### SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (the "Settlement Agreement") is made and entered into this 4th day of December, 1998 by and between:

"Claimants"

Dorothy Holden, Kimberly Holden, Jerry Holden and Jeffrey B.

Holden

"Defendant"

City of Redlands

"Insurer"

Insurance Company of the State of Pennsylvania

### Recitals

- On or about July 20, 1993, an accident occurred on San Timeteo Canyon Road in the City of Redlands, California. Jerry Holden, husband of Dorothy Holden and father of Kimberly Holden, Jerry Holden and Jeffrey B. Holden, died as a result of that accident, and Kimberly Holden was injured. Claimants allege that the accident and resulting physical and personal injuries arose out of a dangerous condition of public property and they made a claim seeking monetary damages on account of that accident, and thus Claimants filed a complaint against Defendant in the San Bernardino County Superior Court, Case No. SCV 11484.
- Insurer is the liability insurer of the Defendant, and as such, would be obligated to pay any claim made or judgment obtained against Defendant which is covered by its policy with Defendant.
- The parties desire to enter into this Settlement Agreement in order to provide for certain payments in full settlement and discharge of all claims which have, or might be made, by reason of the incident described in Recital A above, upon the terms and conditions set forth below.

#### Agreement

The parties agree as follows:

#### 1.0 Release and Discharge

- In consideration of the payments set forth in Section 2, Claimants hereby completely release and forever discharge Defendant, City of Redlands and Bruggeman, Smith & Peckham, LLP and Insurer from any and all past, present or future claims, demands, obligations, actions, causes of action, wrongful death claims, rights, damages, costs, losses of services, expenses and compensation of any nature whatsoever, whether based on a tort, contract or other theory of recovery, which the Claimants have, or which may hereafter accrue or otherwise be acquired, on account of, or may in any way grow out of, the incident described in Recital A above, including, without limitation, any and all known or unknown claims for bodily and personal injuries to Claimants, or any future wrongful death claim to Claimants' representatives or heirs, which have resulted or may result from the condition of property of Defendant or the alleged acts or omissions of the Defendant, City of Redlands.
- This release and discharge shall also apply to the past, present and future officers, directors, stockholders, attorneys, agents, servants, representatives, employees, subsidiaries, affiliates, partners, predecessors and successors in interest, and assigns of the City of Redlands and Bruggeman, Smith & Peckham, LLP and the release and discharge shall also apply to all other persons, firms or corporations with whom any of the former have been, are now, or may hereafter be affiliated.

- 1.3 This release, on the part of the Claimants, shall be a fully binding and complete settlement among the Claimants and the Defendant, City of Redlands, Bruggeman, Smith & Peckham, LLP and the Insurer, and their heirs, assigns and successors.
- 1.4 The Claimants acknowledge and agree that the release and discharge set forth above is a general release. Claimants expressly waive and assume the risk of any and all claims for damages which exist as of this date, but of which the Claimants do not know or suspect to exist, whether through ignorance, oversight, error, negligence, or otherwise, and which, if known, would materially affect Claimants' decision to enter into this Settlement Agreement. The Claimants further agree that Claimants have accepted payment of the sums specified herein as a complete compromise of matters involving disputed issues of law and fact. Claimants assume the risk that the facts or law may be other than Claimants believe. It is understood and agreed to by the parties that this settlement is a compromise of a doubtful and disputed claim, and the payments are not to be construed as an admission of liability on the part of the Defendant, by whom liability is expressly denied.

### 2.0 Payments

In consideration of the release set forth above, the Insurer on behalf of the Defendant agrees to pay to the individuals named below (the "Payees") the sums outlined in this Section 2 below:

- 2.1 Payments due at the time of settlement as follows:
- A. Cash at settlement in the amount of \$195,037.00 payable to Dorothy Holden, Kimberly Holden, Jerry Holden and Jeffrey B. Holden and to their attorney, William D. Shapiro.
- 2.2 Periodic payments to Dorothy Holden and to William D. Shapiro made according to the schedule as follows (the "Periodic Payments"):
- A. \$1,690.87 payable to Dorothy Holden, on the first of each month, guaranteed 20 years, beginning February 1, 1999 and ending January 1, 2019; and
- month, guaranteed 20 years, beginning January 10, 2003 and ending December 10,
- All sums set forth herein constitute damages on account of personal injuries or sickness, within the meaning of Section 104(a)(2) of the Internal Revenue Code of 1986, as amended.

# 3.0 Claimants' Rights to Payments

Claimant, Dorothy Holden, and her attorney, William D. Shapiro, acknowledge that the Periodic Payments cannot be accelerated, deferred, increased or decreased by the Claimant or her attorney or any Payee; nor shall the Claimant, Dorothy Holden, nor her attorney, William D. Shapiro, or any Payee have the power to sell, mortgage, encumber, or anticipate the Periodic Payments, or any part thereof, by assignment or otherwise.

# 4.0 Claimants' Beneficiaries

Any payments to be made after the death of Payee, Dorothy Holden, pursuant to the terms of this Settlement Agreement shall be made to the estate of the Payee, Dorothy Holden, otherwise as shall be designated in writing by Claimant, Dorothy Holden, to the Insurer or the Insurer's Assignee. If no person or entity is so designated by Claimant, Dorothy Holden, or if the person designated is not living at the time of the death of Payee, Dorothy Holden, such

payments shall be made to her estate. No such designation, nor any revocation thereof, shall be effective unless it is in writing and delivered to the Insurer or the Insurer's Assignee. The designation must be in a form acceptable to the Insurer or the Insurer's Assignee before such payments are made.

Any payment to be made after the death of Payee, William D. Shapiro, pursuant to the terms of this Settlement Agreement shall be made to the estate of the Payee, William D. Shapiro, otherwise as shall be designated in writing by Payee, William D. Shapiro, to the Insurer or the Insurer's Assignee. If no person or entity is so designated by Payee, William D. Shapiro, or if the person designated is not living at the time of the death of Payee, William D. Shapiro, such payments shall be made to his estate. No such designation, nor any revocation thereof, shall be effective unless it is in writing and delivered to the Insurer or the Insurer's Assignee. The designation must be in a form acceptable to the Insurer or the Insurer's Assignee before such payments are made.

# 5.0 Consent to Qualified Assignment

- 5.1 Claimants and their attorney, William D. Shapiro, acknowledge and agree that the Defendant and/or the Insurer may make a "qualified assignment", within the meaning of Section 130(c) of the Internal Revenue Code of 1986, as amended, of the Defendant's liability to make the Periodic Payments set forth in Section 2.2 to Aegon Assignment Corporation. The Assignee's obligation for payment of the Periodic Payments shall be no greater than that of Defendant and/or the Insurer (whether by judgment or agreement) immediately preceding the assignment of the Periodic Payments obligation.
- Any such assignment, if made, shall be accepted by the Claimants and their attorney, William D. Shapiro, without right of rejection and shall completely release and discharge the Defendant and the Insurer from the Periodic Payments obligation assigned to the Assignee. The Claimants and their attorney, William D. Shapiro, recognize that, in the event of such an assignment, the Assignee shall be the sole obligor with respect to the Periodic Payments obligation, and that all other releases with respect to the Periodic Payments obligation that pertain to the liability of the Defendant and the Insurer shall thereupon become final, irrevocable and absolute.

# 6.1 Right to Purchase an Annuity

The Defendant and/or the Insurer, itself or through its Assignee reserves the right to fund the liability to make the Periodic Payments through the purchase of an annuity policy from Monumental Life Insurance Company. The Defendant, the Insurer, or the Assignee shall be the sole owner of the annuity policy and shall have all rights of ownership. The Defendant, the Insurer, or the Assignee may have Monumental Life Insurance Company mail payments directly to the Payees. The Payees shall be responsible for maintaining a current mailing address for Payees with the "Assignee", Monumental Life Insurance Company.

### 7.0 Discharge of Obligation

The obligation of the Defendant, the Insurer, and/or Assignee to make each Periodic Payment shall be discharged upon the mailing of a valid check in the amount of such payment to the designated addresses of the Payees named in Section 2 of this Settlement Agreement.

# 8.0 Representation of Comprehension of Document

In entering into this Settlement Agreement, the Claimants represent that Claimants have relied upon the advice of their attorney, who is the attorney of their own choice, concerning the legal and income tax consequences of this Settlement Agreement; that the terms of this Settlement Agreement have been completely read and explained to Claimants by their attorney; and that the terms

of this  ${\bf Settlement}$  Agreement are fully understood and voluntarily accepted by Claimants.

# 9.0 Warranty of Capacity to Execute Agreement

Claimants represent and warrant that no other person or entity has, or has had, any interest in the claims, demands, obligations or causes of action referred to in this Settlement Agreement, except as otherwise set forth herein; that Claimants have the sole right and exclusive authority to execute this Settlement Agreement and receive the sums specified in it; and that Claimants have not sold, assigned, transferred, conveyed or otherwise disposed of any of the claims, demands, obligations or causes of action referred to in this Settlement Agreement.

### 10.0 Governing Law

This Settlement Agreement shall be construed and interpreted in accordance with the laws of the State of California.

For your protection, California law requires the following to appear on this form:

- "(a) It is unlawful to:
- (1) Knowingly present or cause to be presented any false or fraudulent claim for the payment of a loss under a contract of insurance.
- (2) Knowingly present multiple claims for the same loss or injury, including presentation of multiple claims to more than one insurer, with an intent to defraud.
- (3) Knowingly cause or participate in a vehicular collision, or any other vehicular accident, for the purpose of presenting any false or fraudulent claim.
- (4) Knowingly prepare, make, or subscribe any writing, with intent to present or use the same, or to allow it to be presented in support of any such claim.
- (b) Every person who violates any provision of this section is punishable in the state prison, for two, three, or five years, or by fine not exceeding Twenty-Five Thousand Dollars (\$25,000), or by both."

## 11.0 Additional Documents

All parties agree to cooperate fully and to execute any and all supplementary documents and to take all additional actions which may be necessary or appropriate to give full force and effect to the basic terms and intent of this Settlement Agreement, including execution of the Stipulation of Abandonment of Appeal and Satisfaction of Judgment.

# 12.0 Entire Agreement and Successors in Interest

This Settlement Agreement contains the entire agreement between the Claimants, Defendant, and the Insurer with regard to the matters set forth in it and shall be binding upon and enure to the benefit of the executors, administrators, personal representatives, heirs, successors and assigns of each.

## 13.0 Effectiveness

This Settlement Agreement shall become effective immediately following execution by each of the parties.

CLATMANTS

	CDATRIMITS
Date: 12-22-98	DOROTHY HOLDEN
Date: 12-28-98  Date: 12-24-98	KIMBERLY HOLDEN
Date: 12-28-98	JERRY HOLDEN  JEFFREY B. HOLDEN
Date: 12-28-98	By: WILLIAM D. SHAPIRO Attorneys for Claimants
Date: 30 Smy 1999	By: DANIEL MCHUGHO
Date: //13/99	BRUGGEMAN, SMITH & PECKHAM, LLP  By: Saymond Salen  RAYMOND F. DOLEN  Attorneys for Defendant  CITY OF REDLANDS
Date: 1/26/99  Date: 5/10/99	By:  Sanford OSTER, Claims Analyst  Insurance Company of the State of Pennsylvania  By:  Susan Wendaur, National Dir.

## UNIFORM QUALIFIED ASSIGNMENT AND RELEASE

"Claimant"

Dorothy Holden

"Assignor"

City of Redlands and Insurance Company of the State of

Pennsylvania

"Assignee"

Aegon Assignment Corporation

"Annuity Issue"

Monumental Life Insurance Company

"Effective Date"

December 12, 1998

This Agreement is made and entered into by and between the parties hereto as of the Effective Date with reference to the following facts:

A. Claimant has executed a settlement agreement or release dated (the "Settlement Agreement") that provides for the Assignor to make certain periodic payments to or for the benefit of the Claimant as stated in Addendum No. 1 (the "Periodic Payments"); and

The parties desire to effect a "qualified assignment" within the meaning and subject to the conditions of Section 130(c) of the Internal Revenue Code of 1986 (the "Code").

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the parties agree as follows:

- The Assignor hereby assigns and the Assignee hereby assumes all of the Assignor's liability to make the Periodic Payments. The Assignee assumes no liability to make any payment not specified in Addendum No. 1.
- 2. The Periodic Payments constitute damages on account of personal injury or sickness in a case involving physical injury or physical sickness within the meaning of Sections 104(a)(2) and 130(c) of the Code.
- The Assignee's liability to make the Periodic Payments is no greater than that of the Assignor immediately preceding this Agreement. Assignee is not required to set aside specific assets to secure the Periodic Payments. Claimant has no rights against the Assignee greater than a general creditor. None of the Periodic Payments may be accelerated, deferred, increased or decreased and may not be anticipated, sold, assigned or encumbered.
- The obligation assumed by Assignee with respect to any required payment shall be discharged upon the mailing on or before the due date of a valid check in the amount specified to the address of record.
- This Agreement shall be governed by and interpreted in accordance with the laws of the State of California.
- The Assignee may fund the Periodic Payments by purchasing a "qualified funding asset" within the meaning of Section 130(d) of the Code in the form of an annuity contract issued by the Annuity Issuer. All rights of ownership and control of such annuity contract shall be and remain vested in the Assignee exclusively.
- The Assignee may have the Annuity Issuer send payments under any "qualified funding asset" purchased hereunder directly to the payee(s) specified in Addendum No. 1. Such direction of payments shall be solely for the Assignee's

convenience and shall not provide the Claimant or any payee with any rights of ownership or control over the "qualified funding asset" or against the Annuity Issuer.

- 8. Assignee's liability to make the Periodic Payments shall continue without diminution regardless of any bankruptcy or insolvency of the Assignor.
- 9. In the event the Settlement Agreement is declared terminated by a court of law or in the event that Section 130(c) of the Code has not been satisfied, this Agreement shall terminate. The Assignee shall then assign ownership of any "qualified funding asset" purchased hereunder to Assignor, and Assignee's liability for the Periodic Payments shall terminate.
- 10. This Agreement shall be binding upon the respective representatives, heirs, successors and assigns of the Claimant, the Assignor and the Assignee and upon any person or entity that may assert any right hereunder to any of the Periodic Payments.
- 11. The Claimant hereby accepts Assignee's assumption of all liability for the Periodic Payments and hereby releases the Assignor from all liability for the Periodic Payments.

ASSIGNOR:

Insurance Co. of the State of Pennsylvania

Susan Wendaur

National Director

INSURANCE COMPANY OF THE STATE OF

PENNSYLVANJA

SANFORD OSTER

Title: Claims Adjuster for AIG TECHNICAL

SERVICES, INC.; Claims Administrator for INSURANCE COMPANY OF THE STATE OF

PENNSYLVANIA

ASSIGNEE:

AEGON ASSIGNMENT CORPORATION

 $\Delta$ 

Title:

**VICE PRESIDENT** 

CLAIMANT

DOROTHY HOLDEN

APPROVED AS TO FORM AND CONTENT:

LAW OFFICES OF WILLIAM D. SHAPIRO

WILLIAM D. SHAPIRO

Claimant's Attorney

# ADDENDUM NO. 1

# DESCRIPTION OF PERIODIC PAYMENTS

For: Dorothy Holden

\$1,690.87 payable on the 1st of each month, guaranteed 20 years, beginning February 1, 1999 and ending January 1, 2019.

For: William D. Shapiro

\$2,600.00 payable on the 10th of each month, guaranteed 20 years, beginning January 10, 2003 and ending December 10, 2022.

INITIALS

Claimant

Assignor

Assignee

# MONUMENTAL LIFE INSURANCE COMPANY

A Stock Company

(Hereafter called: We, Our or Us) Home Office: Baltimore, Maryland

Administrative Office: 400 W. Market Street, Louisville, KY 40202 (800) 866-0002

# Our Annuity Agreement (the Contract)

We will pay, subject to the conditions and limitations of this contract, the Annuity Payments to the Payee if he or she is living on the First Payment Date. We will make these payments in accordance with the Description of Annuity Payments as shown in this contract.

We issue this contract in consideration of the premium paid.

Our Company and You, the Owner, are bound by the conditions and provisions of this contract.

# Right to Return Your Contract

You may cancel this contract by returning it within 10 days of receipt. Return it to Our Administrative Office or the agent through whom it was purchased. We will refund any premium paid less any Annuity Payments made. We will consider the policy void from the beginning.

Signed for us at our home office.

Secretary

NStacy Byu

President

This contract is a legal contract between the Owner and the Company.

READ YOUR POLICY CAREFULLY

Single Premium Annuity
Non-Participating

# Policy Index

Policy Specifications	3
Description of Annuity Payments	4
Definitions	ς -
The Contract	

# POLICY SPECIFICATIONS SINGLE PREMIUM ANNUITY

OWNER(S):

**AEGON Assignment Corporation** 

**ANNUITANT(S):** 

Dorothy Holden

PAYEE(S):

Dorothy Holden

BENEFICIARY(IES):

Estate of Dorothy Holden

**ISSUE DATE:** 

December 24, 1998

FIRST PAYMENT DATE:

February 1, 1999

ISSUE AGE(S) AND SEX(ES):

47 - Female

**POLICY NUMBER:** 

016707MS01

DUPLICATE

SINGLE PREMIUM:

Valuable Consideration

# **Description of Annuity Payments**

Beginning on the First Payment Date, We will make the following payments to the Payee if the Annuitant is living on the First Payment Date:

\$1,690.87 per month for 20 Years Certain Only beginning February 1, 1999. We will continue to pay this amount each Month, for 20 years only. The final payment will be made on January 1, 2019 (that is the last guaranteed payment date).

If the Annuitant dies prior to the last guaranteed payment date, We will pay any remaining guaranteed payments, as they become due, to the Beneficiary when we receive due proof of the Annuitant's death.

No additional payments will be made if the Annuitant dies after all guaranteed payments have been made.

The Annuitant, Payee, and/or Beneficiary under this policy do not have the right to revise the benefit payments. These payments may not be accelerated, deferred, increased or decreased. They may not be anticipated, sold, assigned or encumbered.

The Annuitant, Payee, and/or Beneficiary may not assign any payments under the contract before the same are due. To the extent permitted by law, no payments under this contract will be subject to the claims of creditors of any payee.

THIS POLICY MAY NOT BE SURRENDERED

### **DEFINITIONS**

This section contains the standard meaning of terms used in Your contract.

- ANNUITANT
- The "Annuitant" is the person upon whose life the annuity payments are based.

### **ANNUITY PAYMENTS**

· Annuity Payments will be made to the Payee. We may require evidence that any Annuitant and/or Payee are alive on the due date of each Annuity Payment.

## BENEFICIARY

• The "Beneficiary" is the person or persons to whom We will pay a death benefit or other guaranteed payments, if any, when the Annuitant (last Annuitant if Joint & Survivor Annuity Payments) dies.

# FIRST PAYMENT DATE

- The First Payment Date is the date the first payment is due.
- **ISSUE AGE**
- · "Issue Age" is the Annuitana's age nearest birthday on the Issue Date.

# **ISSUE DATE**

• The date on which the premium paid is applied and the contract becomes effective.

OWNER • "You", "Your", and "Yours", the Owner, are named on page 3. You may, while any Annuitant is living, exercise all rights granted by this contract.

### **PAYEE**

• The person to whom We will pay the Annuity Payments described herein.

### WRITTEN NOTICE

• "Written Notice" is a request or notice in writing by You to Us at Our Administrative Office. It is how You notify Us of any requests You may have, or changes You may want to make to Your contract.

# THE CONTRACT

Your contract is a legal contract between You and Us. Certain provisions are standard. This section gives these provisions and explains how they can affect Your policy.

**ENTIRE CONTRACT** 

• The entire contract is made up of this contract, any riders or endorsements, and any application or information provided in lieu thereof.

INCONTESTABILITY

• This contract is incontestable from the Issue Date.

MISSTATEMENT OF SEX OR AGE

• If the age or sex of any Annuitant has been misstated, the Annuity Payments will be those which the premium paid would have purchased for the correct age and sex. Any underpayment made by Us will be paid with the next Annuity Payment. Any overpayment made by Us will be deducted from future Annuity Payments.

NON-PARTICIPATING • Your contract is non-participating. This means We do not pay dividends on it. Your contract will not share in Our profits or surplus earni

**ANNUITY PAYMENTS** 

• Beginning on the First Payment Date, We will pay the Annuity Payments described herein/The Annuitant, Payee, and/or Beneficiary under this contract do not have the right to change the Annuity Payments.

NUMBER OF PAYEES

• We reserve the right to refuse an Owner's request to make changes to the number of Payees listed on page 3 of the contract.

### BENEFICIARY

The Beneficiary is named on page 3 of the contract. More than
one beneficiary may be named. The rights of any Beneficiary
will be subject to all the provisions of this contract. You may
impose other limitations with Our consent.

If any primary or contingent Beneficiary dies before the Annuitant, that Beneficiary's interest in this policy ends with that Beneficiary's death. Only those Beneficiaries living at the time of the Annuitant's death will be eligible to receive their share of the death benefits. In the event no contingent Beneficiaries have been named and all primary Beneficiaries have died before the death benefits become payable, the Owner(s) will become the Beneficiary(ies) unless elected otherwise. If both primary and contingent Beneficiaries have been named, payment will be made to the named primary Beneficiaries living at the time the death proceeds become payable. If there is more than one Beneficiary and You failed to specify their interest, they will share equally Payment will be made to the named contingent Hendfictary (les) only if all primary Beneficiaries have ded before the death benefits become payable. If any primary Beneficiary is alive at the time the death benefits become payable, but dies before receiving their payment, their share will be paid to their estate.

### OWNER

• You, the Owner, are named on page 3 of the contract. You may, while any Annuitant is living, exercise all rights granted by this policy. These rights are subject to the rights of any assignee or living irrevocable Beneficiary. "Irrevocable" means that You have given up Your right to change the Beneficiary named.

If You die, the rights of Ownership will vest in the executors, administrators or assigns of the Owner.

Unless we have been notified of a community or marital property interest in this policy, we will rely on our good faith belief that no such interest exists and will assume no responsibility for inquiry.

# CHANGE OF BENEFICIARY

• You may change the Beneficiary, unless an irrevocable one has been named, while the Annuitant is living. Change is made by Written Notice. The change takes effect on the date the Written Notice was signed, and the Written Notice must have been postmarked on or before the date of the Annuitant's death. No change will apply to any Annuity Payment made before the Written Notice was received.

Any change is subject to any of Our actions made before the date Your notice was acknowledged. We may require return of this contract for endorsement before making a change.

### RESERVES

• The reserves held by Us for this contract shall not be less than the minimum required by the laws and regulations of the state in which this contract is delivered.

DUPLICATE

# MONUMENTAL LIFE INSURANCE COMPANY Home Office: Baltimore, Maryland

Single Premium Annuity Non-Participating

# PFL LIFE INSURANCE COMPANY

A Member of AEGON Insurance Group

### IRREVOCABLE CERTIFICATE OF GUARANTEE

Policy Number(s):

016707MS01

PFL Life Insurance Company ("Guarantor"), an insurance company domiciled in the state of Iowa, hereby states and represents the following:

Whereas, AEGON Assignment Corporation ("Assignee") has assumed certain obligations owed to Dorothy Holden ("Payee) pursuant to a Qualified Assignment Agreement between Assignee and City of Redlands and Insurance Company of the State of Pennsylvania, dated December 12, 1998 (the "Assignment").

Whereas, Assignee has purchased an annuity from Monumental Life Insurance Company, an insurance company domiciled in the state of Maryland, to fund such obligations under the Assignment.

B'hereas, Guarantor desires to guarantee the above referenced obligations of Assignee to the Payee.

Now, therefore, Guarantor states that if Assignee shall fail to make any payment it has assumed under the Assignment, Guarantor shall make such payment or payments within ten (10) days after receipt of written notice of default from Payee. Notice to Guarantor shall be delivered by certified or registered mail to: PFL Life Insurance Company, Attention: Structured Settlements Administrator, 400 West Market Street, Louisville, Kentucky 40202.

Guarantor reserves the right to assign its duty to guarantee the above referenced obligations to an affiliated life insurance company with capital and surplus and ratings that on the date of such assignment are equal to or better than those which Guarantor enjoys on the date of this certificate. However, in nease may Guarantor assign its duty hereunder to the company from which Assignee purchased the Annuity.

This Statement is sealed and dated this 30th day of June, 1999.

PFL LIFE INSURANCE COMPANY

Cindy L. Chanley

Title: Vice President