

RULES
OF
THE NFRN MUTUAL LIMITED

Adopted on 28 July 2022

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PART I INTRODUCTION

RULE 1 MEMORANDUM AND ARTICLES OF ASSOCIATION

These Rules are to be read in conjunction with the Memorandum and Articles of Association of the Mutual and a Member's Member Documents. In the event of any inconsistency the provisions of these Rules shall apply except where expressly stated otherwise.

RULE 2 DEFINITIONS AND INTERPRETATIONS

Definitions 2(1) In these Rules the following words and expressions shall have the following meanings:-

the Board The board of the directors for the time being of the Mutual.

Certificate of Entry A document issued by the Mutual which evidences membership of the Mutual.

Contribution Any monies payable to the Mutual by or on behalf of a Member pursuant to Rule 6 and Rule 9.

Cover The matters which are the subject of the discretionary indemnity given by the Mutual to each Covered Member as set out in a Covered Member's Member Documents and these Rules.

Cover Wording The document issued by the Mutual which sets out the terms and conditions of Cover.

Covered Member A Member who has Cover.

Closed Financial Year A Financial Year of the Mutual which the Mutual shall have declared to be closed in accordance with Rule 25.

Documents Deeds, wills, agreements, maps, photographs, plans, models, records, written or printed books, letters, certificates or written or printed documents (including those visible on a computer screen) or forms of any nature whatsoever (excluding any forms of currency or negotiable paper) and recorded information for use with a computer system.

Entry The admission of a Member for Cover or a Service.

Family Member The spouse, civil partner, widow or widower, children (including step and adopted children) and grandchildren of a Member or any other relative of a Member as the Board may agree.

Federation The National Federation of Retail Newsagents whose registered office is at Yeoman House, Sekforde Street, London EC1R 0HP.

Financial Year A year commencing at 00.01 hours on 1st January in one year up to and including 24.00 hours on the next following 31st December, or as determined by the Board from time to time.

Managers The managers for the time being appointed by the Mutual.

Member

- (a) A Retailer or retired Retailer;
- (b) any other natural person linked with the retail sector and a Family Member of such person who in the opinion of the Board is eligible for membership;
- (c) the Federation; and
- (d) a Trade Body

entered on the Mutual's Register of Members and receiving Cover or a Service.

Member Documents

In respect of Cover, the documents by whatever name called issued by the Mutual under Rule 6(2) which evidence the scope and extent of discretionary indemnity in respect of a Covered Member and the Cover Wording any endorsement to such documents.

In respect of Services, the documents by whatever name called which may be issued by the Mutual to a Member in respect of a Service.

Member's Representative

In respect of a Member who is not a natural person, an individual nominated by such Member who is notified to the Mutual and is duly authorised by the Member to receive statutory and other notices and documents from the Mutual, to vote at any General Meeting on behalf of the Member, to communicate with and give instructions to the Mutual, and to provide a valid receipt for any payments which may be made by the Mutual to the Member.

Mutual

The company registered in England and Wales with company number 3810528.

Retailer

- (a) Any person who is a member of the Federation in accordance with the rules of the Federation (and shall be deemed to also include honorary members and associate members of the Federation), a Family Member or employee and a Family Member of an employee of such person; and
- (b) such other retailers or businesses deemed (at the discretion of the Board) to be eligible to join the Mutual, a Family Member or employee and a Family Member of an employee, of such persons.

Period of Indemnity

In respect of each individual Covered Member, the period defined in Rule 7 and as stated in the Member Documents of that Covered Member.

Services

Services and products which are not Cover and which are arranged by the Mutual, or arranged or provided by third parties introduced to a Member by the Mutual, and in respect of which a Contribution is paid by or on behalf of a Member.

Trade Body

A member-owned association deemed (at the discretion of the Board) to be eligible to join the Mutual.

Working Day

Any day which is not a Saturday or Sunday or public holiday in the United Kingdom.

Interpretation 2(2) Writing means written or produced by any substitute for writing, or partly written and partly so produced and includes references to any method for representing or reproducing words in a legible and non-transitory form whether sent or supplied in electronic form or otherwise.

Words importing persons shall include individuals, partnerships, corporations and mutuals.

Any reference to the discretion of the Board and to any action to be taken as the Board thinks fit shall be construed as a discretion to be exercised and action to be taken in the sole and absolute discretion of the Board without any fetter or other qualification whatsoever.

RULE 3 COVER AND SERVICES

Cover 3(1) The Cover which may be provided by the Mutual is as set out in these Rules and a Covered Member's Member Documents and provides an indemnity for a Covered Member against loss, damage, liability or expense incurred by that Covered Member. Notwithstanding anything to the contrary, any indemnity provided by the Mutual is at the sole and absolute discretion of the Board in accordance with Rule 19(2)A. Any reference in these Rules or in any Covered Member's Member Documents issued hereunder, to "risks covered" or to "indemnity", or any such similar expression must be read accordingly.

Services 3(2) The Mutual may, in the Board's discretion provide Services.

Payment 3(3) The entry of a Member in the Mutual is only valid provided Contributions have been paid as specified in Rules 6 and 9 or that Member's Member Documents or in any notice sent to the Member by the Mutual.

RULE 4 MEMBERSHIP

Date of membership 4(1) The commencement date of membership of a Member shall be the date stated in the Member's Certificate of Entry.

Acceptance 4(2) Acceptance of or the refusal of membership to any person is in the Board's absolute discretion and the Board shall not be required to give reasons for refusing membership.

RULE 5 RIGHT OF RECOVERY

Right 5(1) Subject always to Rule 3, a Covered Member shall be entitled to seek recovery out of the funds of the Mutual of the amount of any liability, loss, cost or expense which may be incurred by the Covered Member or by a member or affiliate of a Trade Body to whom cover has been extended under Rule 12 in respect of the risks set out in Rule 13 to the extent and upon the terms, conditions and exceptions provided by these Rules and the Covered Member's Member Documents.

Set-off 5(2) Without prejudice to any other provisions of these Rules the Mutual shall be entitled to set off any amount due from a Covered Member against any amount agreed to be due to such Covered Member from the Mutual.

PART II ENTRY AND CONTRIBUTION

RULE 6

ENTRY

Warranty 6(1)

In so far as is permissible by the laws applicable to the Member as prescribed in Rule 34, all particulars and information given in the course of applying for membership, negotiating Cover and the terms thereof shall, be deemed to form part of the terms of entry between a Member and the Mutual and it shall be a condition precedent of such entry that all such particulars and information are true and complete so far as the same are within a Member's knowledge or would with reasonable diligence have been ascertained by that Member.

Documents

6(2)

Before or as soon as practicable after membership begins, the Mutual shall issue:

- (a) a Certificate of Entry to confirm that the Member is a Member;
- (b) in respect of Cover, Member Documents in such form as the Board may determine from time to time, which (subject to any special terms upon which such Member may be covered) shall include:-
 - i. the name of the Covered Member or Member's Representative;
 - ii. the risks against which the Covered Member may seek indemnity from the Mutual and any exclusions thereto;
 - iii. the Period of Indemnity of such Covered Member;
 - iv. the limits of the Cover which may be provided;
 - v. the excesses or deductibles applicable to the Covered Member and any automatic reinstatements; and
 - vi. the Contributions due from the Covered Member and/or any special terms as to the Contribution;
- (c) in respect of Services, any Member Documents the Board may consider are appropriate to the Services.

Subject to Rules 6(3)

The terms and conditions upon which the entry of a Member is accepted into the Mutual, including those relating to the nature and extent of the Cover given to a Covered Member and the Contributions payable by the Member, shall be those set out in the Rules hereinafter mentioned, but subject to such variations, within the scope of these Rules, as may have been agreed between the Member and the Mutual and set out in Member documents issued to such Member by the Mutual.

*Variation of
Cover 6(4)*

If at any time the Mutual and the Covered Member agree to vary the terms and conditions of a Covered Member's Cover, the Mutual, shall as soon as reasonably practicable thereafter, issue an endorsement to that Covered Member's Member Documents stating the nature of such variation and the date from which such variation is to be effective.

*Conditions of
Entry 6(5)*

The documents issued under this Rule 6 shall be conclusive evidence of the conditions of membership between the Member and the Mutual.

RULE 7

PERIOD OF INDEMNITY

*Period of
Indemnity 7(1)*

Subject as otherwise provided in these Rules, the Period of Indemnity shall begin on the date and at the time stated the Covered Member's Member Documents or, in the case of a change in the terms of Entry, at 00.01 hours on the effective date of change and shall continue until 24.00 hours on the day prior to the first anniversary of such date. All Contributions paid or payable by a Covered Member during this Period of Indemnity shall be accounted for in the books of account of the Mutual as belonging to the Financial Year during which the Period of Indemnity is deemed to commence in accordance with the provisions of this Clause.

*Withdrawal of
Entry – Covered
Members 7(2)*

A Covered Member may not withdraw from the Mutual at any time in any manner except:-

- (a) in accordance with the provisions of Rule 7(3);
- (b) by giving notice to the Mutual in accordance with the terms of the applicable Cover Wording; or
- (c) with the consent of the Mutual.

*New Period of
Indemnity 7(3)*

On or before the end of each respective Period of Indemnity a Covered Member shall make an application to renew its Cover for the next Period of Indemnity in accordance with the provisions of Rule 6 (provided always that the Mutual may in its absolute discretion accept a late application for re-entry). The Cover shall recommence for the next Period of Indemnity in accordance with the information and requests contained in such application and upon the same terms and conditions as those in force for the current Period of Indemnity, unless at the request of the Covered Member or the Member's Representative, other terms shall be agreed, or unless either:-

- (a) notice shall have been given in writing by the Mutual to the Covered Member or the Member's Representative prior to the end of a current Period of Indemnity, that the Cover specified in the notice is to cease; or
- (b) notice shall have been given in writing by the Mutual to the Covered Member or the Member's Representative prior to the end of a current Period of Indemnity, that the terms of entry, including an estimate of the Contributions for the next following Period of Indemnity, are to be changed. In the event of such notice being given, the terms of Cover for the next following Period of Indemnity shall

continue upon such terms as may be agreed between the Covered Member or the Member's Representative and the Mutual by 24.00 hours on the last day of the current Period of Indemnity and, if no terms shall by then have been agreed, that Cover shall cease.

RULE 8 APPLICATION OF CONTRIBUTIONS

The Members shall contribute by way of Contributions to the funds required to meet:-

- (a) the claims, and other expenses or outgoings (whether incurred, accrued or anticipated) which at the discretion of the Board properly fall upon the Mutual in respect of such Financial Year;
- (b) any costs or expenses incurred by the Mutual in entering into or arranging insurance contracts or reinsurance contracts in respect of the Cover provided to Covered Members under these Rules and/or insurance of the Mutual occurring in respect of any Closed Financial Year as the Board thinks fit; and
- (c) such transfer to reserves or provisions as the Board may deem it expedient to make, including transfers to reserves and provisions in respect of any deficiency which has occurred or which may be thought likely to occur in respect of any Closed Financial Year as the Board thinks fit.

RULE 9 SUMS DUE TO THE MUTUAL

Time of payment 9(1)

Every Contribution shall be payable in such instalments, if applicable, and on such date or dates as the Board may specify.

Notification 9(2)

As soon as reasonably practicable after the rate of any Contribution shall have been fixed, the Mutual shall notify each Member or, as appropriate, each Member's Representative of:-

- (a) such rate;
- (b) the date on which the Contribution concerned is payable or, if such Contribution is payable by instalments, of the amounts of such instalments and the respective dates on which they are payable; and
- (c) the total amount payable.

Effect of a Member's non-payment 9(3)

If any Contribution or other payment due from a Member to the Mutual is not paid and if the Board decides that payment cannot be obtained, the sums required to make good any resulting shortfall or deficiency in the funds of the Mutual shall be deemed to be expenses of the Mutual for the purposes of applying Contributions under Rule 8.

RULE 10

RELEASE

*Liability for
Contribution 10(1)*

Upon the cessation of Cover under Rule 7(2), or cessation of membership under Rule 24, the Mutual may, at the request of the Member, and shall in respect of a Member who only receives Services, release the Member from liability for further Contributions in respect of such Member's Cover or membership as the case may be upon such terms, and including the payment of such amount, as the Board in its sole discretion may deem to be appropriate in the circumstances.

*No right to
surplus 10(2)*

As from the date of the release of a Member under Rule 10(1), the Member shall be under no further liability to contribute in respect of its Entry or any part thereof under Rule 9, nor shall it have any right to share in any return of Contributions or other receipts under Rule 25(2) in respect of its Entry or part thereof except in accordance with Rule 25(2) or Article 68 [Winding Up].

RULE 11

RECOVERY OF CONTRIBUTIONS

All monies from time to time due and payable by a Member to the Mutual may be recovered by action commenced in the name of the Mutual.

RULE 12

TRADE BODIES' MEMBERS AND AFFILIATES

Cover provided to a Trade Body may be extended to the members and affiliates of that Trade Body on such terms prescribed by the Board. All such members and affiliates to whom Cover is extended shall not be Members of the Mutual and shall have no voting rights and no right to share in any distribution of the funds of the Mutual by way of return of Contributions or otherwise.

PART III SCOPE OF ENTRY

RULE 13

RISKS COVERED

In accordance with these Rules and a Covered Member's Member Documents a Covered Member may seek indemnity from the Mutual in respect of any or all of the following risks:-

- A. LIABILITY
 - (i) General Third Party Liability
 - (ii) Products Liability
 - (iii) Professional Indemnity
 - (iv) Breach of Copyright
 - (v) Libel and Slander

- (vi) Loss of Documents
- (vii) Fraud of Employees
- (viii) Directors' and Officers' Indemnity
- (ix) Employers' Liability
- (x) Such other liabilities costs and expenses as the Board may determine from time to time

B. PROPERTY

- (i) All Real and Personal Property Risks
- (ii) Machinery Breakdown and Boiler Explosion
- (iii) Economic Loss and Business Interruption
- (iv) Computer and Associated Plant and Equipment
- (v) Motor Vehicles and Equipment
- (vi) Fidelity Guarantee
- (vii) Such other real and personal property risks, costs and expenses as the Board may determine from time to time

C. OTHER

- (i) Personal Accident
- (ii) Travel

E. GENERAL

- (i) Legal Costs

Legal costs or other expenses which a Covered Member may incur in respect of any liability or expenditure against which the Covered Member may be indemnified under these Rules.

- (ii) Mitigation of Loss

Losses, costs and expenses necessarily incurred by a Covered Member in order to avoid or reduce a liability or expenditure against which the Member may be indemnified by the Mutual; even if such losses, costs and expenses would otherwise be excluded by these Rules.

- (iii) Special Direction

Losses, costs and expenses which a Covered Member may be required to incur by special direction of the Mutual.

PROVIDED ALWAYS THAT in relation to the risks set out in E(i) and E(ii) above that no such losses, legal or other costs or expenses shall be recoverable unless either they have been incurred with the prior agreement of the Board or the Board shall subsequently determine that such losses, costs and expenses were reasonably incurred.

(iv) Risks incidental to the operation of a Covered Member

Such other losses, costs or expenses incidental to the operation of a Covered Member that the Board, in its absolute discretion, may determine notwithstanding that such risks may be excluded by these Rules or in any Covered Member's Member Documents issued hereunder.

PART IV EXCLUSIONS, LIMITATIONS AND WARRANTIES

RULE 14

RISKS SPECIFICALLY EXCLUDED

There shall be no recovery from the Mutual, except as otherwise provided in these Rules or the Covered Member's Member Documents, in respect of liabilities, costs and expenses resulting or arising from:-

A. OTHER VENTURES

Activities carried out by a Covered Member other than in the name of the Covered Member.

B. PRE-EXISTING CIRCUMSTANCES

Any circumstances not notified to the Mutual before the start of a Period of Indemnity and of which the Covered Member knew or ought reasonably to have known might give rise to a claim falling within the cover provided under these Rules.

C. WAR RISKS

War, civil war, revolution, rebellion, insurrection or civil strife, or any hostile act by or against a belligerent power.

D. FRAUD

Any dishonest, fraudulent, criminal or malicious act or omission or wilful misconduct of a Covered Member.

E. NUCLEAR

Unless agreed in writing and endorsed on the Covered Member's Member Documents:-

- (a) physical loss, destruction of or damage to property or any legal liability of whatsoever nature; and

- (b) directly or indirectly caused by or contributed to or arising from:-
 - (i) the combustion of nuclear fuel including any self-sustaining process of nuclear fission; or
 - (ii) nuclear weapons materials.

F. OTHER EXCLUSIONS

All other exclusions listed in the Covered Member's Member Documents.

RULE 15 OTHER INSURANCES

Where a Covered Member is insured or has any other form of indemnity in any matter whatsoever against any of the losses, liabilities, costs or expenses which might otherwise have been recoverable under these Rules, the Mutual shall contribute no more than its rateable proportion to such liabilities, costs or expenses on the basis of any terms of such insurance excluding or limiting liability on the grounds of double insurance or otherwise.

RULE 16 LIMITS OF DISCRETIONARY COVER

The Cover afforded to a Covered Member shall be limited to the amount and be subject to the excess or deductible notified to such Member or as stated in that Covered Member's Member Documents.

PART V CLAIMS

RULE 17 OBLIGATIONS OF THE MEMBER IN RESPECT OF CLAIMS

Claim 17(1) The Mutual will only consider claims under these Rules if the Covered Member gives the Mutual prompt notice of any claim made against the Covered Member (including the receipt of notice of intention to make a claim) or of any losses or potential losses incurred or suffered by the Covered Member which may fall within the ambit of these Rules.

Circumstances 17(2) Every Covered Member shall be bound to give prompt notice to the Mutual of any circumstances which may reasonably be expected to give rise to a claim under these Rules and shall furnish the Mutual as soon as reasonably practicable with all documents or information relevant thereto. The Mutual may reject any such notice if it appears that the circumstances notified by the Covered Member may not reasonably be expected to give rise to a claim hereunder.

Mitigation of loss 17(3) When circumstances arise which may give rise to a claim under these Rules, the Covered Member shall take such steps as at the time shall appear proper for the purpose of averting or minimising any loss, damage, expense or liability in respect of which the Covered Member may make a claim on the Mutual under these Rules or to take such action to mitigate its loss as may be requested by the Mutual.

Information
17(4)

Every Covered Member must at all times promptly notify the Mutual of any information, documents or reports in the Covered Member's or the Member's Representative or the Covered Member's agents' possession or knowledge relevant to any claim or circumstances referred to under Rule 17(1) and Rule 17(2) above. Further, the Covered Member shall, whenever so requested, give the Mutual or its representatives free access to such information, documents or reports with liberty to inspect and copy the same.

RULE 18

POWERS OF THE MUTUAL RELATING TO THE HANDLING AND SETTLEMENT OF CLAIMS

The Mutual shall have the right, if it so decides, to control or direct the conduct of any claim or legal or other proceedings relating to any matter which may result in loss, damage, expense or liability in respect of which the Covered Member may be indemnified under these Rules and the Covered Member's Member Documents and to require the Member to settle, compromise or otherwise dispose of such claim or proceedings in such manner and upon such terms as the Mutual sees fit.

RULE 19

POWERS OF THE BOARD RELATING TO RECOVERIES FROM THE MUTUAL

Meetings
19(1)

The Board shall consider claims as and when it thinks fit which may be paid by the Mutual in accordance with these Rules, but the Board shall have power from time to time to authorise the Managers to effect payment of claims in the Managers' discretion without prior reference to the Board. No director of the Mutual shall sit on the Board while it is considering any claim in which that director is interested.

Claims 19(2)(A)

The Board may grant from the funds of the Mutual to any Covered Member or former Covered Member an indemnity wholly or in part with regard to any of the matters set out in these Rules and that Covered Member's or former Covered Member's Member Documents. The Board may determine the extent or limit of any such indemnity at any time and advise the Covered Member or former Covered Member in writing in respect thereto without having to provide any reason in respect of such determination. In every case any such indemnity may be granted or withheld by the Board in its discretion.

Rejection of
claims 19(2)(B)

Without prejudice to any other provisions of these Rules, the Board may reject a claim or reduce the sum payable by the Mutual in respect thereof if:

- (i) in the opinion of the Board the Covered Member making the claim has not taken such steps before, at the time of, or after the Member had knowledge of the circumstances giving rise to the claim, or to protect the Covered Member's interests as the Covered Member should have done or as the Covered Member would have taken if it had not been a Member of the Mutual;
- (ii) the claim shall have been settled, or any liability shall have been admitted, by or on behalf of the Covered Member without the prior consent in writing of the Mutual;
- (iii) the Covered Member failed to comply with a recommendation or directive made at any time by the Mutual or the Managers to the Member, in connection with the handling or settlement of the claim or potential claim; or

- (iv) the Covered Member shall have failed to comply with any of the Covered Member's obligations under Rule 17.

Interest 19(3)

In no case shall a Covered Member be entitled to claim interest on any claim against the Mutual.

PART VI CESSATION OF INDEMNITY AND MEMBERSHIP

RULE 20

CESSATION OF INDEMNITY

A Covered Member shall cease to be considered for indemnification by the Mutual upon the happening of any of the following events:-

- (a) the Cover is terminated in accordance with the terms of the Covered Member's Cover Wording; or
- (b) the Period of Indemnity of the Covered Member shall have ceased in accordance with Rule 7; or
- (c) any of the following events occur:-
 - (i) a resolution being passed or an order made for the winding up of the Covered Member other than for the purposes of reorganisation;
 - (ii) the Covered Member making any composition or arrangement with its creditors;
 - (iii) the appointment of a receiver, manager or administrator over the assets or undertaking of the Covered Member;
 - (iv) the dissolution of the Covered Member;
 - (v) the Covered Member being made bankrupt; or
 - (vi) the death of the Covered Member.

RULE 21

EFFECT OF CESSATION OF INDEMNITY

For failure to pay 21(1)

If the cessation of indemnity of a Covered Member shall have occurred by virtue of non-payment of Contributions) the Mutual shall not be liable to consider any claim under these Rules in respect of a Covered Member or member or affiliate of the Covered Member whether the notification under Rule 17 of the claim or circumstances giving rise to such claim was given before or after the cessation of indemnity, unless the said notification occurred during a Financial Year which had been closed at the time of the cessation of indemnity.

For any other reason 21(2)

If the cessation of indemnity shall have occurred by virtue of any other reason, the Board shall continue to give consideration to all claims under these Rules which arise prior to the date on which the indemnity ceases.

RULE 22

CONTRIBUTIONS DUE ON CESSATION OF INDEMNITY

Contribution on cessation 22(1)

Except in the case of a Covered Member released under Rule 10 (Release), a Covered Member who ceases to participate in the Mutual for any reason, shall be and remain liable to pay to the Mutual all Contributions for the Financial Year in which the indemnity ceases and for any previous Financial Years which have not, at the date the indemnity ceases, been closed in accordance with Rule 25 (Closing of Financial Years) and which such Covered Member would have been liable to pay had the Entry not ceased.

PROVIDED ALWAYS THAT the Covered Member shall be liable for Contributions for such Financial Year pro rata only to the period beginning with the date of Entry and ending with the happening of the event that occasioned the cesser of indemnity if:-

- (i) such cessation arises by virtue of non-payment of Contributions and in such case the Covered Member's liability to pay Contributions shall include the sum specified in any notice given by the Mutual; or
- (ii) such cessation arises upon the happening of any of the events specified under Rule 20(b) or (c).

Set-off 22(2)

The set-off of any specific sum due under these Rules must be specifically agreed in writing by the Mutual. Otherwise, no set-off of any kind shall be allowed against any sum due under these Rules, including any set-off which might have arisen by reason of bankruptcy or winding up of a Member.

RULE 23

REINSTATEMENT OF INDEMNITY

If cessation of indemnity shall have occurred by virtue of non-payment of Contributions, then, in the event that the Covered Member offers unconditionally to pay to the Mutual all outstanding amounts, the Board may in its absolute discretion reinstate indemnity for such period or periods as the Board may determine.

RULE 24

CESSATION OF MEMBERSHIP

A Member's membership of the Mutual shall cease:

- (a) in the case of a Covered Member, if all Periods of Indemnity shall have ceased and Cover is not renewed;
- (b) in the case of a Member who is not a Covered Member but who is receiving a Service other than a mortgage or legal introduced by the Mutual, if the Member ceases to receive that Service;
- (c) in the case of a Member who is not a Covered Member and whose only Service is a mortgage or legal service introduced by the Mutual, at 00.00hours on the first anniversary of the commencement of membership.

PART VII THE FUNDS OF THE MUTUAL

RULE 25 CLOSING OF FINANCIAL YEARS

Closing 25(1) The Board shall, at such time as it may deem expedient after the end of a Financial Year, declare that such Financial Year shall be closed.

*Disposal of
excess funds
25(2)*

If prior to closing any Financial Year it appears to the Board at any time that the Contributions and other receipts (including transfers from reserves and provisions) in respect of such Financial Year shall exceed the claims, expenses, losses and other outgoings (whether incurred, accrued or anticipated) falling upon the Mutual for that year together with all transfers to reserves and provisions made out of the Contributions paid in respect of such Financial Year, then the excess may at the discretion of the Board be disposed of in whole or in part either:-

- (a) to Reserves in accordance with the provisions of Rule 27; and/or
- (b) by making a discretionary payment to the Federation, if it is a Member, the quantum of such payment being determined by the Board in its absolutely discretion; and/or
- (c) by being returned in whole or in part to the Members (in the event that a payment is made under this Rule 25(2)(c) in conjunction with a payment under Rule 25(2)(b) then the definition of Members shall exclude the Federation) who paid such Contributions in proportion to their respective Contributions

save that no return shall be made in respect of a Member subject to release under Rule 10 or where the indemnity ceased by reason of non-payment of Contributions or the membership ceased under Rule 24.

*Closed
Financial Year
25(3)*

If in respect of any Closed Financial Year it shall appear to the Board at any time that the claims, expenses, losses and other outgoings (whether incurred, accrued or anticipated) falling upon the Mutual for that Financial Year, together with all transfers to reserves and provisions, are not equal to the Contributions and other receipts (including transfers from reserves and provisions) in respect of that Financial Year, then any credit shall be transferred to the general reserve of the Mutual and any deficit shall be treated as an expense of the Mutual and may be made up either by a transfer from the general reserve of the Mutual or by Contributions under Rule 8 (Application of Contributions).

RULE 26 INSURANCE AND/OR REINSURANCE ARRANGED ON MEMBERS' BEHALF

*Individual Members
26(1)*

The Mutual may insure or reinsure the whole or any part of the risks arising in respect of individual Covered Members upon such terms and with such insurers or reinsurers as the Board thinks fit.

*Risks of the
Members*
26(2)

The Mutual may insure, reinsure or cede the whole or any part of any risk of the Covered Members collectively with such insurers/reinsurers and on such terms as the Board thinks fit.

*Application of
Rules 26(3)*

Unless otherwise agreed in writing, the provisions of Rules shall also apply to any such insurance or reinsurance arranged on behalf of a Covered Member by the Mutual.

RULE 27

RESERVES

The Mutual may establish and maintain such reserve funds as it thinks fit, and an example of which is a general reserve or other accounts for such contingencies or purposes as the Board in its discretion thinks fit.

RULE 28

INVESTMENT

*Investment
management*
28(1)

The funds of the Mutual may be invested by the Board or Managers or by an investment manager appointed by the Board. The Board may from time to time and at any time lay down such guidelines for the investment of the funds of the Mutual as it shall think fit.

*Investment
media 28(2)*

Such investments may be made by means of the purchase of such stocks, shares, bonds, debentures or other securities or the purchase of such currencies, commodities or other real or personal property, or by means of being deposited in such accounts as the Board thinks fit, or by such other method, whether producing income or not, as the Board thinks fit.

*Pooling of
funds 28(3)*

Unless the Board otherwise decides the funds standing to the credit of all Financial Years, and of any reserves or accounts, shall be pooled and invested as one fund.

*Gains and
losses 28(4)*

When funds are so pooled any dividends, interest or accruals of interest and any realised investment gains (including dividends or accruals of interest) or losses, arising on the pooled funds shall be credited or debited, as the case may be, to the Financial Year in which such gains or losses arise.

- (a) Any such gains may be used to meet:
- (i) the claims, expenses, losses and other outgoings (whether incurred, accrued or anticipated) which in the opinion of the Board necessarily and properly fall on the Mutual in respect of the Financial Year;
 - (ii) such transfers to reserves or provisions as the Board may deem it expedient to make, including transfers to reserves and provisions in respect of any deficiency which has occurred or which may be likely to occur in respect of any Closed Financial Year, as the Board thinks fit.

- (b) Any such losses shall be treated as an expense of the Mutual and may be made up either by a transfer from the reserves of the Mutual or by Contribution under Rule 8 (Application of Contributions)

PART VIII GENERAL TERMS AND CONDITIONS

RULE 29 FORBEARANCE AND WAIVER

No admission
29(1)

No act, omission, forbearance or conduct of the Mutual whatsoever and whensoever occurring, whether by or through its officers, servants, managers, agents or otherwise, shall constitute any admission or promise that the Mutual will forego any of its rights under these Rules or a Member's Member Documents.

Waiver by
Mutual
29(2)

Notwithstanding any neglect or non-compliance with, or breach of, any of these Rules or the terms of a Covered Member's Member Documents by a Covered Member, the Board may in its sole discretion waive any of the Board's rights arising therefrom and may pass and pay in full or in part any claim which it thinks fit. The Board shall nevertheless at all times and without notice be entitled to insist on the strict application of these Rules and the terms of a Covered Member's Member Documents.

RULE 30 ASSIGNMENT AND SUBROGATION

Assignment
30(1)

No obligation of the Mutual, and no interest under these Rules or under any contract between the Mutual and any Covered Member, may be assigned without the prior written consent of the Mutual, which has the right in its discretion to give or refuse such consent without stating any reason therefore or to give consent upon any such terms or conditions as it may think fit.

Subrogation
30(2)

Whenever a payment from the funds of the Mutual has been authorised by the Board under these Rules, the Covered Member agrees to subrogate, assign or otherwise transfer any and all of its rights of recourse against third parties to the Mutual and hereby authorises the Mutual to use the Covered Member's name in any proceedings relating thereto.

PROVIDED ALWAYS THAT:

The Mutual shall not exercise any rights of subrogation against any employees of a Covered Member, or require the assignment or transfer of any rights which the Covered Member may have against employees of the Covered Member save in cases where there is an allegation of a dishonest, fraudulent, criminal or malicious act or omission by the employee. The term "employee" shall include ex-employees and any person acting or who has acted as an employee of or consultant to the Covered Member without a contract of service or employment.

RULE 31 DELEGATION OF POWERS

*By the Mutual
31(1)*

Whenever any power, duty or discretion is stated in these Rules to be vested in the Mutual, such power, duty or discretion shall be exercisable by the Board unless the same shall have been delegated to any committee or sub-committee of the Board of Directors or to the Managers, in which event such power, duty or discretion may be exercised by any person to whom the same shall have been so delegated.

*By the
Managers 31(2)*

Whenever any power, duty or discretion is conferred or imposed upon the Managers by virtue of these Rules, such power, duty or discretion may, subject to any terms, conditions or restrictions contained in these Rules, be exercised by any one or more of the Managers or by any employee of the Managers to whom the same shall have been delegated.

*On behalf of
the Mutual
31(3)*

Whenever any power, duty or discretion is exercised by the Board, the Managers or by any other person to whom it shall have been delegated, they shall exercise such power, duty or discretion on behalf of the Mutual.

RULE 32 DISPUTES AND DIFFERENCES

*Adjudication
32(1)*

If any difference or dispute between any Member and the Mutual shall arise out of or in connection with these Rules or a Covered Member's Cover, such difference or dispute shall in the first instance be referred to and adjudicated by the Board, notwithstanding that the Board may have already considered the matter before any such difference or dispute arose. Such reference and adjudication shall be on written submissions only.

*Dispute Resolution
32(2)*

Subject to Rule 32(1), any dispute or difference between a Member and the Mutual may be referred:

- (a) to court;
- (b) to arbitration, in accordance with the Arbitration Act 1996, if the Member and the Mutual agree; or
- (c) to mediation.

*Arbitration
32(3)*

If the Member and the Mutual agree to refer a dispute or difference to arbitration, they will appoint a sole arbitrator. If the Member and the Mutual cannot agree on the identity of a sole arbitrator within 30 days of the agreement to arbitrate, the reference shall be to a sole arbitrator appointed by the Chartered Institute of Arbitrators (the "Institute") and the arbitration will take place under the rules of the Institute.

RULE 33

NOTICES

To the Mutual
33(1)

A notice required under these Rules to be served on the Mutual may be served by sending it through the post in a pre-paid letter addressed to the Mutual at the Mutual's registered office for the time being or by sending it by email to the Mutual at the email address provided for such communications from time to time.

To a Member
33(2)

A notice required or permitted under these Rules to be served on a Member may be served by sending it through the post in a pre-paid letter addressed to the Member or the Member's Representative at the address appearing in the Member Documents, or by sending it by email to the Member or Member's Representative's last known email address.

Date of service
33(3)

Any notice or other document if served by post shall be deemed to have been served on the second day following the day on which the letter containing the same was put in the post, and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post in a pre-paid envelope. Any notice served by email shall be deemed to have been served on the day it was sent if such day is a Working Day, and otherwise at 9.00am on the next Working Day, and in proving such service it shall be sufficient to prove that such email was duly sent to the Member's or Member's Representative's last known email address.

RULE 34

GOVERNING LAW AND JURISDICTION

Unless the Mutual and a Member agree otherwise in writing:

- (a) these Rules and any other relationship between the Mutual and the Member shall be governed by and construed in accordance with the laws of the part of the United Kingdom, Channel Islands or the Isle of Man in which the business which is the subject of Cover is in, or in which the Member who is a natural person lives; and
- (b) any court proceedings between the Member and the Mutual shall take place in the Courts of the part of the United Kingdom, Channel Islands or the Isle of Man in which the business which is the subject of Cover is in, or in which the Member who is a natural person lives.