflects adversely on the Executive.

11. Representation and Warranty of the Executive. The Executive represents and warrants that he is not under any obligation, contractual or otherwise, to any other firm or corporation, that would prevent his entry into the employ of the Employers or his performance of the terms of this Agreement.

12. Miscellaneous.

(a) Reimbursement of Expenses. The Employers agree to reimburse the Executive for the reasonable fees and expenses of the Executive's attorneys and for court and related costs in any proceeding to enforce the provisions of this Agreement in which the Executive is successful on the merits.

(b) Entire Agreement; Amendment. This Agreement contains the entire agreement between the Employers and the Executive with respect to the subject matter hereof, and may not be amended, waived, changed, modified or discharged except by an instrument in writing executed by the parties hereto.

(c) Assignability. The services of the Executive hereunder are personal in nature, and neither this Agreement nor the rights or obligations of the Employers hereunder may be assigned by the Employers, whether by operation of law or otherwise, without the Executive's prior written consent, except in connection with a sale of the business conducted in accordance with the Operating Agreement. Any assignment in violation of the terms hereof shall be null and void. This Agreement shall be binding upon, and inure to the benefit of, the Employers and their permitted successors and assigns hereunder. This Agreement

shall not be assignable by the Executive, but shall inure to the benefit of the Executive's heirs, executors, administrators and legal representatives.

(d) Notices. Any notice that may be given hereunder shall be in writing and be deemed given when hand delivered and acknowledged or, if mailed, one day after mailing by registered or certified mail, return receipt requested, to either party hereto at their respective addresses stated above, or at such other address as either party may be similar notice designate, provided that a photocopy of such notice is dispatched at the same time as the notice is mailed. Copies of such notices also shall be sent to the Employers' counsel, attention: Frederick W. Dreher, Esq., Duane Morris LLP, One Liberty Place, Philadelphia, Pennsylvania 19103-7396 (facsimile no.: 215-979-1213) and to the Executive's counsel, attention: Gary Bragg, O'Neill, Bragg & Staffin, P.C., Suite 500, 531 Plymouth Road, Plymouth Meeting, Pennsylvania 19462.

(e) Specific Performance. The parties agree that irreparable damage would occur in the event that any of the provisions of Section 10 were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the parties shall be entitled to an injunction or injunctions to prevent breaches of Section 10 and to enforce specifically the terms and provisions of Section 10, this being in addition to any other remedy to which any party is entitled at law or in equity.

(f) No Third Party Beneficiaries. With the exception of Sealord, which is a third party beneficiary of this Agreement and which shall be entitled to the same rights to enforce this Agreement as either of the Employers, nothing in this Agreement, express or implied, is intended to confer upon any person or entity other than the parties (and the Executive's heirs, executors, administrators and legal representatives) any rights or remedies of any nature under or by reason of this Agreement.

(g) Successor Liability. The Employers shall require any subsequent successor, whether direct or indirect, by purchase, merger, consolidation or otherwise, to all or substantially all of the business and/or assets of the Employers to assume expressly and agree to perform this Agreement in the same manner and to the same extent that the Employers would be required to perform it if no such succession had taken place.

(h) Mitigation. The Executive shall not be required to mitigate the amount of any payment provided for in this Agreement by seeking other employment or otherwise, nor shall the amount of any payment or benefit provided for in this Agreement be reduced by any compensation earned by the Executive as the result of employment by another employer or by retirement benefits payable after the termination of this Agreement, except that the Employers shall not be required to provide the Executive and his eligible dependents with medical insurance coverage as long as the Executive and his eligible dependents are receiving comparable medical insurance coverage from another employer.

(i) Arbitration. Any dispute that may arise between the parties hereto shall be submitted to binding arbitration in accordance with the Rules of the American Arbitration Association; provided that any such dispute shall first be submitted to the Boards in an effort to resolve such dispute without resort to arbitration, and provided, further, that the Boards or Sealord shall have a period of 60 days within which to respond to Executive's submitted dispute, and if the Boards fail to respond within said time, or the Executive's dispute is not resolved, the matter may then be submitted for arbitration.

(j) Waiver of Breach. The failure at any time to enforce or exercise any right under any of the provisions of this Agreement or to require at any time performance by the other parties of any of the provisions hereof shall in no way be construed to be a waiver of such provisions or to affect either the validity of this Agreement or any part hereof, or the right of any party hereafter to enforce or exercise its rights under each and every provision in accordance with the terms of this Agreement.

(k) No Attachment. Except as required by law, no right to receive payments under this Agreement shall be subject to anticipation, commutation, alienation, sale, assignment, encumbrance, charge, pledge or hypothecation or to execution, attachment, levy or similar process or assignment by operation of law, and any attempt, voluntary or involuntary, to effect any such action shall be null, void and of no effect; provided, however, that nothing in this Section 12(k) shall preclude the assumption of such rights by executors, administrators or other legal representatives of the Executive or his estate and their assigning any rights hereunder to the person or persons entitled hereto.

(l) Severability. The invalidity or unenforceability of any term, phrase, clause, paragraph, restriction, covenant, agreement or other provisions hereof shall in no way affect the validity or enforceability of any other provision, or any part thereof, but this Agreement shall be construed as if such invalid or unenforceable term, phrase, clause, paragraph, restriction, covenant, agreement or other provision had never been contained herein unless the deletion of such term, phrase, clause, paragraph, restriction, covenant, agreement or other provision would result in such a material change as to cause the covenants and agreements contained herein to be unreasonable or would materially and adversely frustrate the objectives of the parties as expressed in this Agreement.

(m) Survival of Benefits. Any provision of this Agreement that provides a benefit to the Executive and that by the express terms hereof does not terminate upon the expiration of the Term shall survive the expiration of the Term and shall remain binding upon the Employers until such time as such benefits are paid in full to the Executive or his estate.

(n) Construction. This Agreement shall be governed by and construed in accordance with the internal laws of the Commonwealth of Pennsylvania, without giving effect to principles of conflict of laws. All headings in this Agreement have been inserted

solely for convenience of reference only, are not to be considered a part of this Agreement and shall not affect the interpretation of any of the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

MOUNTBATTEN, INC.

By: Kenneth L. Brier, Pres.  
Kenneth L. Brier, President

THE MOUNTBATTEN SURETY COMPANY, INC.

By: Kenneth L. Brier, Pres.  
Kenneth L. Brier, President

Ted A. Drauschak  
Ted A. Drauschak

CONFIDENTIAL

EMPLOYMENT AGREEMENT

EMPLOYMENT AGREEMENT (this "Agreement") dated as of May 13, 2010 among Sealord Holdings, Inc., a Pennsylvania corporation having its principal place of business at 789 E. Lancaster Avenue, Suite 200, Villanova, PA 19085 ("Holdings"), and First Sealord Surety, Inc., a Pennsylvania property and casualty insurance company having its principal place of business at 789 E. Lancaster Avenue, Suite 200, Villanova, PA 19085 ("Surety"), and Joel D. Cooperman, an individual residing at 10 Buttonwood Drive, Lafayette Hill, Pennsylvania 19444 (the "Executive").

WITNESSETH:

WHEREAS, Sealord LLC, a Delaware limited liability company ("Sealord") owns all of the capital stock of Sealord Holdings, Inc., which in turn owns all of the capital stock of Surety;

WHEREAS, the Executive has served as Vice President-Finance & Administration of Holdings and Surety (collectively, the "Employers") since May 1995;

WHEREAS, concurrently with the execution of this Agreement, Employers provided good and valuable consideration as provided in this Agreement for his undertakings contained herein;

WHEREAS, Sealord shall be a third party beneficiary of this Agreement and shall be entitled to the same rights to enforce this Agreement as either of the Employers and shall be considered an "Employer" for purposes of this Agreement; and

WHEREAS, the parties are entering into this Agreement to set forth and confirm their respective rights and obligations with respect to the Executive's employment by the Employers;

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties hereto, intending to be legally bound hereby, mutually agree as follows:

1. Certain Definitions. In addition to the terms defined elsewhere in this Agreement, the following terms shall have the following meanings:

(a) "Accrued Obligations" means (i) the Executive's Base Salary accrued through the effective date of the termination of the Executive's employment hereunder, and (ii) any Bonus payable to the Executive pursuant to Section 7(b) for the year in which such termination is effective.

(b) "Agreement" has the meaning assigned to it in the Recitals.

- (c) "Base Salary" has the meaning assigned to it in Section 7(a).
- (d) "Board" shall mean the Board of Directors of Surety.
- (e) "Bonus" has the meaning assigned to it in Section 7(b).
- (f) "Cause" means (i) the Executive's willful and continued failure substantially to perform his material duties with the Employers as set forth in this Agreement after notice thereof from the Employers to the Executive and a reasonable opportunity for the Executive to cure such failure, breach or violation in all material respects, (ii) the commission by the Executive of any activities constituting a material violation or breach under any federal, state or local law or regulation applicable to the activities of any Employer, (iii) any fraud, breach of fiduciary duty, dishonesty or misappropriation or other intentional material damage to the property or business of any Employer by the Executive, (iv) the Executive's repeated absences other than for physical or mental impairment or illness, (v) the Executive's admission or conviction of, or plea of nolo contendere to, any felony that, in the reasonable judgment of the President, adversely affects any Employer's reputation or the Executive's ability to carry out his obligations under this Agreement or (vi) the Executive's non-compliance with the provisions of Section 6(b) after notice thereof from the Employers to the Executive and a reasonable opportunity for the Executive to cure such non-compliance.
- (g) "COBRA" means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.
- (h) "Code" has the meaning assigned to it in Section 5.
- (i) "Competitive Business" has the meaning assigned to it in Section 10(b).
- (j) "Confidential or Proprietary Information" means all information of any nature and in any form that is owned by the Employers and that is not publicly available or generally known to persons engaged in the business of issuing surety bonds, funds control or risk management services or any information with respect to Sealord or its members including, without limitation, information with respect to the Employers' financial matters, bondholders, bonded principals, employees and industry contacts.
- (k) "Effective Date" has the meaning assigned to it in Section 2(a).
- (l) "Executive" has the meaning assigned to it in the Recitals.
- (m) "Good Reason" means a material breach by either of the Employers of its respective obligations to the Executive under this Agreement, which breach is not cured in all material respects within 30 days following written notice thereof from the Executive to the Employers, such written notice to be provided by Executive no later than 90 days after the first occurrence of the condition providing a basis for the Good Reason.

(n) "Holdings" has the meaning assigned to it in the Recitals.

(o) "Operating Agreement" means the Amended and Restated Limited Liability Company Agreement of Sealord.

(p) "Permanent Disability" means a physical or mental disability such that the Executive is substantially unable to perform those duties that he would otherwise be expected to continue to perform and the nonperformance of such duties has continued for a period of 90 consecutive days.

(q) "Position" has the meaning assigned to it in Section 2(a).

(r) "Sealord" has the meaning assigned to it in the Recitals.

(s) "Severance Obligation" means an amount equal to the sum of (i) the Executive's annual Base Salary as of the effective date of the termination of the Executive's employment hereunder and (ii) any Bonus that would be payable to the Executive for the year in which such termination occurs.

(t) "Surety" has the meaning assigned to it in the Recitals.

(u) "Term" has the meaning assigned to it in Section 2(a).

## 2. Employment and Term.

(a) Effective as of May 13, 2010 (the "Effective Date"), (i) Holdings shall continue the employment of the Executive, and the Executive shall be employed by Holdings, as the Vice President-Finance & Administration of Holdings and (ii) Surety shall continue the employment of the Executive, and the Executive shall be employed by Surety, as the Vice President-Finance & Administration of Surety (with all such positions described in clauses (i) and (ii) being collectively referred to herein as the "Position"), in accordance with the terms and subject to the conditions set forth herein for a term (the "Term") that shall commence on the Effective Date and continue from month to month thereafter, subject to Section 3, unless written notice to the contrary is given by either of the Employers or the Executive to the other party in accordance with the terms hereof at least 30 days before the effective date of termination. Holdings and Surety shall be jointly and severally liable to the Executive with respect to (i) all liabilities of Surety to the Executive hereunder and (ii) all liabilities of Holdings to the Executive hereunder; provided, however, that Holdings shall not be responsible for any liability of Surety to the Executive to the extent that such liability has been discharged by Surety, and Surety shall not be responsible for any liability of Holdings to the Executive to the extent that such liability has been discharged by Holdings.

(b) Unless otherwise provided herein or agreed by the parties hereto, all of the terms and conditions of this Agreement shall continue in full force and effect throughout

the Term and, with respect to those terms and conditions that apply after the Term, after the Term.

3. Termination.

(a) Termination by the Employers. Notwithstanding Section 2(b), the Employers, by action of the President and effective as specified in a written notice thereof to the Executive in accordance with the terms hereof, shall have the right to terminate the Executive's employment hereunder at any time during the Term hereof, for Cause or other than for Cause, or on account of the Executive's Permanent Disability.

(i) Termination by the Employers without Cause. In the event the Executive's employment hereunder is terminated by the Employers without Cause (which, by way of clarification, shall not include a termination by reason of the Executive's death or Permanent Disability), the Employers shall make, or cause to be made, the following payments to the Executive:

(A) the Severance Obligation payable in a lump sum within 30 days after the effective date of such termination; and

(B) the Accrued Obligations payable in a lump sum within 30 days after the effective date of such termination.

(ii) Termination upon the Death of the Executive. In the event of the death of the Executive, the Executive's employment hereunder shall be deemed to be terminated and the Employers shall make, or cause to be made, the following payments to the estate or other specified beneficiary of the Executive, which payment shall be in addition to the life insurance benefits of the Executive specified in Section 7(c)(ii):

(A) the then monthly Base Salary of the Executive payable for a period of three months following the date of the Executive's death;

(B) the Accrued Obligations as of the date of the Executive's death payable in a lump sum within 30 days after the date of such death;

(C) premium amounts required to continue in effect for the dependents of the Executive the insurance benefits specified in clause (iii) of Section 7(c) for a period of one year after the termination payable in a lump sum within 60 days after the date of such death to the extent such dependants are eligible to elect COBRA continuation coverage under applicable law.

(iii) Termination upon the Permanent Disability of the Executive. In order to terminate the Executive's employment hereunder on account of Permanent Disability, the Employers must provide the Executive with written notice of the President's

good faith determination to terminate the Executive's employment hereunder for reason of Permanent Disability not less than 30 days prior to such termination, which notice shall specify the date of termination. Until the specified effective date of termination by reason of Permanent Disability, the Executive shall continue to receive compensation at the rates set forth in Section 7. In the event the Executive's employment hereunder terminates by reason of the Permanent Disability of the Executive, the Employers shall make, or cause to be made, the following payments to the Executive, which payments shall be in addition to the disability insurance benefits of the Executive specified in Section 7(c)(i):

(A) premium amounts due from time to time as required to continue in effect the insurance benefits specified in Section 7(c) for a period of one year after the termination to the extent the Executive is eligible to elect COBRA continuation coverage under applicable law; and

(B) the Accrued Obligations as of the date of such termination payable in a lump sum within 30 days after the date of such termination.

(iv) Termination for Cause. In the event that the Executive's employment hereunder is terminated by the Employers for Cause, the Employers' only obligation shall be to pay to the Executive the Accrued Obligations in a lump sum within 30 days after the effective date of such termination. In the event that such termination is effected pursuant to clauses (ii) or (v) of Section 1(f), the Accrued Obligations shall not include any Bonus.

(b) Termination by the Executive. Notwithstanding Section 2(b), the Executive shall have the right to terminate his employment hereunder at any time during the Term hereof for Good Reason or upon giving Employers at least 30 days' prior written notice for any reason other than Good Reason, provided that Employers may waive the right to such notice or reduce the length thereof at any time, before or after receiving notice from Executive, whereupon Executive's termination shall be effective when specified by Employers.

(i) Termination with Good Reason. In the event that the Executive's employment hereunder is terminated by the Executive with Good Reason, the Employers shall make, or cause to be made, the following payments to the Executive:

(A) the Severance Obligation payable in a lump sum within 30 days after the effective date of such termination; and

(B) the Accrued Obligations payable in a lump sum within 30 days after the effective date of such termination.

(ii) Termination without Good Reason. In the event that the Executive's employment hereunder is terminated by the Executive without Good Reason, the

Employers' sole obligation shall be to pay the Executive the Accrued Obligations in a lump sum within 30 days after the effective date of such termination.

(c) Miscellaneous.

(i) Any notice of termination of this Agreement by the Employers to the Executive or by the Executive to the Employers shall be given in accordance with the provisions of Section 12(c).

(ii) In order to receive any payments due to the Executive upon a termination, the Executive shall execute and deliver a Release of the Employers in a form mutually agreed to among the Executive and the Employers.

4. [Intentionally omitted.]

5. Inventions

(a) All rights in and to any and all inventions, ideas, techniques, methods, developments, enhancements and improvements relating to the business of Employers (collectively "Inventions") which Executive (either alone or in conjunction with others) conceives, makes or obtains during the performance of the his duties are and shall be the property of Employers, except that the foregoing shall not apply to Inventions (1) unrelated to any subject matter of actual or potential concern or interest to Employers, or (2) not conceived, made or obtained in the course of the Executive's duties or with the use of time, material or facilities of Employers. Executive will make full and prompt disclosure to Employers of all Inventions, and at Employers' request and expense but without additional compensation or payments to Executive, will at any time execute and deliver such assignments, applications and other papers necessary to vest all rights to the Inventions in Employers. Executive shall not publish or disclose the Inventions to Persons other than Employers without the prior written consent of the President.

(b) Executive agrees that Employers will own all work product of any type and in any form or media produced or created by Executive in the course of performance of Executive's duties hereunder, including all intellectual property rights therein and in all corrections, modifications and other derivative works to such work product (collectively "Work Product"). Without limiting the foregoing, Executive hereby acknowledges that the Work Product is specially ordered or commissioned by Employers and shall be considered works made for hire as such term is defined in the United States Copyright Act of 1976, 17 U.S.C. § 101. Employers shall be considered the author for purposes of copyright and shall own all copyright rights in the Work Product.

(a) Executive agrees that in the event of publication by Executive of written or graphic materials, Employers will retain and own all rights in said materials, including without limitation, right of copyright.

6. Duties of the Executive.

(a) Subject to the ultimate control and discretion of the President of the Employers, the Executive shall serve in the Position and perform all duties and services commensurate with the Position. Throughout the Term, the Executive shall perform all duties assigned or delegated to him by the President.

(b) The Executive shall devote substantially all of the Executive's business time and attention to the performance of the Executive's duties hereunder and, during the term of his employment hereunder, the Executive shall not engage in any other business enterprise that requires any significant amount of the Executive's personal time or attention, unless granted the prior permission of the President.

(c) The Executive shall be entitled to 25 days of vacation leave during each calendar year with full compensation, and to be taken at such time or times, as the Executive and Employers shall mutually determine. To the extent the Executive has not used his vacation time during a calendar year, the Executive may carry forward such unused vacation time, or by notice to the Employers within 90 days after the end of a calendar year, may elect to be paid cash in lieu thereof based on the Executive's then Base Salary.

7. Compensation. For all services to be rendered by the Executive hereunder:

(a) Base Salary. Commencing May 1, 2010, Executive's base salary (the "Base Salary") shall be paid at an annual rate of \$205,939. Any increases shall be subject to approval by the Board. Such Base Salary and other compensation provided for herein shall be payable in accordance with the Employers' normal payroll practices as in effect from time to time. The Executive shall have the right, in his sole discretion, to irrevocably defer all or part of his minimum base compensation to any subsequent year(s) and from time to time as he may designate in writing.

(b) Bonus. The Board may authorize payment to the Executive of a bonus (the "Bonus") based on such criteria and payable at such time or times as may be specified by the Board.

(c) Insurance.

(i) Disability. The Employers shall reimburse the Executive for disability insurance on commercially reasonable terms and conditions, including (A) premiums paid by the Executive for monthly disability insurance coverage in the amount of up to \$600 (the "Disability Insurance Coverage"), subject to periodic increases for inflation, (B) any tax liability incurred by the Executive with respect to such premium payments and (C) any tax liability incurred by the Executive with respect to disability insurance payments received by the Executive, if any, up to the amount of the Disability Insurance Coverage.

(ii) Life Insurance. The Employers shall reimburse the Executive for life insurance coverage on commercially reasonable terms and conditions for a policy of the Executive, in the amount of \$2,000,000 (the "Life Insurance Coverage") for the benefit of such persons as the Executive may designate. The Employers shall reimburse the Executive or his beneficiaries under such policy, as the case may be, for (A) any tax liability incurred by any of them with respect to such premium payments and (B) any tax liability incurred by the Executive's beneficiaries with respect to life insurance payments received by them, if any, up to the amount of the Life Insurance Coverage.

(iii) Health Insurance. The Employers shall provide and pay for health insurance coverage for the Executive and his immediate family with terms and conditions substantially similar to the terms and conditions of the health insurance coverage provided to the Executive and his immediate family by the Employers immediately prior to the parties' entrance into this Agreement. Upon the expiration of any obligation of the Employers to provide health insurance coverage to the Executive and his dependents upon the terms of this Agreement, the Employers, as long as either one of them maintains health insurance coverage for its employees, shall offer to include the Executive and his dependents under such health insurance coverage provided that the Executive or such dependents monthly reimburse the Employers for the cost of such health insurance.

(iv) General Medical, Life and Disability Benefits. The Executive shall, at his option, be entitled to participate in and receive benefits from or under any medical, term life and disability insurance plans and such other benefit plans the Employers may in their discretion establish for their employees or executives in lieu of the insurance coverage provided under paragraphs (i), (ii) and (iii).

(d) Other Benefits.

(i) The Employers shall pay to the Executive an automobile allowance of \$700 per month payable on the first day of each month or at the time of his salary payments, as the Employers may elect. The Employers shall bear all gas, insurance, repairs, maintenance and other operating expenses for the automobile. The Executive shall be liable for any tax liability he incurs with respect to such benefits.

(ii) The Employers shall pay for an annual physical examination of the Executive. The Executive agrees that the results of such examination shall be made available to the Employers on a confidential basis.

(iii) The Employers will pay the costs for the Executive's membership in a fitness program. To the extent that the Executive's participation in a fitness program reduces the cost of providing health insurance coverage to the Executive the Employers shall be entitled to the benefit of such reduction.

(iv) The Employers will pay the reasonable cost as approved in advance by the President of psychological counseling for the Executive from time to time.

8. Expenses. The Employers shall promptly reimburse the Executive for (i) all reasonable expenses paid or incurred by the Executive in connection with the performance of the Executive's duties and responsibilities hereunder, (ii) all reasonable professional expenses, such as licenses and dues and professional educational expenses, paid or incurred by the Executive during the Term and (iii) subject to compliance with the Employers' policy regarding reimbursement of entertainment expenses, all reasonable expenses paid or incurred by the Executive in connection with the Executive's entertainment of customers and potential customers of the Employers, in each case upon the presentation of expense vouchers or other appropriate documentation therefor.

9. Indemnification. The Employers shall indemnify the Executive, to the fullest extent permitted by applicable law, for any and all liabilities to which the Executive or his estate may be subject as a result of, in connection with or arising out of his service as an employee, an officer or a director of the Employers hereunder or his service as an employee, officer or director of another enterprise at the request of Sealord or Surety, as well as the costs and expenses (including attorneys' fees) of any legal action brought or threatened to be brought against him or the Employers as a result of, in connection with or arising out of such employment, provided, however, that if the Executive's employment shall have been terminated by the Employers for Cause, then the Employers shall have no obligation whatsoever to indemnify the Executive for any claim arising out of the matter that constituted the Cause for which the Executive's employment was terminated or for any other conduct of the Executive not within the scope of the Executive's duties under this Agreement. The Employers shall advance professional fees and disbursements to the Executive in connection with any such legal action, provided the Executive delivers to the Employers his undertaking to repay any expenses so advanced in the event it is ultimately determined that the Executive is not entitled to indemnification against such expenses. Expenses reasonably incurred by the Executive in successfully establishing the right to indemnification or to the advancement of expenses, in whole or in part, pursuant to this Section 9, shall also be indemnified by the Employers. The Executive shall be entitled to the full protection of any insurance policies that the Employers may elect to maintain generally for the benefit of their

respective directors and officers. The rights granted under this Section 9 shall survive the termination of this Agreement.

10. Covenants.

(a) Confidential Information. The Executive understands that, in the course of the Executive's employment by the Employers, the Executive has received and will receive Confidential and Proprietary Information concerning the business of the Employers and that the Employers desire to protect. The Executive agrees that the Executive will not at any time during or after the period of the Executive's employment by the Employers reveal to anyone outside the Employers or Sealord, or use for the Executive's own benefit, any Confidential or Proprietary Information except as required in the performance of the Executive's duties to the Employers (and, with respect to information about Sealord or its members, only upon the express written consent of Sealord). Upon termination of this Agreement, upon the request of the Employers, the Executive shall promptly deliver to the Employers any and all written materials, records and documents, including all copies thereof, made by the Executive or coming into the Executive's possession during the Term and retained by the Executive containing or concerning Confidential or Proprietary Information and all other written materials furnished to the Executive by the Employer for the Executive's use during the Term and retained by the Executive, including all copies thereof, whether of a confidential nature or otherwise. The obligations imposed by this Section 10(a) shall cease if such Confidential or Proprietary Information shall have become, through no fault of the Executive, publicly known or generally known to persons engaged in the business of the Employers or if the Executive, after giving the Employer notice and an opportunity to obtain a protective order, is required by law to make disclosure of such information.

(b) Non-Competition. Except as provided below and except in a case where the Executive has terminated this Agreement for Good Reason or the Employers have terminated this Agreement without Cause, during the Executive's employment with the Employers, and for one year thereafter, the Executive shall not, (i) directly or indirectly, engage or participate in, become a director, officer or employee of, render advisory or other services for or make any financial investment in, any firm, corporation or other business entity or enterprise that is engaged in the business of underwriting surety bonds, funds control services or risk management services (a "Competitive Business") or (ii) solicit or participate in any effort or act to induce any bonded principals, bondholders or any other person or entity who has, or has agreed to establish, business relationships with the Employers at the date of termination to transfer such business to a Competitive Business. Notwithstanding the foregoing, the Executive may own debt or equity securities of other entities so long as (i) such other entities do not engage in a Competitive Business, (ii) the Executive's ownership of such securities does not interfere with the Executive's performance of his duties hereunder and (iii) such securities are listed on a national securities exchange or

traded in the over-the-counter market, provided the Executive does not own more than 4.99% of the outstanding amount of such securities.

(c) Non-Solicitation of Employees. The Executive agrees that he will not at any time during or after the period of his employment by the Employers, solicit, employ, retain as a consultant or attempt to entice away from the Employers, any of their respective affiliates or any successor to any of the foregoing any individual who is, has agreed to be or within one year of such solicitation, employment, retention or enticement has been, employed or retained by Holdings, Surety, any of their respective affiliates or any successor to any of the foregoing.

(d) Non-Disparagement. Unless otherwise required by applicable law, the Executive agrees that the Executive will not at any time during or after the period of the Executive's employment by the Employers make any statement that criticizes, denigrates or otherwise reflects adversely on the Employers or Sealord. Unless otherwise required by applicable law, the Employers and Sealord agree that they will not at any time during or after the period of the Executive's employment by the Employers make any statement that criticizes, denigrate or otherwise reflects adversely on the Executive.

11. Representation and Warranty of the Executive. The Executive represents and warrants that he is not under any obligation, contractual or otherwise, to any other firm or corporation, that would prevent his entry into the employ of the Employers or his performance of the terms of this Agreement.

12. Miscellaneous.

(a) Reimbursement of Expenses. The Employers agree to reimburse the Executive for the reasonable fees and expenses of the Executive's attorneys and for court and related costs in any proceeding to enforce the provisions of this Agreement in which the Executive is successful on the merits.

(b) Entire Agreement; Amendment. This Agreement contains the entire agreement between the Employers and the Executive with respect to the subject matter hereof, and may not be amended, waived, changed, modified or discharged except by an instrument in writing executed by the parties hereto.

(c) Assignability. The services of the Executive hereunder are personal in nature. This Agreement shall be binding upon, and inure to the benefit of, the Employers and their permitted successors and assigns hereunder. This Agreement shall not be assignable by the Executive, but shall inure to the benefit of the Executive's heirs, executors, administrators and legal representatives.

(d) Notices. Any notice that may be given hereunder shall be in writing and be deemed given when hand delivered and acknowledged or, if mailed, one day after

mailing by registered or certified mail, return receipt requested, to either party hereto at their respective addresses stated above, or at such other address as either party may be similar notice designate, provided that a photocopy of such notice is dispatched at the same time as the notice is mailed.

(e) Specific Performance. The parties agree that irreparable damage would occur in the event that any of the provisions of Section 10 were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the parties shall be entitled to an injunction or injunctions to prevent breaches of Section 10 and to enforce specifically the terms and provisions of Section 10, this being in addition to any other remedy to which any party is entitled at law or in equity.

(f) No Third Party Beneficiaries. With the exception of Sealord, which is a third party beneficiary of this Agreement and which shall be entitled to the same rights to enforce this Agreement as either of the Employers, nothing in this Agreement, express or implied, is intended to confer upon any person or entity other than the parties (and the Executive's heirs, executors, administrators and legal representatives) any rights or remedies of any nature under or by reason of this Agreement.

(g) Successor Liability. The Employers shall require any subsequent successor, whether direct or indirect, by purchase, merger, consolidation or otherwise, to all or substantially all of the business and/or assets of the Employers to assume expressly and agree to perform this Agreement in the same manner and to the same extent that the Employers would be required to perform it if no such succession had taken place.

(h) Mitigation. The Executive shall not be required to mitigate the amount of any payment provided for in this Agreement by seeking other employment or otherwise, nor shall the amount of any payment or benefit provided for in this Agreement be reduced by any compensation earned by the Executive as the result of employment by another employer or by retirement benefits payable after the termination of this Agreement, except that the Employers shall not be required to provide the Executive and his eligible dependents with medical insurance coverage as long as the Executive and his eligible dependents are receiving comparable medical insurance coverage from another employer.

(i) Arbitration. Any dispute that may arise between the parties hereto shall be submitted to binding arbitration in accordance with the Rules of the American Arbitration Association applicable to employment disputes; provided that any such dispute shall first be submitted to the President in an effort to resolve such dispute without resort to arbitration, and provided, further, that the President shall have a period of 60 days within which to respond to Executive's submitted dispute, and if the President fails to respond within said time, or the Executive's dispute is not resolved, the matter may then be submitted for arbitration.

(j) Waiver of Breach. The failure at any time to enforce or exercise any right under any of the provisions of this Agreement or to require at any time performance by the other parties of any of the provisions hereof shall in no way be construed to be a waiver of such provisions or to affect either the validity of this Agreement or any part hereof, or the right of any party hereafter to enforce or exercise its rights under each and every provision in accordance with the terms of this Agreement.

(k) No Attachment. Except as required by law, no right to receive payments under this Agreement shall be subject to anticipation, commutation, alienation, sale, assignment, encumbrance, charge, pledge or hypothecation or to execution, attachment, levy or similar process or assignment by operation of law, and any attempt, voluntary or involuntary, to effect any such action shall be null, void and of no effect; provided, however, that nothing in this Section 12(k) shall preclude the assumption of such rights by executors, administrators or other legal representatives of the Executive or his estate and their assigning any rights hereunder to the person or persons entitled hereto.

(l) Severability. The invalidity or unenforceability of any term, phrase, clause, paragraph, restriction, covenant, agreement or other provisions hereof shall in no way affect the validity or enforceability of any other provision, or any part thereof, but this Agreement shall be construed as if such invalid or unenforceable term, phrase, clause, paragraph, restriction, covenant, agreement or other provision had never been contained herein unless the deletion of such term, phrase, clause, paragraph, restriction, covenant, agreement or other provision would result in such a material change as to cause the covenants and agreements contained herein to be unreasonable or would materially and adversely frustrate the objectives of the parties as expressed in this Agreement.

(m) Survival of Benefits. Any provision of this Agreement that provides a benefit to the Executive and that by the express terms hereof does not terminate upon the expiration of the Term shall survive the expiration of the Term and shall remain binding upon the Employers until such time as such benefits are paid in full to the Executive or his estate.

(n) Section 409A.

(i) This Agreement will be interpreted to avoid any penalty sanctions under section 409A of the Code. If any payment or benefit cannot be provided or made at the time specified herein without incurring sanctions under section 409A of the Code, then such benefit or payment will be provided in full (to extent not paid in part at earlier date) at the earliest time thereafter when such sanctions will not be imposed. For purposes of section 409A of the Code, all payments to be made upon a termination of employment under this Agreement may only be made upon the Executive's "separation from service" (within the meaning of such term under section 409A of the Code), each payment made under this Agreement will be treated as a separate payment, and the right to a series of installment

payments under this Agreement will be treated as a right to a series of separate payments. In no event will the Executive, directly or indirectly, designate the calendar year of payment, except as permitted under section 409A of the Code.

(ii) Notwithstanding anything herein to the contrary, if, at the time of the Executive's termination of employment with the Employers, the Employers has securities which are publicly traded on an established securities market and the Executive is a "specified employee" (as such term is defined in section 409A of the Code) and it is necessary to postpone the commencement of any payments or benefits otherwise payable under this Agreement as a result of such termination of employment to prevent any accelerated or additional tax under section 409A of the Code, then the Employers will postpone the commencement of the payment of any such payments or benefits hereunder (without any reduction in such payments or benefits ultimately paid or provided to the Executive), until the first payroll date that occurs after the date that is six months following the Executive's "separation of service" with the Employers. If the Executive dies during the postponement period prior to the payment of postponed amount, the amounts withheld on account of section 409A of the Code will be paid to the personal representative of the Executive's estate within sixty (60) days after the date of the Executive's death.

(iii) All reimbursements and in-kind benefits provided under this Agreement will be made or provided in accordance with the requirements of section 409A of the Code, including, where applicable, the requirement that (i) any reimbursement will be for expenses incurred during the Executive's lifetime (or during a shorter period of time specified in this Agreement), (ii) the amount of expenses eligible for reimbursement, or in kind benefits provided, during a calendar year may not affect the expenses eligible for reimbursement, or in kind benefits to be provided, in any other calendar year, (iii) the reimbursement of an eligible expense will be made on or before the last day of the calendar year following the year in which the expense is incurred and (iv) the right to reimbursement or in kind benefits is not subject to liquidation or exchange for another benefit.

(o) Construction. This Agreement shall be governed by and construed in accordance with the internal laws of the Commonwealth of Pennsylvania, without giving effect to principles of conflict of laws. All headings in this Agreement have been inserted solely for convenience of reference only, are not to be considered a part of this Agreement and shall not affect the interpretation of any of the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

Employers:

SEALORD HOLDINGS, INC.

By: Kenneth L. Brier, Pres  
Kenneth L. Brier, President

FIRST SEALORD SURETY, INC.

By: Kenneth L. Brier, Pres  
Kenneth L. Brier, President

Executive:

Joel D. Cooperman  
Joel D. Cooperman