

10/17/02

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U.S. DEPARTMENT OF COMMERCE U.S. Patent and Trademark Office

Tab settings

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

Executive Risk, Inc.

- Individual(s), Association, General Partnership, Limited Partnership, Corporation-State Delaware, Other

Additional name(s) of conveying party(ies) attached? Yes No

3. Nature of conveyance:

- Assignment, Merger, Security Agreement, Change of Name, Other Stock Purchase Agreement

Execution Date: 6/16/1999

2. Name and address of receiving party(ies)

Name: The Chubb Corporation

Internal Address:

Street Address: 15 Mountain View Road

City: Warren State: NJ Zip: 07059

- Individual(s) citizenship, Association, General Partnership, Limited Partnership, Corporation-State New Jersey, Other

If assignee is not domiciled in the United States, a domestic representative designation is attached: Yes No (Designations must be a separate document from assignment) Additional name(s) & address(es) attached? Yes No

4. Application number(s) or registration number(s):

A. Trademark Application No.(s)

B. Trademark Registration No.(s) 1,924,063 2,018,648

Additional number(s) attached Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: William J. Heller, Esq.

Internal Address: McCarter & English, LLP

Four Gateway Center

Street Address: 100 Mulberry Street

City: Newark State: NJ Zip: 07102

6. Total number of applications and registrations involved: 2

7. Total fee (37 CFR 3.41) \$ 65.00

- Enclosed, Authorized to be charged to deposit account

8. Deposit account number:

501402

DO NOT USE THIS SPACE

9. Signature.

John Wisinger, Esq.-The Chubb Corporation Name of Person Signing

John Wisinger Signature

10/14/02 Date

Total number of pages including cover sheet, attachments, and document: 7

Mail documents to be recorded with required cover sheet information to: Commissioner of Patent & Trademarks, Box Assignments Washington, D.C. 20231

10/29/2002 TDIAZ1 00000155 501402 1924063

01 FC:8521 40.00 CH 02 FC:8522 25.00 CH

**1. Name of conveying party(ies): (continuation)**

Executive Re

Excalibur Acquisition, Inc.

NWK2: 983687.01

**TRADEMARK**  
**REEL: 2606 FRAME: 0994**

AMENDED AND RESTATED

AGREEMENT AND PLAN OF MERGER

dated as of

June 16, 1999

among

EXECUTIVE RISK INC.

THE CHUBB CORPORATION

and

EXCALIBUR ACQUISITION, INC.

(NY) 05050/216/AGT/amd.restd.agt.wpd

**AMENDED AND RESTATED  
AGREEMENT AND PLAN OF MERGER**

AMENDED AND RESTATED AGREEMENT AND PLAN OF MERGER dated as of June 16, 1999 among Executive Risk Inc., a Delaware corporation (the "**Company**"), The Chubb Corporation, a New Jersey corporation ("**Parent**"), and Excalibur Acquisition, Inc., a Delaware corporation and a direct, wholly-owned subsidiary of Parent ("**MergerSub**").

RECITALS

WHEREAS, on February 6, 1999, the parties hereto entered into a merger agreement (the "**Original Agreement**") pursuant to which MergerSub would be merged with and into the Company resulting in the Company becoming a wholly-owned subsidiary of the Parent;

WHEREAS, the parties hereto wish to amend the Original Agreement to amend certain matters with respect to the merger;

WHEREAS, the Boards of Directors of the Company and Parent each have determined that a business combination between the Company and Parent is advisable and in the best interests of their respective companies and stockholders and presents an opportunity for their respective companies to achieve long-term strategic and financial benefits, and accordingly have agreed to effect the merger provided for herein upon the terms and subject to the conditions set forth herein;

WHEREAS, the parties hereto intend that the merger provided for herein shall qualify for U.S. federal income tax purposes as a reorganization within the meaning of Section 368(a) of the U.S. Internal Revenue Code of 1986, as amended (together with the rules and regulations promulgated thereunder, the "**Code**") (a "**368 Reorganization**");

WHEREAS, concurrently with entering into the Original Agreement, the Company granted Parent an option to acquire up to 19.9% of newly issued Company Common Shares (as defined below) on the terms and subject to the conditions set forth in the Stock Option Agreement between the Company and Parent dated as of the date of the Original Agreement (the "**Stock Option Agreement**"); and

WHEREAS, by resolutions duly adopted, the respective Boards of Directors of the Company, Parent and MergerSub have approved and adopted this Agreement, the Stock Option Agreement and the transactions contemplated hereby.

(NY) 05050/216/AGT/amd.restd.agt.wpd

ARTICLE 2  
THE MERGER

SECTION 2.01. *The Merger.* (a) At the Effective Time, MergerSub shall be merged (the “**Merger**”) with and into the Company in accordance with the terms and conditions of this Agreement and of the General Corporation Law of the State of Delaware (the “**DGCL**”), at which time the separate existence of MergerSub shall cease and the Company shall be the surviving corporation (the “**Surviving Corporation**”).

(b) Not later than the second Business Day after satisfaction or, to the extent permitted hereby, waiver of the conditions set forth in Article 9 (other than conditions that by their nature are to be satisfied at the Closing, but subject to those conditions), the Company and MergerSub will file a certificate of merger (the “**Certificate of Merger**”) with the Secretary of State of the State of Delaware and make all other filings or recordings required by the DGCL in connection with the Merger. The Merger shall become effective upon the filing of the Certificate of Merger with the Secretary of State of the State of Delaware in accordance with the DGCL or at such later time which the parties hereto shall have agreed upon and designated in such Certificate of Merger as the effective time of the Merger (the “**Effective Time**”).

(c) From and after the Effective Time, the Merger shall have the effects set forth in the DGCL.

(d) The closing of the Merger (the “**Closing**”) shall be held at the offices of Davis Polk & Wardwell, 450 Lexington Avenue, New York, NY (or such other place as agreed by the parties) at 10:00 a.m. New York City time on a date to be specified by the parties, which shall be no later than the second Business Day after satisfaction or, to the extent permitted hereby, waiver of the conditions set forth in Article 9 (other than conditions that by their nature are to be satisfied at the Closing, but subject to those conditions), unless the parties hereto agree to another date or time.

SECTION 2.02. *Organizational Documents.* The Certificate of Merger shall provide that at the Effective Time (i) the Company’s certificate of incorporation in effect immediately prior to the Effective Time shall be the Surviving Corporation’s certificate of incorporation and (ii) MergerSub’s bylaws in effect immediately prior to the Effective Time shall be the Surviving Corporation’s bylaws, in each case until amended in accordance with applicable law.

admitted assets of the Company and each Company Insurance Subsidiary as determined under applicable Laws are in an amount at least equal to the minimum amounts required by applicable Laws.

(b) Except for regular periodic assessments in the ordinary course of business or assessments based on developments which are publicly known within the insurance industry, to the knowledge of the Company, no claim or assessment is pending or threatened against any Company Insurance Subsidiary by (i) any state insurance guaranty associations in connection with such association's fund relating to insolvent insurers or (ii) any assigned risk plan or other involuntary market plan which if determined adversely would, individually or in the aggregate, be reasonably likely to result in a cost to the Company or any of its Subsidiary of an amount in excess of \$500,000.

SECTION 4.17. *Title to Properties.* The Company has good and marketable title to its headquarters located at 82 Hopmeadow Street in Simsbury, Connecticut ("**Owned Property**") and such property is free and clear of all Liens except for such Liens, defects in title, easements, restrictive covenants and similar encumbrances or impediments that, in the aggregate, do not materially interfere with the ability of the Company and its Subsidiaries to conduct their business, taken as a whole, as currently conducted.

SECTION 4.18. *Intellectual Property.* With such exceptions as, individually or in the aggregate, would not be reasonably likely to have a Company Material Adverse Effect, the Company and the Company Subsidiaries own or have a valid license to use each trademark, service mark, trade name, mask work, invention, patent, trade secret, copyright, know-how (including any registrations or applications for registration of any of the foregoing) or any other similar type of proprietary intellectual property right (collectively, the "**Company Intellectual Property**") necessary to carry on the business of the Company and the Company Subsidiaries, taken as a whole, as currently conducted. Neither the Company nor any Company Subsidiary has received any written notice of infringement of or challenge to, and, to the Company's knowledge, there are no claims pending with respect to the rights of others to the use of, any Company Intellectual Property. Section 4.18 to the Company Disclosure Schedule identifies each trademark, service mark and trade name registered with the U.S. Trademark and Patent Office which the Company and its Subsidiaries own.

SECTION 4.19. *Environmental Matters.* (a) With such exceptions as, individually or in the aggregate, would not be reasonably likely to have a Company Material Adverse Effect, (i) no written notice, notification, demand, request for information, citations, summons, complaint or order has been received by, and no investigation, action, claim, suit, proceeding or review is pending or

**Section 4.18. Intellectual Property.**

1. "Executive Risk" - Reg. No. 2,018,648 (11/26/96).
2. "Executive Risk Management Associates" - Reg. No. 2,005,513 (10/8/96).
3. Executive Risk Management Associates (design) - Reg. No. 2,005,514 (10/8/96).
4. Backpack - Reg. No. 1,924,063 (10/3/95).