

## **4. Operating Rules of the New York Insurance Exchange, Inc.**

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**GUIDENOTE:** The Operating Rules of the New York Insurance Exchange are adopted by its Board of Governors to expand on topics outlined in the Constitution and By-Laws, or necessary for the management of the facility. In addition to the Operating Rules, the Exchange issues numerous procedure bulletins on specific subjects which are not reproduced in this volume.

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### **OPERATING RULES OF THE NEW YORK INSURANCE EXCHANGE INC.**

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**Art. 1.00. Preamble**

These rules have been drafted to allow maximum freedom in the submission, placement and underwriting of business on the EXCHANGE by EXCHANGE Professionals. They seek to avoid any undue restraints and restrictions on the flow of business and are designed to give Brokers full access to Underwriting Members, and thus encourage free commercial competition.

**Art. 2.00. Definitions**

**2.01. "Indebtedness"** shall, for purposes of these rules, mean and include all obligations of such Person which would in accordance with applicable accounting principles be classified upon a balance sheet of such Person as liabilities of such Person and in any event shall include:

(A) All indebtedness guaranteed, directly or indirectly, in any manner by such Person or endorsed (otherwise than for collection or deposit in the ordinary course of business) or discounted with recourse;

(B) All indebtedness in effect guaranteed, directly or indirectly, by such Person through an agreement, contingent or otherwise, (i) to purchase such indebtedness or to advance or supply funds for the payment or purchase of such indebtedness, or (ii) to purchase, sell or lease (as lessee or lessor) property, products, materials or supplies, or to purchase or sell transportation or services, primarily for the purpose of enabling the debtor to make payment of such indebtedness or to assure the owner of

such indebtedness against loss, regardless of the delivery or non-delivery for any reason of the property, products, materials or supplies or the furnishing or non-furnishing for any reason of the transportation of services, or (iii) to make any loan, advance, capital contribution or other investment in the debtor for the purpose of assuring a minimum equity, asset base, working capital or other balance sheet condition for any date or to provide for the payment of any liability, dividend or stock liquidation payment, or otherwise to supply funds to or in any manner invest in the debtor;

(C) Indebtedness of any joint venture, partnership or other Person for which such Person is liable;

(D) All indebtedness of such Person created or arising under any conditional sale agreement or other title retention agreement, even though the rights and remedies of the seller or lender or lessor under such agreement or lease in the event of default are limited to repossession or sale of property; and

(E) All indebtedness secured by any mortgage, lien, pledge, charge, security interest or other encumbrance upon or in property owned by such Person, even though such Person has not assumed or become liable for the payment of such indebtedness.

For the purpose of computing the "Indebtedness" of any Person, there shall be excluded any particular indebtedness if, upon or prior to the maturity thereof, there shall have been irrevocably deposited with the proper depository in trust the necessary funds (or evidences of such indebtedness, or other securities, if permitted by the instrument creating such indebtedness) for the payment, redemption or satisfaction of such indebtedness; and thereafter such funds, evidences of indebtedness and securities so deposited shall not be included in any computation of the assets of such Person.

**2.02.** The term "Indebtedness for Money Borrowed" of any Person shall, for purposes of the foregoing, mean and include:

(A) All indebtedness of such Person, current or funded, secured or unsecured, incurred in connection with borrowings (including the sale of debt securities);

(B) All indebtedness of such Person issued, incurred or assumed in respect of the purchase price of property except for trade accounts payable incurred in the ordinary course of business; and,

(C) Any guarantee or other obligation specified in paragraph (A) or (B) of the definition of "Indebtedness" in respect of indebtedness of any other Person of any of the types specified in the preceding paragraphs (A) and (B).

**2.03. "Control", "Controlling", "Controlled by", and "Under Common Control with" another person means:**

(A) Directly or indirectly owning, controlling or holding with power to vote, five percent (5%) or more of the outstanding voting securities of such other Person;

(B) Directly or indirectly owning, controlling or holding outstanding securities of such other Person having a value (valued at the higher of book value or the face amount thereof) of five percent (5%) or more of the aggregate amount of capital and surplus and indebtedness for money borrowed of such other Person, as of the date of such other Person's most recently prepared fiscal Year-end balance sheet; or

(C) The possession directly or indirectly, of the power to cause the direction of management and policies of such other Person, whether through the Ownership of voting securities, by contract, or otherwise.

**2.04. "EXCHANGE" means the New York Insurance Exchange, Inc.**

**2.05. "Constitution" means the Constitution and By-Laws of the EXCHANGE.**

**2.06. "Floor" means the trading floors of the EXCHANGE.**

**2.07. "President" shall have the meaning as set forth in Section 1. Article V of the Constitution.**

**2.08. "Treasurer" shall have the meaning as set forth in Section 2. Article V of the Constitution.**

**2.09. "Board" means the Board of Governors of the EXCHANGE then in office.**

**2.10. "Superintendent" means the Superintendent of Insurance of the State of New York.**

**2.11. "Insurance Law" means the Insurance Law of the State of New York.**

**2.12.** "Regulation" or "Regulations" shall mean the Regulations adopted by the Superintendent.

**2.13.** "Underwriting Member" shall have the meaning as set forth in paragraph (a), Section 1, Article VII of the Constitution.

**2.14.** "Broken Member" shall have the meaning as set forth in paragraph (b), Section 1, Article VII of the Constitution and the license or licenses required to be held pursuant to said paragraph shall be resident licenses.

**2.15.** "Member" shall mean an Underwriting Member or Broker Member.

**2.16.** "Associate Broker" shall have the meaning as set forth in Section 2, Article VII of the Constitution and the license or licenses required to be held pursuant to said paragraph shall be resident licenses.

**2.17.** "Underwriting Manager" shall have the meaning as set forth in Section 3, Article IX of the Constitution.

**2.18.** "Deputy" or "Deputy-in-Charge" shall mean a natural person or persons to whom binding authority has been delegated by an Underwriting Manager pursuant to Section 3, Article IX of the Constitution.

**2.19.** "Nominating Committees" shall have the meaning as set forth in Sections 1 and 2 of Article VI of the Constitution.

**2.20.** "EXCHANGE Contract" shall have the meaning as set forth in Section 1, Article IX of the Constitution.

**2.21.** "Life Department" means that portion of business of a Life and Property Casualty Syndicate, as referred to in paragraph 3, subdivision (h), Section 18-1.2 of Regulation 89 that can be attributed to life insurance and life reinsurance.

**2.22.** "Property and Casualty Syndicate" shall have the meaning as set forth in Regulation 89.

**2.23.** "Life Syndicate" shall have the meaning as set forth in Regulation 89.

**2.24.** "Property and Casualty and Life Syndicate" shall have the meaning as set forth in Regulation 89.

**2.25.** "Person" shall mean a natural person or a business entity.

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**2.26.** "Arbitration Director" shall have the meaning as set forth in the Constitution.

**2.27.** "SECURITY FUND" means the NYIE Security Fund, Inc.

**Art. 3.00. Application procedure to become an Underwriting Member**

**3.10.** The EXCHANGE shall make available applications for Underwriting Member, in form approved by the Board.

**3.20.** Applications for Underwriting Member shall be submitted by the applicant to the EXCHANGE with payment of an application fee as established by the EXCHANGE.

**3.30.** The EXCHANGE shall review submitted applications for completeness and shall request that any additional required documentation be submitted or that corrections be made before the application is referred to the Underwriting Membership Committee for consideration.

**3.40.** The EXCHANGE shall refer reviewed applications for Underwriting Member to the Underwriting Membership Committee in accordance with Article VII, Section 4 of the Constitution.

**3.50.** The Underwriting Membership Committee of the Board shall review completed applications referred by the EXCHANGE, and shall have the authority to require additional information, conduct hearings, examine witnesses under oath, and shall exercise such other powers which may be deemed necessary for the Committee to make a review of an application.

**3.60.** The Underwriting Membership Committee shall make a recommendation to the Board of Governors as to whether or not to accept the applicant.

**3.70.** The Board of Governors may accept the recommendation of the Underwriting Membership Committee or reject same, or refer the application back to the Committee with a direction that further consideration be given or that such further action be taken as the Board may deem advisable.

**3.80.** The Underwriting Membership Committee shall have the power to suspend further consideration of the application for any failure of the applicant to cooperate with the Committee or the Board until such time as full cooperation is forthcoming.

**3.90.** If any Underwriting Member fails to write business on the EXCHANGE within six months of its approval for membership or for any subsequent continuous period of six months, it shall be deemed to have failed to maintain its qualifications as a Member and may be subject to involuntary withdrawal under Article VIII, Section 2 of the Constitution.

**Art. 4.00. Application procedure to become a Broker Member**

**4.10.** The EXCHANGE shall make available applications for Broker Member, in form approved by the Board.

**4.20.** Applications for Broker Member shall be submitted by the applicant to the EXCHANGE with payment of an application fee as established by the EXCHANGE.

**4.30.** The EXCHANGE shall review submitted applications for completeness and shall request that any additional required documentation be submitted or that corrections be made before the application is referred to the Broker Membership Committee for consideration.

**4.40.** The EXCHANGE shall refer reviewed application for Broker Member to the Broker Membership Committee in accordance with Article VII, Section 4 of the Constitution.

**4.50.** The Broker Membership Committee of the Board shall review completed applications referred by the EXCHANGE, and shall have the authority to require additional information, conduct hearings, examine witnesses under oath, and shall exercise such other power which may be deemed necessary for the Committee to make a review of an application.

**4.60.** The Broker Membership Committee shall make a recommendation to the Board of Governors as to whether or not to accept the applicant.

**4.70.** The Board of Governors may accept the recommendation of the Broker Membership Committee or reject same, or refer the application back to the Committee with a direction that further consideration be given or that such further action be taken as the Board may deem advisable.

**4.80.** The Broker Membership Committee shall have the power to suspend further consideration of the application for any failure of the

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applicant to cooperate with the Committee or the Board until such time as full cooperation is forthcoming.

**Art. 5.00. Application procedure to become an Underwriting Manager**

**5.10.** The EXCHANGE shall make available applications for Underwriting Manager, in form approved by the Board.

**5.20.** Each Underwriting Member shall provide the EXCHANGE with a certification stating that the Underwriting Member has reviewed the application of the Underwriting Manager and has otherwise satisfied itself that the Manager is trustworthy and competent to act as an Underwriting Manager and that the Underwriting Member has appointed the Manager to act as its agent in reference to the doing of such kinds of insurance or reinsurance business as the Underwriting Member may designate. Such written statement shall be subscribed by the authorized representative of the Underwriting Member.

**5.30.** Applications and certifications of an Underwriting Manager shall be submitted on behalf of the applicant to the EXCHANGE by the Underwriting Member seeking to be represented on the EXCHANGE by the applicant with payment of an application fee as established by the EXCHANGE. Upon execution by the Underwriting Member and the Underwriting Manager, the Underwriting Member shall file with the EXCHANGE a copy of any management contract and amendments.

**5.31.** Nothing contained in these rules shall prohibit an Underwriting Member from appointing two or more Underwriting Managers to bind business, provided no two Underwriting Managers have the authority to bind an Underwriting Member to the same kind of insurance or reinsurance.

**5.40.** The EXCHANGE shall review submitted applications for completeness and shall have the authority to require additional information, conduct hearings, examine powers which may be deemed necessary for the EXCHANGE to make a review of an application. The EXCHANGE shall also review management contracts for compliance with Rule 30.00.

**5.50.** The EXCHANGE after having completed the review shall advise the applicant and the Underwriting Member of its decision.



**5.60.** The EXCHANGE shall have the power to suspend further consideration of the application for failure of the applicant to cooperate with the EXCHANGE until such time as full cooperation is forthcoming.

**Art. 6.00. Application Procedure to Become an Associate Broker**

**6.10.** The EXCHANGE shall make available applications for Associate Broker, in form approved by the Board.

**6.20.** Applications for Associate Broker shall be submitted by the applicant to the EXCHANGE with payment of an application fee as established by the EXCHANGE.

**6.30.** The EXCHANGE shall review submitted applications for completeness and shall request that any additional required documentation be submitted or that corrections be made before the application is referred to the Broker Membership Committee for consideration.

**6.40.** The EXCHANGE shall refer reviewed applications for Associate Broker to the Broker Membership Committee in accordance with Article VII, Section 4 of the Constitution.

**6.50.** The Broker Membership Committee of the Board shall review completed applications referred by the EXCHANGE, and shall have the authority to require additional information, conduct hearings, examine witnesses under oath, and such other powers which may be deemed necessary for the Committee to make a review of an application.

**6.60.** The Broker Membership Committee shall make a recommendation to the Board of Governors as to whether or not to accept the applicant.

**6.70.** The Board of Governors may accept the recommendation of the Broker Membership Committee or reject same, or refer the application back to the Committee with a direction that further consideration be given or that such further action be taken as the Board may deem advisable.

**6.80.** The Broker Membership Committee shall have the power to suspend further consideration of the application for any failure of the applicant to cooperate with the Committee or the Board until such time as full cooperation is forthcoming.

**Art. 7.00. Registration procedure to become an underwriting deputy or deputy-in-charge**

**7.10.** Written requests on behalf of natural persons wishing to have their name included in the Register of Approved Underwriting Deputies as "Deputy (or Deputies)-in-Charge" or "Deputy (or Deputies)" shall be directed to the EXCHANGE by the Underwriting Manager employing the person or the Underwriting Member for whom the natural person will have binding authority.

**7.11.** Each natural person to be granted binding authority by an Underwriting Manager or Underwriting Member shall be of age eighteen or older at the time of inclusion in the Register of Approved Deputies.

**7.20.** Deputies-in-Charge may grant limited binding authority on the floor of the EXCHANGE to other natural persons over age eighteen by filing with the EXCHANGE a written request, subscribed and affirmed as true by the Deputy-in-Charge indicating the following:

- (A) The dollar amount of binding authority being granted;
- (B) The class (or classes) or type of business to which the binding authority applies;
- (C) The experience of the natural person which merits the delegation of authority; and
- (D) A statement indicating that the natural person being granted the authority will be under the direct supervision of the Deputy-in-Charge.

**7.30.** Every natural person to be granted binding authority by an Underwriting Manager as a "Deputy (or Deputies)-in-Charge" shall submit a statement with the request subscribed and affirmed as true by the Underwriting Manager or Underwriting Member showing that the natural person has had five years of significant underwriting experience prior to the date on which he will be experience prior to the date on which he will be included in the Register of Approved Deputies.

**7.40.** The EXCHANGE shall review submitted requests for inclusion in the Register of Approved Deputies for completeness and shall have the authority to require additional information, conduct hearings, examine witnesses under oath, and shall exercise such other powers which may be deemed necessary for the EXCHANGE to make a review of the request. The President, in his discretion, may

grant temporary authority to a Deputy or Deputy-in-Charge, pending further examination.

7.50. The EXCHANGE after having completed the review shall advise the Underwriting Manager and the Underwriting Member of its decision.

7.60. The EXCHANGE shall have the power to suspend further consideration of the request for any failure of the applicant to cooperate with the EXCHANGE or until such time as full cooperation is forthcoming.

**Art. 8.00. Transfer of interest in Members or Associate Brokers**

8.10. Any change in interest, whether such interest is direct, indirect, or beneficial in an Underwriting Member, which results in a five percent (5%) or more change in Control where the Control is concentrated in any one person, persons, or affiliated group of companies shall become effective thirty (30) days after written notice to the EXCHANGE unless the EXCHANGE disapproves such change in interest or requests additional information from the Underwriting Member.

8.11. No Underwriting Member shall purchase its own common stock or the ownership interest of any of its general or limited partners unless;

(A) The purchase is approved by the Board of Governors as reasonable and equitable;

(B) The purchase price is charged to the policyholder's surplus and such charge does not result in the reduction of capital or surplus below any applicable amount required by any statute, regulation, Operating Rule or audit guideline then in effect; and

(C) The purchase interest is either retired or, as approved by the Board of Governors, held for a limited period of time for resale to new or existing investors.

8.20. Any change in interest, whether such interest is direct, indirect, or beneficial in a Broker Member, which results in a five percent (5%) or more change in Control, where that Control is concentrated in any one person, persons or affiliated group of companies shall become effective thirty (30) days after written notice to the EXCHANGE unless the EXCHANGE disapproves such change in interest or requests additional information from the Broker Member.

**8.30.** Any change in interest, whether such interest is direct, indirect, or beneficial in an Associate Broker, which results in a five percent (5%) or more change in Control, where that Control is concentrated in any one person, persons, or affiliated group of companies shall become effective thirty (30) days after written notice to the EXCHANGE unless the EXCHANGE disapproves such change in interest or requests additional information from the Associate Broker.

**8.40.** The hereinafter mentioned provision must appear in the Articles of Incorporation or By-Laws of all Members which are corporate entities and all Associate Brokers which are corporate entities:

“The right to transfer any shares of stock of this corporation shall be limited by the Transfer of Interest Rules of the EXCHANGE.”

**8.50.** The hereinafter mentioned notice must conspicuously appear on all certificates of stock of Members and Association Brokers hereinafter issued:

“This certificate is issued subject to the share transfer restrictions in the Articles of Incorporation or By-Laws of the corporation and the Rules of the EXCHANGE. Neither this certificate nor any of the shares represented by it are assignable or transferable except in accordance with the Articles of Incorporation or By-Laws and the Rules of the EXCHANGE.”

**8.60.** Any corporation or partnership which files reports with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 shall notify the EXCHANGE within thirty (30) days of any change in Control, where that Control is concentrated in any one person, persons, or affiliated group of companies in a Member or Associate Broker and the provisions of Rules 8.10, 8.20 and 8.30 shall not apply.

**8.70.** The EXCHANGE may, on the application of a Member or Associate Broker, whose sole general partner or sole shareholder has died or become incapacitated, permit the partnership or corporation to continue as a Member or Associate Broker for such period and under such conditions as the EXCHANGE may establish.

**Art. 9.00. Submitting business to the Exchange**

**9.10.** Upon submission by a Broker Member or Association Broker,

the Underwriting Members are authorized to underwrite the following kinds of insurance:

- (A) Reinsurance of all kinds of insurance;
- (B) Direct insurance of all kinds on risks located entirely outside of the United States;
- (C) Direct insurance of all kinds on risks located in the United States other than in this state, provided that such risk qualifies for placement pursuant to the excess and surplus lines requirements of the jurisdiction in which the risk is located; and
- (D) Risks which shall have been submitted to and certified as having been rejected by a committee representative of insurers licensed by the Superintendent under Section 168-d of the Insurance Law, subject to conditions imposed by the Superintendent pursuant to regulation.

**9.20.** The Underwriting Members of the EXCHANGE shall not write contracts which:

- (A) Fail to require proof of an insurable interest; or
- (B) Cover any risks or classes of risks which the Board may, from time to time, determine.

**9.30.** Submission of underwriting information including a slip, if any, may be made to the Underwriting Members by any method deemed appropriate by the Broker Members.

**9.40.** An Associate Broker shall be permitted to transact business on the EXCHANGE by following one of the two hereinafter described procedures:

(A) Upon certification to the EXCHANGE that the placement of business is solely for the Associate Broker's own account, the Associate Broker may submit the underwriting information directly to an Underwriting Member.

(B) The Associate Broker shall submit any other business to a Broker Member who will follow the submission procedures outlined in these Rules.

**9.50.** An account is understood to be 'solely for the Associate Broker's own account' when the brokerage commission is not being split with another producer.

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**Art. 10.00. Conduct of business on the floor of the Exchange**

**10.10.** Access to the Floor of the EXCHANGE will be limited to the following individuals as authorized by the EXCHANGE:

- (A) Authorized officers, employees, or partners of Broker Members or Associate Brokers;
- (B) Natural persons whose names appear on the Register of Approved Deputies;
- (C) Officers, employees, or partners of Underwriting Managers;
- (D) Governors, officers or employees of the EXCHANGE necessary for the conduct of business; and
- (E) Individuals specifically authorized in writing by the President.

**10.20.** The Floor of the EXCHANGE will be open Monday through Friday from 9:00 AM until 5:00 PM.

**10.30.** The Floor of the EXCHANGE will be closed for the following holidays:

- (A) New Year's Day; (B) Memorial Day; (C) Independence Day;
- (D) Labor Day; (E) Thanksgiving and the Friday thereafter;
- (F) Christmas, and (G) Any other day designated as a holiday by the President of the Exchange.

**10.40.** During the time that the Floor of the EXCHANGE is open the following individuals should be present:

- (A) At least one natural person whose name appears in the Register of Approved Deputies from each Underwriting Manager; and
- (B) At least one official representative of the EXCHANGE.

**10.50.** Any person wishing to contact an individual on the Floor may do so at any time by:

- (A) Calling the Security Desk and leaving a message; or
- (B) Dialing the individual underwriting boxes on the telephones that have been provided for receiving telephone messages.
- (C) Telephones in the underwriting boxes shall not be

equipped with ringing bells or other devices which will cause noise.

**10.60.** No telephone submissions are to be made to the underwriting boxes under any circumstances.

**10.70.** Approved Deputies shall not, on the Floor, exercise binding authority for non-Members or discuss non-EXCHANGE business. Any Underwriting Manager's authority to bind on behalf of any other entity must be disclosed to each Underwriting Member it represents.

**10.80.** Any person working on the Floor of the EXCHANGE shall not engage in any conduct prohibited by the Constitution or the Rules of the EXCHANGE.

**10.81.** All persons on the Floor of the EXCHANGE will be expected to conduct themselves in a professional manner at all times. Violators will be ejected from the Floor.

**10.82.** All persons on the Floor of the EXCHANGE must wear appropriate business attire.

**10.83.** The possession of alcoholic beverages or controlled substances or the use thereof shall be prohibited on the Floor.

**Art. 11.00. Negotiating an insurance or reinsurance contract with Underwriting Members of the Exchange**

**11.10.** The natural person whose name appears on the Register of Approved Deputies is responsible for determining that the piece of business submitted to the Underwriting Member is a type of business which the Underwriting Member is authorized to accept and to determine that the person with whom he is speaking is an authorized officer, employee, or partner of a Broker Member or Associate Broker.

**11.20.** The Broker Member or Associate Broker will present the submission in a prompt and orderly fashion and leave the underwriting box promptly upon the completion of his business or when requested to do so by the Underwriting Manager.

**Art. 12.00. Limits of the underwriting authority of Members**

**12.10.** No Underwriting Member, Underwriting Manger, or Approved Deputy shall attempt to negotiate or accept any business

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which is not authorized by the Constitution or Rules of the EXCHANGE.

**12.11.** No Deputy or Deputy-in-Charge shall bind or accept any business on behalf of an Underwriting Member that would exceed the risk limitations contained in the Rules of the EXCHANGE, including Rule 12.20. or in the case of a Deputy, would exceed the dollar amount of the binding authority of the Deputy.

**12.20.** The net liability per risk of an Underwriting Member shall not exceed ten percent (10%) of its total surplus to policyholders on the date of its last quarterly financial report to the EXCHANGE.

**12.30.** The total amount of reinsurance and retrocessional premiums ceded by an Underwriting Member shall not exceed fifty percent (50%) of statutorily reported gross written premium income for any underwriting year (inclusive of premiums paid for catastrophe protection other than premiums paid under automatic reinstatement provisions), unless, for each underwriting year, specific approval to exceed this limit is granted by the Board of Governors or its designee following their review of a written plan submitted by the Syndicate which sets forth the details of its current reinsurance coverage and the proposed coverage, the basis for the exception it is requesting, a list of proposed reinsurers and such other information as the Board or its designee shall require.

**12.40.** All of an Underwriting Member's reinsurance and retrocessional agreements on EXCHANGE business but made off the EXCHANGE are subject to review by the EXCHANGE and the SECURITY FUND.

**12.50.** During any period of twelve consecutive months, no Underwriting Member shall be any contract or contracts of reinsurance cede an amount of its business on which the total gross reinsurance premiums are more than fifty percent (50%) of the unearned premiums on the net amount of its insurance in force at the beginning of such period without the prior written approval of the Board of Governors. During the first twelve months of membership after March 31, 1980, such unearned premiums of any Underwriting Member shall be deemed to be the greater of the actual unearned premiums or an amount equal to the surplus to policyholders at the beginning of such twelve month period. The foregoing restriction shall not apply to reinsurance made in the ordinary course of business covering reinsurance of specified individual risks under agreements relating to current business.



**Art. 13.00. Responsibilities of the underwriting Members in accepting business on the floor of the Exchange**

**13.10.** Once negotiations are complete between the Broker Member or the Associate Broker and the Underwriting Member, the natural person or persons whose names appear on the Register of Approved Deputies shall evidence acceptance of the offered business by completing and signing an abstract or placement slip on the floor of the EXCHANGE.

**13.11.** In the case of risks as described in Rule 9.10(D) of these Rules, the required certification or a copy thereof must be submitted within thirty (30) days.

**13.20.** The abstract or placement slip shall be in a format prescribed by the Central Processing Facility of the EXCHANGE.

**13.30.** The natural person or persons whose names appear on the Register of Approved Deputies are responsible for reporting any acceptance under Rule 13.10 to the Central Processing Facility of the EXCHANGE to the extent and in the manner required by the EXCHANGE procedures.

**13.40.** The EXCHANGE will monitor compliance with the placement procedures of the EXCHANGE, and shall warn offending Underwriting Managers and their Deputy or Deputies, as the case may be, in writing, that failure to comply is "prohibited conduct" under the Constitution and may subject the aforementioned persons to involuntary withdrawal, removal from Register of Approved Deputies, suspension, reprimand, censure or fine as provided in the Constitution and the Rules.

**13.41.** In the event of repeated violations or failure to correct an existing violation, the EXCHANGE may conduct an examination to verify the violations.

**13.42.** If such "prohibited conduct" continues an officer of the EXCHANGE may recommend that an accusation against the offender be made in accordance with Article XII, Section 4 of the Constitution by a Disciplinary Committee appointed by the Board.

**Art. 14.00. Responsibilities of Broker Members and Associate Brokers when evidencing final placement of business on the floor of the Exchange**

**14.10.** The Broker Member or Associate Broker is responsible for

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seeing that an abstract or placement slip as required by the placement procedures of the EXCHANGE showing the completed written and signed lines of each participating Underwriting Member on a risk is delivered to the Central Processing Facility of the EXCHANGE as required by the placement procedures of the EXCHANGE.

**14.20.** Funds will be remitted directly to the Central Processing Facility of the EXCHANGE as soon as practicable, but in no event later than fifty-five (55) days from receipt by the Broker Member or Associate Broker.

**14.21.** The President is authorized on behalf of the Board of Governors to find or suspend a Broker Member or Associate Broker to the extent provided by Article XII, Section 6 of the Constitution, for failure to remit funds to the EXCHANGE as provided in Rule 14.20 after affording such Broker Member or Associate Broker an opportunity for explanation. Notice to the Broker Member or Associate Broker of any such fine or suspension by the President shall also inform the Broker Member or Associate Broker that it may appear before the Board of Governors, or its designee or designees (other than an employee of the Exchange), for reconsideration of any fine or suspension. Any suspension imposed hereunder shall be stayed on the written request of the Broker Member or Associate Broker until completion of the reconsideration of such suspension as provided herein.

**14.30.** The EXCHANGE will monitor compliance with the placement procedures of the EXCHANGE, and shall warn offending Broker Members or Associate Brokers, as the case may be, in writing, that failure to comply is "prohibited conduct" under the Constitution and may subject the aforementioned persons to involuntary withdrawal, suspension, reprimand, censure or fine as provided in the Constitution and the Rules.

**14.31.** In the event of repeated violations or failure to correct an existing violation, the EXCHANGE may conduct an examination to verify the violations.

**14.32.** If such "prohibited conduct" continues an officer of the EXCHANGE may recommend that an accusation against the offender be made in accordance with Article XII, Section 4 of the Constitution by the Disciplinary Committee appointed by the Board.

**Art. 15.00. Preparing and signing the formal contract wording**

**15.10.** The Broker Member or Associate Broker is responsible for seeing that the contract wording is prepared and approved by each Underwriting Member and that required copies are delivered to the Central Processing Facility.

**15.20.** Acceptable incoming reinsurance contracts reinsuring companies domiciled within any state, territory or commonwealth of the United States, or the District of Columbia, shall include the following clauses:

- (A) An insolvency clause with the right of off-set in case of insolvency;
- (B) An intermediary clause; and
- (C) An arbitration clause (other than for marine facultative risks).

**15.30.** The provisions of policies of direct insurance must contain language approved by the EXCHANGE.

**Art. 16.00. Handling accounting transactions with the Exchange or Exchange billing**

**16.10.** All accounting documents (including, but not limited to, advices of premium or loss, checks, accounts, or requests for payments) will be directed to EXCHANGE by the Broker Member or Associate Broker.

**16.20.** The EXCHANGE will be responsible for verifying the items presented, segregating the items by Underwriting Member, and forwarding the accounting documents to the appropriate Underwriting Manager for the completion of statistical and statutory accounting.

**16.21.** Interest shall be paid by the EXCHANGE to an Underwriting Member:

- (A) On net premium funds per Exchange Contract in excess of \$2,000;
- (B) Held by the EXCHANGE for the account of Underwriting Members other than items held for collection;
- (C) From and after the fifth business day following the proper identification of such premium funds to and including the day

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prior to the date of payment of such funds to the Underwriting Members; and

(D) At a rate equal to the 30-day Treasury Bill auction rate as the nearest January 1 or July 1 immediately preceding the date of payment, computed as follows:

$$\text{Interest Payable} = \text{net premium due} \times \text{rate} \times \frac{(\text{Number of days} - 5 \text{ days})}{(365 \text{ days})}$$

**16.30.** Settlement of balances due the EXCHANGE will be made on either an individual transaction basis or on a monthly account current in accordance with Rule 14.20.

**16.40.** Settlement of balances due the Broker Member or Associate Broker by the Underwriting Member will be made on either an individual transaction basis or a monthly account current basis by the EXCHANGE.

**16.50.** Requests for funds to cover settlements due to Broker Members or Associate Brokers being made by the EXCHANGE will be funded within forty-eight hours or as agreed between the Treasurer and Underwriting Member.

**16.60.** Special settlements of large or catastrophic claims or cash advances may be made on an individual item basis by the EXCHANGE if requested by the Broker Member or Associate Broker and approved and funded by the Underwriting Member.

**16.70.** Any delay in settlement by any Member or Associate Broker will be reported to the President for appropriate disciplinary action.

**16.80.** Fiduciary Responsibilities of Broker Members, Associate Brokers and Underwriting Managers

**16.81.** All funds due Underwriting Members from or to Broker Members or Associate Brokers on any policy or reinsurance contract shall be received and held in a fiduciary capacity by such Broker Members or Associate Brokers and shall be remitted to the EXCHANGE for the accounts of Underwriting Members.

**16.82.** Funds payable to the EXCHANGE on behalf of an Underwriting Member may be commingled with the funds due other Insurers or Reinsurers but not with the personal or operating funds of the Broker Member or Associate Broker.

**16.83.** All funds by any Underwriting Manager on behalf of an

Underwriting Member shall be received and held in a fiduciary capacity in one or more specifically designated bank accounts in a New York chartered bank or a bank that is a member of the Federal Reserve System in the name of the Underwriting Manager and shall be identifiable from the Underwriting Manager's books and records and shall not be commingled with the Underwriting Manager's personal or operating funds.

**16.90.** The Central Processing Facility of the EXCHANGE shall record all premiums as due and payable, and issue an invoice therefor, on any facultative or direct risk written on the EXCHANGE following:

- (A) The date of issuance of the Exchange Contract in respect of premiums due at inception, or
- (B) Ninety (90) days after the effective date or any installment date of any facultative or alien direct risk, or forty-five (45) days after the effective date or any installment date of any domestic or foreign direct risk.

**Art. 16.00A. Foreign currency transactions**

**16.10A.** All payments by Members or Associate Brokers to the EXCHANGE must be made in either:

- (A) The original currency specified in the contract, or
- (B) A Designated Currency.

**16.20A.** The Designated Currencies are:

- (A) United States Dollars
- (B) British Pounds Sterling
- (C) Canadian Dollars

**16.30A.** If requested by the Underwriting Member the EXCHANGE shall credit the Underwriting Member in the currency received if such currency is a Designated Currency. All other currencies received shall be converted by the EXCHANGE and credited to the Underwriting Member in a Designated Currency.

**16.40A.** All claims or loss payments by the EXCHANGE shall be made in the original currency specified in the contract.

**16.50A.** The procedure to be used by the Underwriting Members

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in accounting for foreign currency transactions shall be promulgated by the Treasurer consistent with these Rules.

**16.00B. Loss transactions**

**16.10B.** Any notice of loss, request for loss payment, or other loss reports, will be directed to the Underwriting Members, Underwriting Managers or the EXCHANGE in accordance with the procedures of the EXCHANGE.

**16.20B.** Approved and funding of loss payments will be made in accordance with the procedures of the EXCHANGE.

**16.30B.** Any delays in handling or payment of loss transactions as required by the procedures of the EXCHANGE shall be referred to the President for appropriate action.

**16.31B** The President is authorized on behalf of the Board of Governors to fine or suspend an Underwriting Member to the extent provided by Article XII, Section 6 of the Constitution, for material violations of the claim or loss procedures after affording such Underwriting Member an opportunity for explanation. Notice to the Member of any such fine or suspension by the President shall also inform the Member that it may appear before the Board of Governors, or its designee or designees (other than an employee of the Exchange), for reconsideration of any fine or suspension.

Any suspension imposed hereunder shall be stayed on the written request of the Underwriting Member until completion of the reconsideration of such suspension as provided herein.

**16.00C. Cancellation for non-payment**

**16.10C.** Subject to Rule 16.20C, each Underwriting Member shall have the sole responsibility for the cancellation of any risk written by it for non-payment of premium.

**16.20C.** Each Underwriting Member shall cancel any facultative risk for non-payment of premium no later than 150 days after the effective date or installment date of any domestic or foreign facultative risk, or 240 days after the effective date or installment date of any alien facultative risk, written on the EXCHANGE.

**16.21C.** The time periods in Rule 16.20C may be extended for successive 30-day periods at the discretion of the Underwriting Member by its giving written notice of such extension to the EXCHANGE no later than the first day of each such 30-day extension period

stating the reason or reasons for such extension. On or before the 10th day prior to the end of any such extension period, the EXCHANGE may give written notice to the Underwriting Member that the reason or reasons for such extension are unsatisfactory or unreasonable in which case the Underwriting Member shall be required to cancel such risk at the end of that extension period.

**16.30C.** Each Underwriting Member shall cancel any domestic or foreign direct risk for non-payment of premium no later than sixty (60) days after the effective date or any installment date of the risk, unless extended to a maximum of seventy-five days (75) in the placement slip.

**16.40C.** Each Underwriting Member shall cancel any alien direct risk for non-payment of premium no later than ninety (90) days after the effective date or any installment date of the risk, unless extended to a maximum of one hundred five days (105) in the placement slip.

**16.50C.** A copy of any cancellation notice issued by an Underwriting Member shall be concurrently forwarded to the Central Processing Facility of the EXCHANGE.

**16.60C.** The EXCHANGE will monitor compliance with Rules 16.20C, 16.30C and 16.40C and shall warn offending Underwriting Members, in writing that failure to comply is "prohibited conduct" under the Constitution and may subject the Underwriting Members to involuntary withdrawal, suspension, reprimand, censure or fine as provided in the Constitution and Rules.

#### **Art. 16.00D. Premium surcharge**

**16.10D.** The premium surcharge for the Surcharge Fund of the SECURITY FUND as fixed from time to time by the Board, shall be payable to the EXCHANGE by each Underwriting Member quarterly on or before the date such Underwriting Member is required to file its quarterly or annual statement with the EXCHANGE. The premium surcharge shall be based on the written premium stated in that quarterly or annual statement adjusted as may be required by Rule 16.20D and net of (i) retrocessions on the EXCHANGE and (ii) premium surcharges previously paid to the Surcharge Fund on the written premium stated in that quarterly or annual statement.

**16.20D.** For the purposes of the premium surcharge, "premiums" shall include any and all consideration in respect of any insurance contract written by an Underwriting Member on the EXCHANGE.

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**Art. 17.00.   Requesting Letters of Credit**

**17.10.** Requests for Letters of Credit will be directed to the Underwriting Manager.

**17.20.** All Letters of Credit will be provided directly by the Underwriting Member or the Underwriting Manger involved.

**17.30.** Any delay in providing requested Letters of Credit shall be referred to the President for appropriate disciplinary action.

**Art. 18.00.   Obtaining changes to contracts of insurance or reinsurance**

**18.10.** It is the responsibility of the Broker Member or Associate Broker to see that any endorsement, amendment, or notice changing or cancelling and contract of insurance or reinsurance requiring acceptance by an Underwriting Member is prepared and, if agreed to by the Underwriting Member, is executed on the Floor by an authorized Deputy in a manner similar to that provided in Rule 13.10.

**18.20.** It is the responsibility of the Broker Member or Associate Broker to see that the endorsement is delivered to the Central Processing Facility of the EXCHANGE immediately after it has been signed by all of the participating Underwriting Members.

**Art. 19.00.   Reinsurance ceded by Underwriting Members**

**19.10.** Reinsurance cessions by Underwriting Members to entities which are not Members do not need to be processed through the Central Processing Facility.

**19.20.** Reinsurance ceded by Underwriting Members to the other Members should be handled in a manner similar to the normal submission of business.

**19.30.** If no Broker is involved in placing an Underwriting Member's reinsurance with another Member, the Underwriting Member ceding the business will assume the responsibilities normally handled by the Broker Member or Associate Broker placing a piece of business on the EXCHANGE.

**19.40.** Reinsurance ceded from one Underwriting Member to another Member will not be subject to the premium surcharge under Rule 16.10D.



**Art. 20.00. Reinsurance claims by Underwriting Members**

**20.10.** Reinsurance Claims by Underwriting Members will be handled in a manner similar to other claims.

**20.20.** The Central Processing Facility will not process reinsurance claims by Underwriting Members to Reinsurers who are not Underwriting Members.

**Art. 21.00. Service of process**

**21.10.** Each Underwriting Member will designate the EXCHANGE as its lawful agent for receipt of Service of Process.

**21.20.** Each Underwriting Manager will designate the EXCHANGE as its lawful agent for receipt of Service of Process.

**Art. 22.00. Financial Reporting**

**22.10.** The EXCHANGE will be responsible for reporting to the Superintendent the combined underwriting results (including expense and loss statistics) and financial condition of the Underwriting Members.

**22.11.** The reporting requirements of the Underwriting Members will be the same as outlined in Section 26(1) of the Insurance Law, except that the due date for any such reports shall be as set forth herein.

**22.12.** The EXCHANGE will furnish the following information to the Superintendent:

(A) Copy of audit and examination reports made of accounts and operations of the EXCHANGE and of its Underwriting Members pursuant to Section 7, Article II of the Constitution;

(B) Copy of the Treasurer's report on the financial condition of the EXCHANGE pursuant to Section 2, Article V of the Constitution;

(C) Copy of the annual report of the Board to the Members presented pursuant to Section 13, Article VI of the Constitution; and

(D) Copies of statements, reports and other information as prescribed by the Superintendent pursuant to Regulation 89, Section 18-1.5(a).

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**22.20.** The EXCHANGE will be responsible for reporting the combined underwriting results and financial condition of the EXCHANGE to the Insurance Department of all other states where the EXCHANGE or its Members are permitted to transact business.

**22.30.** Broker Members and Associate Brokers will furnish audited financial statements and an operational report to the EXCHANGE on a calendar or fiscal year basis.

**22.31.** Each Broker Member and Associate Broker shall submit its financial statements on or before May 1 for the prior calendar year, or 120 days after the end of its prior fiscal year, as the case may be. Each Broker Member or Associate Broker shall be deemed to be on a calendar year basis for purpose of this Rule unless it has given prior written notice to the EXCHANGE of its regular fiscal year, or any changes in its regular fiscal year.

**22.32.** If affiliated with a corporation or partnership which files reports with the Securities and Exchange Commission pursuant to Sections 13 or 15(d) of the Securities Exchange Act of 1934 a Broker Member or Associate Broker may submit the audited consolidated financial statements of the ultimate parent.

**22.33.** Any Broker Member or Associate Broker transacting significant amounts of business off the EXCHANGE may, in lieu of an audited statement under 22.30 or 22.32, submit the following:

(A) Auditor's opinion letter, if any, on the Broker Member or Associate Broker, or of the group of which it is a part, if any; and

(B) Special reports by an independent CPA in form satisfactory to the EXCHANGE concerning the following activity:

(i) Premium and loss trust accounting activity; and

(ii) Those fiduciary income statement items and balance sheet items relating to EXCHANGE business only.

**22.34.** The operational report shall be in a form determined by the EXCHANGE and shall be verified under oath by the principal officer or a general partner of the Broker Member or Associate Broker and shall be due on or before May 1 for the prior year.

**22.40.** Each Underwriting Member shall file in the office of the Treasurer, annually, at least two business days prior to the first day of March, a statement to be known as its annual statement, executed in triplicate, verified by the oath of at least two of its principal officers,

showing its condition on the thirty-first day of December then next preceding. Any Underwriting Member failing to file its annual statement with the Treasurer on or before date shall be required to indemnify the Exchange for any fines or penalties imposed upon the Exchange by the State of New York. The loss reserve certification required to be filed with the annual statement must be executed by an associate or fellow of the Casualty Actuarial Society. Beginning with the filing of the 1986 statement, along with the filing of the three hard copies, each Underwriting Member shall file its annual statement on computer diskettes using software provided by the Exchange. In the event an Underwriting Member furnishes its statement using software not provided by the Exchange, the Underwriting Member shall pay the cost of conversion to Exchange software. Each Underwriting Member shall submit at least 6 copies of the annual statement on diskettes or such other numbers as may be required by the Exchange.

**22.41.** Annual statutory financial statements are to be certified by an independent certified public accountant and are to be filed with the Treasurer on or before May 1, together with a copy of the internal control letter prepared by the certified public accountant in respect of the audit of such statements.

**22.42.** Property and Casualty Syndicates shall use statutory accounting in preparing their annual statement for the EXCHANGE and shall use the form of statement designated as the "Fire and Casualty" blank as approved by the N.A.I.C.

**22.43.** Life Syndicates shall use statutory accounting practices in preparing their annual statement for the EXCHANGE and shall use the form of statement designated as the "Life" blank as approved by the N.A.I.C.

**22.44.** Life and Property and Casualty Syndicates shall prepare two annual statements. One statement for Property and Casualty business shall be prepared in a manner similar to 22.42. The second statement for the Life Department shall be prepared in a manner similar to 22.43.

**22.45.** The Treasurer may also address to any Underwriting Member or its officers any inquiry in relation to its transactions or conditions or any matter connected therewith. Every Member so addressed shall reply in writing to such inquiry promptly and truthfully, and such reply shall be, if required by the Treasurer, subscribed by such

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individual, or by such officer or officers of a corporation, as he shall designate, and affirmed by him as true under penalties of perjury.

**22.50.** Beginning with the first quarter of 1987, every Underwriting Member shall file a quarterly financial statement on a form and on computer diskettes using software provided by the Exchange within 42 days after the end of each calendar quarter. In the event an Underwriting Member furnishes its statement using software not provided by the Exchange, the Underwriting Member shall pay the cost of conversion to Exchange software. Each Underwriting Member shall submit at least 6 copies of the quarterly statement on diskettes or such other number as may be required by the Exchange.

**22.60. (1)** For purpose of this Rule, "Guidelines" shall mean the Business Review Guidelines as adopted from time to time by the Board of Governors.

**(2)** When a syndicate comes within 30% of any Guideline as determined by the staff of the EXCHANGE, the following shall occur:

**(A)** The syndicate shall be required on written request by the staff of the EXCHANGE to submit a written plan of operation. This plan will demonstrate how the syndicate will comply with all Guidelines and shall be in form and content as determined by the staff of the EXCHANGE. This plan shall include two years of quarterly forecasted financial statements and an analysis of net written premium and loss reserves to accommodate calculation of the Business Review Guidelines, various assumptions inherent in the financial statements (i.e. I.B.N.R. factors), and such other items as may be required by the staff of the EXCHANGE.

**(B)** If requested by the syndicate, the staff of the EXCHANGE will meet with the syndicate to review the written plan of operation prepared by the syndicate. This plan, after approved by the staff of the EXCHANGE, will be adhered to by the syndicate.

**(C)** Any deviation from the accepted plan not acceptable to the staff of the EXCHANGE shall result in the limiting of a syndicate's ability to write any new and renewal business as ordered by the President, *provided that* no such order may be issued unless the syndicate is in excess of any Guideline. Any such limitation would continue until approval is received from the President. Written explanations for deviations shall be provided by syndicate management at the time of the quarterly financial statement

filing, and any amendments to the filed plan shall be subject to the approval of the staff of the EXCHANGE.

(D) In addition, unless otherwise required by the EXCHANGE, any syndicate that is within 30% of any Guideline after its third year of underwriting shall also file with its annual financial statement an actuarial loss reserve study by an associate or fellow of the Casualty Actuarial Society, which shall be updated annually.

**22.70.** Members or Associate Brokers may be required to file other information and reports that may be requested by the EXCHANGE in its absolute discretion.

If an independent consultant (i.e. actuary) is engaged by a Member or Associate Broker with the approval of the Exchange to prepare the report, the Member or Associate Broker will bear the expense of these services. If an individual consultant is engaged without the approval of the Exchange, the Exchange may engage the services of a consultant of their choice. Concurrence of opinion will result in the Exchange bearing the expense for professional services obtained at their request. Expense for all professional services obtained will be paid by the Member or Associate Broker in the event that the professional judgement of the consultant engaged at the request of the Exchange is adopted by the Member or Associate Broker.

**22.80.** No Underwriting Member shall begin transacting business on the Floor until a financial statement has been filed with the Treasurer showing that the minimum capital and surplus has been paid in.

**22.90. Capital and surplus allocation - Underwriting Members**

**22.91.** Underwriting Members shall allocate their initial paid in capital and surplus as provided in Article VII, Section 6 of the Constitution and file such notice of initial allocation with the Treasurer. However, in no event shall paid in capital of an Underwriting Member be below \$500,000.

**22.92.** Property and Casualty and Life Syndicates upon filing a notice with the Treasurer will be permitted to transfer surplus between the life department and the property and casualty department, provided that minimum reserve requirements for life insurers are maintained at all times. However, in no event shall the combined paid in capital of a Property and Casualty and Life Syndicate be below \$1,000,000.

**Art. 23.00. Books and records**

**23.10.** At all times, every Underwriting Member, and every Underwriting Manager acting on behalf of an Underwriting Member, shall keep and maintain at its principal office in New York State (i) its charter and by-laws, (ii) its books of account, (iii) if a stock Corporation, a record containing the names and addresses of its stockholders, the number and class of shares held by each and the dates when they respectively became the owners of record thereof, and (iv) the minutes of any meetings of its stockholders, policyholders, board of directors and committees thereof. If any such records are kept in a language other than English, they shall be accompanied by certified translations thereof. Failure of an Underwriting Member, or an Underwriting Manager acting on behalf of an Underwriting Member, to maintain such books and records shall be considered prohibited conduct.

**23.20.** Members and Associate Brokers shall retain books and records of account relating to EXCHANGE business for a minimum of six (6) years. Members and Associate Brokers shall meet the requirements of all governmental authorities pertaining to retention of records.

**23.30.** The Treasurer may issue a record retention schedule listing specific retention requirements for different types of records.

**Art. 24.00. Conduct of examinations**

**24.10.** The EXCHANGE and the SECURITY FUND may examine any Member or Associate Broker as often as they deem it expedient for the protection of the interests of the EXCHANGE.

**24.20. Examinations; how conducted**

**24.21.** The EXCHANGE and the SECURITY FUND shall conduct each examination in an expeditious, fair and impartial manner.

**24.22.** The Member or Associate Broker shall receive reasonable notice of such an examination.

**24.23.** Every Person being examined, his officers, attorneys, employees, agents and representatives shall make freely available to the EXCHANGE and the SECURITY FUND or their examiners the accounts, records, documents, files, information, assets and matters of such Person in its possession or control relating to the subject of the examination and shall facilitate the examination.

**24.24.** The EXCHANGE and the SECURITY FUND shall make a full and true written report of every such examination made by them and shall therein certify therein certify under oath the report and its findings.

**24.30. Filing of report on examination**

Within a reasonable time after the completion of the examination a copy of the report shall be forwarded to the SECURITY FUND and another copy placed in the examined Member's or Associate Broker's file at the EXCHANGE.

**24.40. Distribution of report on examination**

The Treasurer shall forward to every Member or Associate Broker examined a copy of the report on examination together with any recommendations or statements relating thereto which he may deem proper. A copy of the report shall be furnished by such Member or Associate Broker to each member of its Board of Directors or other governing body and a summary and any recommendations or statements in the report shall be read at the next meeting of the Board of Directors or other governing body of such Member or Associate Broker.

**24.50. Expense of examination**

The expenses of every examination of any Member or Associate Broker or organization, including an appraisal of its real property or of any real property on which it holds a mortgage, made pursuant to the authority conferred by any provision of these Rules, shall be borne and paid by the EXCHANGE.

**Art. 25.00. Assets, investments and deposits**

**25.10.** Article V of the New York Insurance Law will apply except where specially exempted by Regulation 89.

**25.20.** Except as hereinafter provided, Invested Assets (as defined herein) of an Underwriting Member must be maintained within the United States.

**25.30.** An Underwriting Member may maintain without the United States Invested Assets not exceeding the greater of

- (A) 10% of its surplus to policyholders, or
- (B) If the Underwriting Member has outstanding insurance or

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reinsurance contracts on risks resident or located in a foreign country, an equal to the greater of

- (1) 150% of its Reserves with respect to those risks, or
- (2) an amount equal to the sum of all deposits required by the laws of such foreign jurisdiction.

**25.31.** Cash or securities held in a foreign country pursuant to paragraphs (A) or (B) above may consist of cash or securities in any of the Designated Currencies, or in the currency of the country where the risk is located, which securities are substantially of the same kinds, classes and investment grades as those eligible for investment under Section 81 of the New York Insurance Law.

**25.32.** In no event, however, shall the total Invested Assets maintained in the United States by an Underwriting Member be less than the greater of (i) 115% of the minimum policyholders surplus required to be maintained under Article VII, Section 6 of the Constitution or (ii) the amount of reserves, other obligations and deposits required by law or Exchange Contract on risks located or resident in the United States.

**25.33.** The Invested Assets constituting not less than the minimum policyholders surplus referred to in the preceding paragraph shall be maintained on deposit for the account of the Underwriting Member with a solvent financial institution meeting standards of size, solvency and experience as may be established from time to time by the Treasurer, and which is either a member of the Federal Reserve System or a bank licensed by the New York State Banking Department.

**25.40.** For the purpose of this Rules Article:

**25.41.** "Invested Assets" means cash and invested assets as shown on the Underwriting Member's most recent annual or quarterly statement as filed with the EXCHANGE.

**25.42.** "United States" means any state of the United States, its Territories or Commonwealths, or the District of Columbia.

**25.43.** "Reserves" means the total of the Underwriting Member's unearned premium reserves, loss reserves, and loss adjustment reserves.



**Art. 26.00. Uniform chart of accounts**

**26.10.** A uniform chart of accounts shall be used by all Underwriting Members.

**26.20.** The chart of accounts to be used by Underwriting Members shall be promulgated by the Treasurer.

**Art. 27.00. Arbitration rules****27.01. Statement of claim**

**27.01. (1)** Members and Associate Brokers shall arbitrate all controversies pursuant to the provisions of Article XIV of the Constitution and this Rules Article 27.

**27.01. (2)** The party initiating proceedings pursuant to the provisions of Article XIV of the Constitution and this Rules Article 27 (whether a Member or non-member) against any Member or Associate Broker shall file with the Arbitration Director a concise statement of claim or controversy.

**27.01. (3)** Where the parties to a controversy have previously entered into an agreement to arbitrate future disputes in accordance with the procedures of the EXCHANGE, or a court has issued an order directing such an arbitration, with a copy of the agreement providing for arbitration or court order and moving papers shall be attached to the statement of claim or controversy.

**27.01. (4)** The statement of claim or controversy shall specifically set forth the matters to be arbitrated and, if possible, the amount claimed.

**27.02. Reply and counterclaim**

A copy of the statement filed by the party initiating the proceeding shall be furnished by the Arbitration Director to the opposing party for reply. Said reply shall be filed with the Arbitration Director within twenty (20) days of the receipt by such opposing party of said statement, or such longer period as may be granted by the EXCHANGE. In the event that the opposing party wishes to assert a counterclaim, said reply shall contain in a statement of counterclaim, which shall specifically set forth the matter to be arbitrated and, if possible, the exact amount of said counterclaim. The initiating party shall be given the same opportunity to reply to the counterclaim as was given the

opposing party in the case of the original statement of claim or controversy.

**27.03. Submission to arbitration**

**27.03. (1)** If the EXCHANGE accepts jurisdiction by notice to the parties concerned, the parties agree that this will be treated as a private matter and there will be no publication of the matters or events involved. A copy of the statement of claim or controversy and the reply, and counterclaim, shall be attached to a form of submission prescribed by the EXCHANGE (see *Exhibit A* which is made a part of these Rules) which shall be sent to the parties and shall be executed and acknowledged by the parties before an officer duly authorized by law. Said submission shall be promptly filed with the Arbitration Director.

**27.03. (2)** The provisions of Article XIV of the Constitution and Article 27 of these Rules shall be deemed to be a part of the submission and the parties shall be bound thereby, except that, with the prior consent of the EXCHANGE, the parties may otherwise agree, insofar as the Rules of the EXCHANGE are concerned.

**27.03. (3)** Where a copy of an agreement between the parties to arbitrate future disputes in accordance with the procedure of the EXCHANGE, or a copy of a court order directing such an arbitration, has been filed with the EXCHANGE, the EXCHANGE may accept such agreement or order in lieu of requiring the execution of a submission.

**27.04. Representation by attorney**

A party is not required to be represented by legal counsel at any stage in arbitration including the hearings. However, a party has a right to be represented by counsel and may claim such right at any time as to any part of the arbitration or hearings which have not taken place. A party who is to be represented by counsel shall no notify the Arbitration Director and shall also furnish him with the counsel's name and address in the statement of claim or reply to a counterclaim, as the case may be, or if the right to representation by counsel is claimed subsequent to the filing of the statement of claim or reply to a counterclaim, by written notice to the other party or parties and the Arbitration Director. Failure to notify the Arbitration Director of the identity of counsel in a statement of claim or reply, or by written notice, shall be deemed a waiver of the right to be represented by counsel with regard to any proceedings which precede

such notification. After the Arbitration Director has received notification of counsel's identity from a party, subsequent papers in the proceedings to be served on such party shall be served upon his counsel.

#### **27.05. Selection of arbitrators**

**27.05. (1)** The party initiating an arbitration shall select one arbitrator from the Board of Arbitration and shall advise the Arbitration Director in writing of its selection within five (5) days of the filing of the submission to arbitration with the Arbitration Director as provided in Rule 27.03(1). The Arbitration Director shall forthwith advise the opposing party in writing of the initiating party's selection.

**27.05. (2)** The opposing party shall then select one arbitrator from the Board of Arbitration and shall advise the Arbitration Director in writing of its selection within twenty (20) days of the date of the notice from the Arbitration Director of the initiating party's selection. The Arbitration Director shall forthwith advise the initiating party in writing of the opposing party's selection.

**27.05. (3)** The arbitrators selected by each party shall then select a third arbitrator from the Board of Arbitration, who shall act as Umpire in the arbitration, and advise the Arbitration Director in writing of their selection within thirty (30) days of the date of notice from the Arbitration Director of the opposing party's selection.

**27.05. (4)** If either party fails for whatever reason to select its arbitrator within the prescribed time limit, the Arbitration Director may, at his sole and absolute discretion, select that party's arbitrator, which selection shall be binding upon that party as if it had made the selection.

**27.05. (5)** If the arbitrators selected by the parties fail for whatever reason to select the Umpire within the prescribed time limit, the Arbitration Director shall forthwith submit a list of five arbitrators from the Board of Arbitration meeting the requirements of paragraph (7) hereof to each party. Each party shall strike not more than four names from the list and return the list to the Arbitration Director within ten (10) days of the date of such list. If any party strikes less than four names from the list, it shall indicate its order of preference of the names not stricken. The Arbitration Director shall match the list of each party and determine the Umpire from the names not stricken on either party's list in the order of highest preference. In the event no such determination can be made, the unstricken name

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of highest preference by each party shall be drawn by lot by the Arbitration Director.

**27.05. (6)** The Arbitration Director shall confirm the availability and willingness to serve of the arbitrators and advise the parties and the panel of the completion of the panel. If any arbitrator is unwilling or unable to serve, the party or arbitrators selecting that arbitrator shall select another arbitrator from the Board of Arbitration in accordance with the foregoing procedure.

**27.05. (7)** For the purposes of Rule 27.05, the Umpire shall be a person who is not an employee, officer, director or shareholder of, or partner in, either party to the arbitration, or an affiliated person of either party. For the purposes of this Rule, "affiliated person" shall have the meaning set forth in Article I, Section 4(j) of the Constitution. Any question of the qualifications of an Umpire under this Rule shall be resolved by the Arbitration Director, whose determination shall be binding on the parties to the arbitration.

**27.06. Discovery**

Discovery shall proceed as agreed by the Arbitrators.

**27.07. Time and place of hearing**

The Arbitration Director shall appoint a time and place for the hearing and shall cause notice thereof to be given to each of the parties as provided in 27.13. If any of the parties, after due notice, fails to be present or represented at a hearing or any adjourned hearing, the Arbitrators may, nevertheless, in their own discretion, proceed with the adjudication of the controversy.

**27.08. Procedure at hearing**

At the hearing, the statements of the parties shall be read to the Arbitrators, unless such reading shall be specifically waived by the parties or their attorney-in-fact or counsel; each of the parties or his attorneys-in-fact or counsel shall be permitted to make an opening statement, present witnesses and documentary evidence, and present closing arguments orally or in writing as may be determined at the hearing by the Arbitrators. Witnesses shall be subject to examination by the opposing party or his attorney-in-fact or counsel. The hearings shall be formally declared closed by the Arbitrators. Such hearings may, in the discretion of the Arbitrators, be reopened at any time prior to the making of an award.

**27.09. Amendments to claims or counterclaims**

At any time during the hearings or before the hearings are declared closed, any party may move to amend his claim or counterclaim, and, if the Arbitrator shall permit such amendment shall be incorporated forthwith in an amendment to the submission or, where a submission was not required, in an amendment to the statement of claim or counterclaim, as the case may be.

**27.10. Oaths of arbitrators and witnesses**

**27.10. (1)** Before proceedings with an Arbitration, an oath shall be administered to the Arbitrators in the presence of parties, except where the parties or their attorney-in-fact or counsel continue the arbitration without objection to the failure of the Arbitrators to take the oath, or where the oath is waived in writing by the parties to the submission on their attorneys-in-fact or counsel.

**27.10. (2)** Witnesses shall be sworn before testifying, unless the taking of an oath is waived by the parties or their attorneys-in-fact or counsel.

**27.11. Subpoena**

The Arbitrators and any attorney of record in the arbitration proceeding shall have such powers of subpoena as may be provided by law, but so far as it is possible for them to do so, the parties shall produce witnesses and present proofs without the issuance of subpoena.

**27.12. Adjournments**

The Arbitrators may adjourn the hearings from time to time upon the application of either party or at their own instance.

**27.13 Notice and communications**

**27.13. (1)** Notice may be given to the parties by the Arbitration Director or otherwise as the Arbitrators may direct.

**27.13. (2)** Notice of hearings shall be given to the parties or their attorneys-in-fact or counsel in writing personally or by registered or certified mail at least ten (10) days in advance of such hearing, unless such notice is waived by the parties or their attorneys-in-fact or counsel. Notice of an adjourned hearing may be given orally by the Arbitrators at any preceding hearing.

**27.13. (3)** All other notices, orders, papers and communications,

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including a copy of the award, may be served on any party by delivering or mailing the same to the party or his attorney-in-fact or counsel.

**27.14. Award and allocation of costs**

**27.14. (1)** The award of the Arbitrators shall be made in writing and shall be acknowledged in like manner as a deed to be recorded.

**27.14. (2)** The Arbitrators in the award shall fix the amount of costs chargeable to the parties to cover the expense of the hearings, and shall determine the manner in which and by whom such costs shall be borne.

**27.15. Filing award**

A copy of any award shall be filed with the EXCHANGE.

**27.16. Fees and costs**

**27.16. (1)** The party initiating a proceeding shall pay an administrative fee to the EXCHANGE in the amount of \$500 at the time of filing its initial statement of claim or controversy. At the request of a Member or Associate Broker party, the EXCHANGE may waive the administrative fee for a non-member party.

**27.16. (2)** Each party shall bear its own direct expenses including the fees and expenses of its own arbitrator, legal fees, cost of document production and expenses of its own witnesses. All other expenses of the arbitration proceeding, including stenographic services and fees and expenses of the Umpire, shall be shared equally by the parties, unless they agree otherwise, or unless the arbitrators in their award assess any of such expenses against a specific party.

**27.17. Arbitrators authority to interpret**

During the course of proceedings, the Arbitrators in a particular case shall have the power to interpret and apply these rules and such interpretation shall be binding upon the parties.

**27.18. Qualification of arbitrators**

No person shall be eligible to be included on the Board of Arbitration unless such person had a minimum of five (5) years insurance or reinsurance experience, or is a licensed attorney, accountant or other professional who has been practicing for a minimum of five (5) years with insurance or insurance related experience.

**Art. 28.00. Disciplinary rules****28.01. Right to hearing**

Except in cases of summary procedure under Article XII, Section 6 of the Constitution, no penalty may be imposed upon a Member, or Associate Broker under Article II, Section 13 (Impairment or Insolvency) absent a hearing pursuant to Article XII, Section 4 of the Constitution.

**28.02. Composition of hearing board**

**28.02. (1)** In any disciplinary hearing under Article XII, Section 4 of the Constitution, involving as a respondent one or more Underwriting Members, at least one person serving on the hearing panel appointed pursuant to Article XII, Section 2 of the Constitution, shall be affiliated with an Underwriting Member.

**28.02. (2)** In any disciplinary proceeding involving as a respondent one or more Broker Members or Associate Brokers, at least one person serving on the hearing panel shall be affiliated with a Broker Member or Associate Broker.

**28.02. (3)** In any disciplinary proceeding involving as a respondent one or more affiliated person, at least one person serving on the hearing panel shall be an affiliated person, engaged in an activity similar to that of the respondent.

**28.03. Hearing officers**

The President, subject to the approval of the Board, may designate a chief hearing officer and one or more other hearing officers who shall have no EXCHANGE duties or functions relating to the investigation or preparation of disciplinary matters and who shall be appointed annually and shall serve as hearing officers at the pleasure of Board of Governors.

**28.04. Determination of evidentiary and procedural matters**

Upon application to the chief hearing officer of the EXCHANGE by either party to a disciplinary proceeding under the Article XII of the Constitution, the chief hearing officer shall resolve any and all procedural and evidentiary matters, and may require the EXCHANGE to permit the respondent to inspect and copy documents or records in the possession of the EXCHANGE which are material to the preparation of the defense or are intended for use by the division

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or department of the EXCHANGE initiating the proceeding as evidence in chief at the hearing.

This provision does not authorize the discovery or inspection of reports, memoranda, or other internal EXCHANGE documents prepared by the EXCHANGE in connection with the proceeding. There shall be no interlocutory appeal to the Board of any determination as to which this provision applies.

**28.05. Imposition of penalties**

**28.05. (1)** If a Member, Associate Broker, or affiliated person is adjudged guilty in a disciplinary proceeding under Article XII, Section 4 of the Constitution, the hearing panel may impose one or more of the following sanctions: suspension; limitation as to activities, functions, and operations; fine (with respect to each charge as to which guilt is determined) by an amount not exceeding \$25,000 as to any natural person; or \$100,000 as to any person other than a natural person; censure; suspension or bar from being associated with any Member, Associate Broker or affiliated person, or any other fitting sanction.

**28.05. (2)** The determination of the hearing panel and any penalty imposed shall be final and conclusive twenty-five (25) days after notice thereof has been served upon the respondent in the manner provided in Article XII, Section 4(b) of the Constitution, unless a request to the Board for review of such determination and/or penalty is filed as provided in Section 28.08. If such a request to the Board for review is filed as hereinafter provided, any penalty imposed shall be stayed pending the outcome of such review.

**28.06. Modification of penalty**

In any disciplinary proceeding under Article XII, Section 4 of the Constitution, any sanction imposed may be remitted or reduced by the hearing panel on such terms and conditions as it shall deem fair and equitable.

**28.07. Procedure for stipulation and consent**

**28.07. (1)** Pursuant to Article XII, Section 7 of the Constitution, a hearing panel appointed pursuant to Article XII, Section 2 of the Constitution, at a hearing called for that purpose, may determine whether an affiliated person has committed one or more of the offenses specified under Section 1 of that Article, on the basis of a



written Stipulation and Consent entered into between the respondent and an authorized officer or employee of the EXCHANGE. Any such Stipulation and Consent shall contain a stipulation with respect to the facts, or the basis for findings of fact by the hearing panel; a consent to findings of fact by the hearing panel, including a finding that a specified offense had been committed; and a consent to the imposition of a specified penalty.

**28.07. (2)** Notice of any hearing held for the purpose of considering a Stipulation and Consent shall be served upon the respondent as provided in Article XII, Section 4(b) of the Constitution. In any such hearing, if the hearing panel determines that the respondent has committed an offense, it may impose the penalty agreed to in such Stipulation and Consent or any penalty which is less severe than the stipulated penalty, as it deems appropriate. In addition, a hearing panel may reject such Stipulation and Consent. Notice of a rejection shall be served upon the parties as provided in Article XII, Section 4(b) of the Constitution.

**28.07. (3)** Such rejection shall not preclude the parties to the proceeding from entering into a modified Stipulation and Consent which shall be presented to a hearing panel in accordance with the provisions of this subsection, nor shall such rejection preclude the EXCHANGE from bringing or presenting the same or different charges to a hearing panel in accordance with the provisions of Article XII, Section 4 of the Constitution. The EXCHANGE shall keep a record of any hearing conducted under this rule and a written notice of the result shall be served on the parties to the proceeding.

**28.07. (4)** The determination of the hearing panel and any penalty imposed shall be final and conclusive, twenty-five (25) days after notice thereof has been served upon the respondent in the manner provided in Article XII, Section 4(b) of the Constitution, unless a request to the Board for review of such determination or penalty is filed as hereinafter provided. If such a request to the Board for review is filed as hereinafter provided, any penalty imposed shall be stayed pending the outcome of such review.

**28.07. (5)** Any member of the Board may request a review by the Board of any determination or penalty, or both, imposed by a hearing panel in connection with a Stipulation and Consent. In addition, the EXCHANGE may require a review by the Board of any penalty, including any determination related thereto, imposed by the hearing

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panel which is less severe than the stipulated penalty. The respondent which entered into the written consent may require a review by the Board of any rejection of a stipulation and consent by the hearing panel.

**28.08. Review procedures**

**28.08. (1)** A request for review shall be made by filing with the EXCHANGE a written request therefor, which states the basis and reasons for such review, within twenty-five (25) days after notice of the determination or penalty is served on the respondent.

**28.08. (2)** Any review by the Board shall consist of oral arguments and written briefs and shall be limited to consideration of the record before the hearing panel. Upon review, the Board, by the affirmative vote of a majority of the Governors then in office, may fix and impose the penalty agreed to in such stipulation and consent or may affirm or modify the determination and penalty imposed by the hearing panel, or any penalty which is less severe than the stipulated penalty, or may remand for further proceedings. Unless the Board otherwise specifically directs, the determination and penalty, if any, of the Board after review shall be final and conclusive.

**Art. 29.00. Withdrawal, dissolution and rehabilitation of Members, Associate Brokers and Underwriting Managers**

**29.10.** Withdrawal, dissolution and Rehabilitation of Members and Associate Brokers shall be in accord with Article VIII of the Constitution.

**29.20. Voluntary Withdrawal of Members or Associate Brokers**

**29.21.** The petition of any Broker Member or Associate Broker for voluntary withdrawal may be granted by the Board subject to the following conditions.

A) The EXCHANGE shall only approve withdrawals which are effective as of the close of business December 31st.

B) The Broker Member or Associate Broker must notify the EXCHANGE in writing of its Notice of Intent to Withdraw on or before the September 1st preceding the requested withdrawal date.

C) On or before the October 1st preceding the requested withdrawal date, the Broker Member or Associate Broker shall file with the Secretary of the EXCHANGE a Petition for Withdrawal:

D) The Petition of any Broker Member or Associate Broker for Voluntary Withdrawal may be granted by the Board subject to the following conditions:

1) If the Broker Member or Associate Broker, contemporaneously with the filing of the Petition, has not transacted business on the EXCHANGE, the Broker Member or Associate Broker:

*a)* shall not be permitted to place any business on the EXCHANGE;

*b)* shall be subject to all rules and procedures of the EXCHANGE;

*c)* shall submit evidence in a form approved by the EXCHANGE that all Underwriting Members have been notified of the filing of the Petition of Withdrawal;

*d)* shall pay a withdrawal fee of \$1,000;

*e)* shall pay all dues and assessments for the year in which withdrawal is sought;

*f)* shall be known as a "Broker-in-Withdrawal";

*g)* shall comply with such other terms as the Board may specify from time to time.

2) If the Broker Member or Associate Broker has transacted business on the EXCHANGE, contemporaneously with the filing of the Petition, the Broker Member or Associate Broker:

*a)* shall not be permitted to place any new or renewal business;

*b)* shall continue to be subject to all rules and procedures of the EXCHANGE;

*c)* shall pay all dues and assessments for the year in which withdrawal is sought;

*d)* shall be known as a "Broker-in-Withdrawal";

*e)* shall include in the Petition for Withdrawal:

1) For the Broker-in-Withdrawal electing to run-off all of its obligations on business placed on the EXCHANGE as a Broker Member or Associate Broker:

*(a)* an agreement in writing to continue to service such

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business, subject to all EXCHANGE rules and procedures, until the later of the expiration of all in-force policies or any transactions relating to those policies, including but not limited to claims and return or additional premiums. After the petition for withdrawal has been granted, the Broker-in-Withdrawal shall be known as a "Broker-in-Run-off".

(b) an Annual Financial Statement or other report acceptable to the EXCHANGE, prepared by a Certified Public Accountant stating that all premium and loss funds on hand relating to EXCHANGE business are held in a fiduciary capacity. Such Statement or report shall be filed each year until the later of the expiration of all in-force policies or any transactions relating to those policies, including but not limited to claims and return or additional premiums.

2) For the Broker-in-Withdrawal electing to transfer all of its obligations on business placed on the EXCHANGE as a Broker Member or Associate Broker to another Broker Member:

(a) evidence in a form satisfactory to the EXCHANGE, that all such obligations will be assumed as of the requested withdrawal date; and

(b) an Annual Financial Statement or other report acceptable to the EXCHANGE, prepared by a Certified Public Accountant stating that all premium and loss funds on hand relating to EXCHANGE business are held in a fiduciary capacity.

3) Evidence in a form approved by the EXCHANGE that all Underwriting Members have been notified of the filing of the Petition for Withdrawal contemporaneously with filing of the Petition.

4) In addition to the dues and assessments set fourth in Paragraph 2(c) above, the Broker-in-Run-off shall pay the following fees for processing the business being run-off:

	Over 50 Contracts <u>Placed</u>	Under 50 Contracts <u>Placed</u>
First Year	\$4,000	\$2,000
Second Year	\$2,000	\$1,000

Third Year                      \$1,000                      \$ 500

5) Such other terms as the Board may specify from time to time in its sole discretion.

3) A Petition for Withdrawal will not be granted by the Board unless the Broker-in-Withdrawal and the Assuming Broker agree in writing to:

*a)* Arbitrate, in accordance with Article XIV of the Constitution and By-Laws and Article 27 of the Operating Rules, any and all disputes arising out of (i) the Broker-in-Withdrawal's status as a Broker Member or Associate Broker or (ii) any business placed at the Exchange by the Broker-in-Withdrawal;

*b)* Provide such information as the EXCHANGE may request in its sole discretion and otherwise cooperate with the EXCHANGE concerning any inquiry by the EXCHANGE relating to business placed at the EXCHANGE by the Broker-in-Withdrawal.

*c)* Indemnify the EXCHANGE, its Members and Associate Brokers for any fees or expenses, including attorney fees, incurred by the EXCHANGE, its Members or Associate Brokers arising out of the failure of the Broker-in-Withdrawal or the Assuming Broker to perform any obligation imposed by the Board as a condition to its granting the Petition for Withdrawal.

*d)* Such other terms or conditions as may be imposed by the Board of Governors.

4) Until a Petition for Withdrawal is granted, a Broker-in-Withdrawal shall file all reports and financial statements required by the Constitution and By-Laws and Operating Rules as well as any other information required by the EXCHANGE.

5) At any time before a Petition for Withdrawal is granted, the EXCHANGE, upon request, shall provide for inspection at the office of the EXCHANGE a copy of the Petition for Withdrawal to any Underwriting Member.

*a)* Within 10 days of the filing of any Petition which complies with these Rules, any Underwriting Member shall have the right to file an objection to the Petition.

*b)* An objection must be in writing and must specify the reasons for the objection. It must be filed with the Secretary of

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the EXCHANGE, along with proof that a copy has been hand delivered to the Broker-in-Withdrawal.

c) Within 20 days of the filing of an objection, the Broker-in-Withdrawal must with the EXCHANGE either (i) a release executed by the objecting party or (ii) a response to the objection. Failure to respond on the part of the Petitioner in withdrawal shall be deemed an admission of such objection, unless the Board determines otherwise in its sole discretion.

d) Upon filing of the response, the objection shall be presented to the Board for consideration. The Board may request additional information as it might deem appropriate, hold hearings, conduct independent investigations, hold hearings, conduct independent investigations, and take any steps it might consider appropriate in determining the merits of the objections.

e) The Board, in its discretion, may impose any conditions it deems necessary to its granting of the Petition for Withdrawal.

6) Upon granting a Petition for Withdrawal, the Board shall immediately notify the Broker-in-Withdrawal, Broker Members and Associate Brokers and the Superintendent of Insurance of the State of New York that the Broker-in-Insurance of the State of New York that the Broker-in-Withdrawal is no longer a Member of the EXCHANGE as of the effective withdrawal date.

7) This Rule shall apply to any and all Broker Members or Associate Brokers participating in a merger of two or more Broker Members or Associate Brokers.

8) The EXCHANGE may issue procedures, bulletins, circulars or other material explaining interpreting, clarifying or detailing the withdrawal procedures consistent with these Rules.

**29.22.** The petition of any Underwriting Member for voluntary withdrawal may be granted by the Board subject to the following conditions:

(A) If the Underwriting Member has or has not been a member for six months: not transacted business on the EXCHANGE:

(1) All dues, assessments and fees have been paid through and including the month in which the petition is granted by the Board;

(2) A Withdrawal fee has been paid to the EXCHANGE in an amount equal to one-half of the total dues, assessments and fees fixed by the Board on Underwriting Members for the twelve-month period ending with the month in which the petition is granted by the Board; and

(3) Such other terms or conditions as may be imposed by the Board in granting the petition for withdrawal.

(B) If the Underwriting Member has transacted business on the EXCHANGE or has been a member for six months:

1) The EXCHANGE shall only approve withdrawals which are effective as of the close of business December 31st. For a Petition for Withdrawal to be effective, an Underwriting Member must notify the EXCHANGE in writing of its Notice of Intent to Withdraw at least 120 days prior to the requested withdrawal date.

2) The Underwriting Member shall deliver a Petition for Withdrawal at least 90 days prior to the requestee withdrawal date. Immediately upon filing a Petition for Withdrawal with the EXCHANGE, the Underwriting Member:

(a) shall not be permitted to accept any new or renewal business;

(b) shall continue to be subject to all rules and procedures of the EXCHANGE; and

(c) shall be known as an "Underwriting Member-in-Withdrawal."

3) The Petition for Withdrawal shall include the following:

(a) A Withdrawal Plan which can be put into effect as of the requested withdrawal date, and which provides for the assumption or satisfaction of all claims and outstanding obligations incurred by the Underwriting Member-in-Withdrawal as a Member of the EXCHANGE, in accordance with Article VIII, Section 1 of the Constitution and which plan provides that all business written on the EXCHANGE shall continue to be processed on the EXCHANGE subject to all applicable rules and EXCHANGE procedures. Such assumption or satisfaction may be by one or more of the following methods, subject to approval of the EXCHANGE: (i) run-off of all claims and outstanding obligations incurred as a Member of the EXCHANGE ("run-off"); (ii) assignment to and

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assumption by a Syndicate(s) in good standing on the EXCHANGE, which is satisfactory to the EXCHANGE, taking into account all relevant facts and circumstances including but not limited to the amounts and classes of business written on the EXCHANGE, and the financial condition of the proposed Assuming Syndicate; (iii) assignment to and assumption by an insurance or reinsurance company(ies) licensed or authorized to do business in New York State, which is satisfactory to the EXCHANGE, taking into account all relevant facts and circumstances including but not limited to the amounts and classes of business written on the EXCHANGE, and the financial condition of the proposed assuming entity; or (iv) such other method as may be approved by the Board.

(b) An agreement in writing by the Underwriting Member-in-Withdrawal and any Assuming Entity, as respects the business written by the Underwriting Member-in-Withdrawal or assumed by the Assuming Entity, to comply with the Constitution and all rules and procedures of the EXCHANGE, as they may be amended from time to time. Such written agreement shall also provide for payment to the EXCHANGE by any Assuming Entity and by any Underwriting Member-in-Withdrawal electing a "Run-off," of amounts assessed by the EXCHANGE in accordance with the current Assessment Schedule for Underwriting Members-in-Withdrawal and any additional transaction fees the EXCHANGE may assess, from time to time, for processing business written by the Underwriting Member-in-Withdrawal.

(c) Written Agreement by the Underwriting Member-in-Withdrawal and Assuming Entity, if any, to indemnify the EXCHANGE, its Members and Associate Brokers, for any fees or expenses, including attorneys fees, incurred by the EXCHANGE, such Members or Associate Brokers, as respects the business written by the Underwriting Member-in-Withdrawal or assumed by an Assuming Entity, and arising out of any business transacted on the EXCHANGE by the Underwriting Member-in-Withdrawal.

(d) The additional security required by paragraph 6 of this Rule.

(e) A withdrawal fee of \$10,000.

(f) Evidence in a form approved by the EXCHANGE that each Member and Associate Broker is notified of the filing of the



Petition for Withdrawal contemporaneously with filing of the Petition.

(g) Evidence in a form approved by the EXCHANGE that each policyholder of the Underwriting-Member-in-Withdrawal is notified of the withdrawal plan contemporaneously with filing of the Petition.

(h) Such other terms or conditions as may be imposed the the Board of Governors.

4) Until a Petition for Withdrawal is granted, an Underwriting Member-in-Withdrawal, whose business has been assumed on or off the EXCHANGE pursuant to Rule 29.22(B) (3)-(a)(ii) and (iii), shall file all reports and financial statements required by the Rules, including quarterly financial statements. An independent actuarial loss reserve study by an associate or fellow of the Casualty Actuarial Society, as of the requested withdrawal date, shall also be provided. An Underwriting Member-in-Withdrawal in a run-off shall continue to file the aforementioned reports and financial statements until all claims and other obligations incurred as a Member of the EXCHANGE are satisfied, but the loss reserve study shall be as of the requested withdrawal date.

5) At any time before a Petition for Withdrawal is granted, the EXCHANGE, upon request, shall provide for inspection at the office of the EXCHANGE a copy of the Petition for Withdrawal to any Member or Associate Broker.

(a) Within 10 days of the filing of any Petition which complies with these Rules, any Member or Associate Broker shall have the right to file an objection to the Petition.

(b) An objection must be in writing and must specify the reasons for the objection. It must be filed with the Secretary of the Exchange, along with proof that a copy has been hand delivered to the Underwriting Member-in-Withdrawal.

(c) Within 20 days of the filing of an objection the Underwriting Member-in-Withdrawal must file with the EXCHANGE either (i) a release executed by the objecting party or (ii) a response to the objection. Failure to respond on the part of the Petitioner in Withdrawal shall be deemed an admission of such objection, unless the Board determines otherwise in its sole discretion.

(d) Upon the filing of the response, the objection shall be

presented to the Board for consideration. The Board may request additional information as it might deem appropriate, hold hearings, conduct independent investigations, and take any steps it might consider appropriate in determining the merits of the objections.

(e) Any decision of the Board shall be final, including the imposition of terms and conditions on the Plan for Withdrawal, as it may deem appropriate.

6)(a) To secure the obligation for the additional assessment, authorized by Article II, Section 1 of the Constitution, an Underwriting Member-in-Withdrawal shall deposit \$500,000 with the EXCHANGE. Such deposit shall be on terms and conditions satisfactory to the EXCHANGE, and shall be in the form of (i) cash, (ii) securities permitted for the Initial Deposit, (iii) irrevocable, clean letter(s) of credit, for a term and in a form satisfactory to the EXCHANGE, from a bank or trust company authorized to do business in New York State with assets of at least \$5 billion, or (iv) such other security as may be acceptable to the EXCHANGE in its sole discretion. At any time after the Petition for Withdrawal has been granted, all or any part of this deposit may be released, after the Board, based upon the financial statements or other reports required by the EXCHANGE rules, determines that no insolvency exists among the Underwriting Members of the EXCHANGE as the Underwriting Members' financial condition existed as of the date of the withdrawal or, if any such insolvency or insolvencies did exist as of such date that the aggregate fund is sufficient to fully fund any deficits arising from an insolvency or insolvencies.

(b) In evaluating the solvency of Underwriting Members the Board shall examine the adequacy of the loss reserves, the collectibility of the reinsurance recoverables, the adequacy of the incurred but not reported reserves, the solvency of the reinsurers on the insurance ceded and any other financial condition that would affect any Underwriting Member's solvency as of the date of withdrawal. In determining these values as of the date of withdrawal, the Board shall use any and all information, statistics and occurrences which may materially affect these values and shall be entitled to use information, statistics and occurrences which arise, become available or exist after the said date of withdrawal. Without limiting the foregoing, the Board may rely upon:

(i) completed reports of examination by the New York Insurance Department for the said Underwriting Members as at the year of withdrawal or any year subsequent to the said year of withdrawal; and

(ii) the filed statutory and audited annual financial statements of the Underwriting Members for any of the years following the date of withdrawal.

(c) Notwithstanding any other provision contained in the Constitution and by-Laws, except for the report of examination referred to in clause b(i) above, no determination by the Board of the solvency or insolvency of the Underwriting Members as required in Section 6(a) above shall be conclusive until at least two annual financial statements covering periods occurring after the date of withdrawal shall have been filed and reviewed or audited by the EXCHANGE. Any determination of solvency or insolvency made by the Board following review or auditing of such two financial statements shall be deemed to satisfy the Board's obligation under Section 6(a) above. Any determination of solvency made by the Board following review or auditing of such two financial statements or if these two statements should be inconclusive for the Board to make a determination, then any other determination made as to subsequent years' financial statement shall be deemed to satisfy the Board's obligations under Section 6(a).

(d) For purposes of this withdrawal rule, any underwriting member, other than the Underwriting Member-in-Withdrawal, which is impaired as defined in Article I, Section 4(n) of the Constitution as of the date the Petition for Withdrawal is granted (and such impairment has not been corrected) and is subsequently declared insolvent pursuant to Article II, Section 13 of the Constitution, shall be deemed insolvent on the day preceding the effective date of withdrawal.

7) Upon granting a Petition for Withdrawal, the Board of Governors of the EXCHANGE shall immediately notify the Underwriting Member-in-Withdrawal, the Board of Directors of the Security Fund, and the Superintendent of Insurance of the State of New York.

8) An Underwriting Member-in-Withdrawal or its Assuming Entity, as respects business written by the Underwriting Member-in-Withdrawal or assumed by the Assuming Entity, shall

maintain a designated Underwriting Manager approved by the EXCHANGE, and all necessary support services, including claims and accounting services, until all business required to be processed on the EXCHANGE has been run-off or discharged to the satisfaction of the EXCHANGE. No Underwriting Manager, however, in its capacity as Underwriting Manager for an Underwriting Member-in-Withdrawal or an Assuming Entity, shall be the "Lead" or "Principal" Underwriter with respect to such business, if there are other Underwriting Members participating in the contract.

9) This rule shall apply to any and all Underwriting Member(s) participating in a merger of two or more Underwriting Members.

10) The EXCHANGE may issue procedures, bulletins, circulars or other material explaining, interpreting, clarifying or detailing the withdrawal procedures consistent with these Rules.

11) Rules 12.30 and 12.50 shall not apply to the reinsurance of contractual obligations of an underwriting Member-in-Withdrawal, unless otherwise provided by the Board.

#### **29.23. Subvention certificates**

Subvention certificates, if any, held by the withdrawing Member or Associate Broker may be redeemed by the EXCHANGE in three equal principal payments to be made on August 1 of the year following the effective date of withdrawal, and the second and third payments on each succeeding August 1. The withdrawing Member or Associate Broker shall not participate in any other pro rata redemption to the holders of subvention certificates of the same class unless such redemption involved the final redemption of the Series held by the withdrawing Member or Associate Broker.

#### **29.30. Withdrawal, dissolution and rehabilitation of Underwriting Managers**

##### **29.31. Voluntary withdrawal**

At any time an Underwriting Manager may petition the EXCHANGE for a voluntary withdrawal, a copy of such petition to be personally served upon the Underwriting Member which submitted the Application for Registration as an Underwriting Manager to the EXCHANGE. Such voluntary withdrawal shall become effective sixty (60) days after petition to the EXCHANGE unless the Underwriting Member request a reasonable extension of such sixty (60) day period

from the EXCHANGE because of undue hardship in replacing such Underwriting Manager. The Underwriting Member shall have the right to effect such voluntary withdrawal at any time prior to the expiration of the initial sixty (60) day period.

### **29.32. Involuntary withdrawal or removal**

(A) Removal from Register of Approved Underwriting Manager by Underwriting Member. At any time an Underwriting Member may petition the President for removal of its designated Underwriting Manager from the Register of Approved Underwriting Managers. The petition shall indicate either the party to be designated as the new Underwriting Manager or the reasons why a new Manager will not be designated. No removal from the Register shall be effective until the petition is granted by the EXCHANGE.

(B) An Underwriting Manager who:

(1) becomes the subject of an involuntary or voluntary petition in bankruptcy for liquidation, or arrangement, or

(2) transfers substantially all assets for the benefits of creditors, or

(3) becomes the subject of any proceedings for the appointment of a receiver, or

(4) has its authority to transact business in the State of New York suspended or terminated shall immediately cease to transact any business on the EXCHANGE and shall immediately notify both the EXCHANGE and the Underwriting Members upon whose behalf the Underwriting Manager may act of the occurrence of such event or events;

Such Underwriting Manager may transact further business on the EXCHANGE only upon the prior written consent and approval of the Underwriting Member upon whose behalf it acts, and of the EXCHANGE, upon such conditions and limitations the EXCHANGE may impose.

(C) Upon petition by any Member or on its own petition, the EXCHANGE may order the removal of the Underwriting Manager from the Register of Approved Underwriting Managers upon a showing that such Underwriting Manager:

(1) is impaired or insolvent;

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(2) has refused to submit its books, papers, accounts, or affairs to the reasonable inspection of the EXCHANGE;

(3) is found, after an examination, to be in such condition that its further transaction of business will be hazardous to its creditors, or to the public;

(4) has violated the Constitution, Rules or any law of New York;

(5) has an officer or principal who has refused to be examined under oath concerning its affairs;

(6) has become the subject of any procedure for liquidation, or bankruptcy.

**29.33. Prohibited conduct.** In addition to acts specified in Article XI, Section 1 of the Constitution, it shall constitute prohibited conduct for an Underwriting Manager to fail to disclose the facts and circumstances pertaining to fraudulent or dishonest acts committed prior to the filing of an application for Underwriting Manger.

**29.34. Disciplinary procedures.** In addition to procedures applicable to affiliated persons under Article XII, Section 4 of the Constitution, an Underwriting Manager shall be subject to summary procedures and penalties under Section 6 of that Article.

**29.35. Penalties.** Any Underwriting Manager found in a proceeding under Article XII of the Constitution to have engaged in prohibited conduct may be subject to removal from the Register of Approved Underwriting Managers, removal of one or more of its deputies from the Register of Approved Deputies, and may be subjected to one or more of the following: suspension, reprimand, censure and fine.

**29.36. Suspension.** Any suspended Underwriting Manager shall be deprived, during the period of suspension, of the right to accept risks and have sole binding authority on behalf of an Underwriting Member.

**29.37. Consequences of suspension.** Pursuant to Article XI, Section 2(b) of the Constitution, any Underwriting Member whose Underwriting Manager has been suspended may be subject to involuntary withdrawal, suspension, reprimand, censure and fine.

**29.40. Removal from Register of Approved Deputies.**

**29.41.** Any natural person listed by an Underwriting Manager in

the Register of Approved Deputies pursuant to Article IX, Section 3 of the Constitution, may, by written request to the EXCHANGE, have the name removed from the Register. Any Underwriting Manager may, by written request to the EXCHANGE, have the name of one or more of its designated Deputies removed from the Register of Approved Deputies. Requests for removal from the Register shall state briefly the reason removal is desired. Removal shall be granted by the EXCHANGE within ten (10) days of its receipt of a written request unless the EXCHANGE notifies the requesting party to the contrary.

**29.42.** In the event the designation of an Underwriting Manager is removed from the Register of Approved Underwriting Managers, all deputies designated by such a Manager shall be removed from the Register of Approved Deputies.

**29.50. Reinstatement.** Any suspended Underwriting Manager may be reinstated at any time on such terms and conditions as the EXCHANGE may specify.

**29.60. Review Procedures Applicable to Involuntary Withdrawal.** Review Procedures applicable to Rules Article 29.00 shall be the same as provided in Rules 28.08(1) and 28.08(2).

#### **Art. 30.00. Underwriting managers**

**30.10.** No Underwriting Member shall enter into a contract with an Underwriting Manager which provides:

(A) for an initial term of more than five years or renewal term of more than three years;

(B) that the contract shall not be terminated by the Underwriting Member, or that notice of termination by the Underwriting Member shall be for a period in excess of twelve months prior to the end of any calendar or fiscal year of the Underwriting Member;

(C) that provides for the payment or imposition of any penalty in the event of the termination of the contract by the Underwriting Member;

(D) that grants, directly or indirectly, the Underwriting Manager the power or authority to designate any member or members of the board of directors or other governing body of the Underwriting Member;

(E) that authorizes the Underwriting Manager to make investments or loans on behalf of the Underwriting Member without the authorization or approval of the board of directors or other governing body of the Underwriting Member, or by a committee thereof charged with the duty of supervising or making such investment or loan;

(F) that delegates to the Underwriting Manger the duties and responsibilities of the board of directors or other governing body of the Underwriting Member in violation of any applicable law or regulation.

**30.20.** Rule 30.10 shall apply to all contracts between an Underwriting Member and an Underwriting Manager entered into, renewed or extended (whether by exercise of an option in an existing agreement or otherwise) on or after May 22, 1981.

**30.30.** No Underwriting Member shall pay commission or other compensation to an Underwriting Manager with respect to EXCHANGE business, except to the Underwriting Manager who has been designated and approved as its Underwriting Manager.

**30.40.** No Underwriting Manager shall receive any commission or other compensation from any Underwriting Member with respect to EXCHANGE business, except from an Underwriting Member or Members for whom it has been designated and approved on the Register of Approved Underwriting Managers.

**30.50.** No Broker Member or Associate Broker shall enter into any agreement, written or otherwise, with an Underwriting Member or Underwriting Manager for the performance of management or placement services on behalf of such broker. Notwithstanding the foregoing, a Broker Member or Associate Broker may enter into an agreement with an Underwriting Manager for administrative and clerical services on behalf of such broker with the prior written approval of the EXCHANGE. The EXCHANGE shall advise all Members and Associate Brokers of the existence of any such agreement approved by it.

**30.60.** Any controversy between an Underwriting Manager and a Member or Associate Broker, and any controversy between an Underwriting Manager and another Underwriting Manager, and any controversy between a non-member and an Underwriting Manager arising out of business transacted on the EXCHANGE by the Underwriting Manager on behalf of an Underwriting Member shall at the



instance of such non-member, be submitted for arbitration in accordance with Article XIV of the Constitution and the arbitration rules of the Board.

**30.70.** An Underwriting Manager or the EXCHANGE shall inform any Broker Member or Associate Broker, or any person insured by, insuring, reinsured by or reinsuring any Underwriting Member represented by said Underwriting Manager, of the following information when requested by any such person:

(A) The name of every person Controlling or Controlled by the Underwriting Manager;

(B) Whether any such person named in (A) is a Member or Associate Broker, or a 5% or more stockholder officer or director of a Member or Associate Broker; and

(C) Whether any officer or director of the Underwriting Member is an officer or director of a Member or Associate Broker.

The response to any such request directed to the EXCHANGE shall be limited to the information contained in the application, as amended, of the Underwriting Manager to the EXCHANGE, or the latest Operational Report of the Underwriting Manager filed with the EXCHANGE. The EXCHANGE shall not be required to verify the status of the person requesting the information.

**30.80.** Each Underwriting Manager applicant shall file as part of its application for application for approval as an Underwriting Manager and as part of its Operational Report to the EXCHANGE each year thereafter, a schedule of any affiliations by the Underwriting Manager (including each of its directors, officers, employees, Underwriting Deputies-in-Charge and Underwriting Deputies) with any Entity of the insurance Industry as defined herein. For the purposes hereof:

(A) Affiliations with any Entity of the Insurance Industry shall include (i) being an officer, director, partner, member, employee or controlling person of an Entity of the Insurance Industry or (ii) being employed or retained to perform services by or for any Entity of the Insurance Industry whether as an employee, an agent, an independent contractor, or otherwise; and

(B) "Entity of the Insurance Industry" shall mean (i) any Person or Company which is an Insurance Company, Insurer or Company engaged in Insurance Related Activities as those terms are defined in Regulation 89-B (11 NYCRR Subpart 19-2) as

promulgated by the New York Insurance Department; (ii) any governmental body or authority, or any political subdivision, having executive, legislative or regulatory jurisdiction, authority or power over or with respect to any Insurance Company, Insurer or Company engaged in Insurance Related Activities or the EXCHANGE; or (iii) any Company comprised of natural persons and/or Companies engaged in the "the doing of an insurance business" and/or acting as an "agent", "insurance broker", "insurance consultant", "reinsurance intermediary" or "adjuster" as such terms are used in Sections 1101, 2101, 2106, 2108 and 2109 respectively, of the New York Insurance Law, whether transacted within or without the State of New York.

**Art. 31.00. Holding Companies**

**31.10.** Every controlled Underwriting Member shall file with the EXCHANGE such reports or material as it may direct for the purpose of disclosing information concerning the operations of persons within the holding company system which may materially affect the operations, management or financial condition of the Underwriting Member.

**31.20.** Transactions within a holding company system to which a controlled Underwriting Member is a party shall be subject to the following:

(A) the terms shall be fair and equitable;

(B) charges or fees for services performed shall be reasonable; and

(C) expenses incurred and payments received shall be allocated to the Underwriting Member on an equitable basis in conformity with customary insurance accounting practices consistently applied.

The books, accounts and records of each party to all such transactions shall be so maintained as to clearly and accurately disclose the nature and details of the transactions including such accounting information as is necessary to support the reasonableness of the charges or fees to the respective parties.

**31.30.** To the extent that any information or material is set forth in forms or other matter on file with any government agency, the EXCHANGE or in a registration form filed with the Superintendent by

another person within the same holding company system, the controlled Underwriting Member may comply with the reporting requirements of the Rules by referring in its report to such other filed matter and attaching a copy thereof certified by the Underwriting Member as a true and complete copy, to such report, or if such other filed matter is on file with the EXCHANGE, incorporating such matter by reference.

#### **Art. 32.00. Miscellaneous rules**

##### **32.10. Affirmation of documents and testimony**

Notwithstanding any provision of these Rules requiring an oath as to the proof of a document or the trust of testimony, the affiant may, if his religious beliefs cause him to object to giving an oath, affirm the document or his testimony.

**32.20.** No Person shall use the name of the EXCHANGE in an unfair, deceptive or inappropriate manner.

**32.30.** An Associate Broker shall not use the identification of 'Member of the Exchange'.

**32.40.** Members and Associate Brokers may, from time to time, use the EXCHANGE logo in connection with their activities as Members or Associate Brokers. By such use, such Member or Associate Broker acquires no ownership interest in the EXCHANGE logo. The use of the EXCHANGE logo by Members and Associate Brokers may be limited by these Rules or by the President. The EXCHANGE shall have the right to enforce any such requirements or limitations and to make inspections of the use of the EXCHANGE logo. The EXCHANGE may require Members or Associate Brokers to periodically submit specimens of actual or proposed usages to it to verify compliance with the Rule. The right of EXCHANGE Members and Associate Brokers to use the EXCHANGE logo may not be assigned and shall terminate upon notification from the EXCHANGE.

**32.50.** Each Underwriting Member shall have the privilege to select an underwriting box on the Floor to be occupied by its designated Underwriting Manager or Managers subject to:

(A) Availability of boxes;

(B) payment by the Underwriting Member or Underwriting Manager of the box use fee set by the Board from time to time;

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(C) the continued good standing of the Underwriting Member;  
and

(D) ownership of the underwriting boxes remaining at all times  
with the EXCHANGE.

**32.51.** The President of the Exchange shall assign Underwriting boxes to Underwriting Members in the order of approval as an Underwriting Member and in accordance with these Rules. The determination of assignments and priorities by the President shall be binding on the Underwriting Members.

**32.52.** If an underwriting box is not occupied by an Underwriting Manager designated by the Underwriting Member and the writing of business commenced within six months of approval of the Underwriting Member for membership, the Underwriting Member shall lose the privilege to select and occupy an underwriting box until such time as the Member is prepared to commence the writing of business on the floor.

**Art. 33.00. Amendment of rules**

**33.10.** The Board may from time to time, without notice, amend, alter or repeal any of the Rules.

**33.20.** The President shall notify each Member, Associate Broker, and Underwriting Manager, of any change in the Rules as soon as practicable after the Board's action.

**Art. 34.00. Interpretation of rules**

These Rules shall be interpreted and applied to permit and allow maximum freedom in the submission, placement and underwriting of business on the EXCHANGE, to avoid any undue restraints and restrictions on the flow of business through the EXCHANGE, and to carry out the general purpose and intent of the Constitution and the laws of the State of New York.

**Art. 35.00. Indemnification for Legal Costs**

A Member, Associate Broker or Underwriting Manager shall be required to reimburse the Exchange, its officers, employees, governors, or other representatives for:

(A). Legal fees, costs and other expenses incurred in connection with any litigation, arbitration or other legal proceeding against the Exchange, brought by the Member, Associate Broker or Underwriting Manager to challenge a finding or declaration made against it, where the Member, Associate Broker or Underwriting Manager does not ultimately prevail; and

(B). The cost of producing, in connection with any litigation, arbitration or other legal proceeding to which the Member, Associate Broker or Underwriting Manager is a party, witnesses and records relating to the business or affairs of the Member, Associate Broker or Underwriting Manager, whether such production is required at the instance of the Member, Associate Broker or Underwriting Manager, or at the instance of any other party.

**EXHIBIT A**

**Form of Submission**

**NEW YORK INSURANCE EXCHANGE, INC.**

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**In the Matter of the Arbitration between**

**and**

**SUBMISSION**

---

We, the undersigned parties, hereby submit to arbitration by Arbitrators, selected in accordance with Article XIV, of the Constitution and By-Laws and Article 27 of the Operating Rules of the New York Insurance Exchange, Inc., the matter in controversy between us and all the matters, claims and counterclaim relating thereto, set forth in the statements of the parties, annexed hereto, and we agree to abide by and perform any award rendered pursuant to this agreement, and we do further agree that a judgment of \_\_\_\_\_ may be entered on said award and to that end to voluntarily submit ourselves to the jurisdiction of said court.  
(Name of Court)

We further agree that the above entitled arbitration shall be held in the City of New York and State of New York and shall be conducted in accordance with Article XIV of the Constitution and By-Laws and Article 27 of the Operating Rules of the New York Insurance Exchange, Inc.

IN WITNESS WHEREOF, the parties have caused this Submission to be signed in their name by their duly authorized representatives this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

NAME OF PARTY: \_\_\_\_\_ NAME OF PARTY: \_\_\_\_\_

BY: \_\_\_\_\_ BY: \_\_\_\_\_

SIGNATURE \_\_\_\_\_ SIGNATURE \_\_\_\_\_

TITLE \_\_\_\_\_ TITLE \_\_\_\_\_

ADDRESS \_\_\_\_\_ ADDRESS \_\_\_\_\_

---

1/2/85

Initiating Party

STATE OF )  
 )ss.:  
COUNTY OF )

\_\_\_\_\_  
(Give name of person signing the Submission)  
being duly sworn, deposes and says: that the undersigned is an  
[officer] [director] [Partner] [other \_\_\_\_\_] of

\_\_\_\_\_  
(Give name of party)  
one of the parties above named; that the undersigned signed the  
foregoing Submission for and as the act of the said party; that the  
undersigned knows the contents thereof and that each of the state-  
ments made and answers to the items contained therein is true.

\_\_\_\_\_  
(Signature)  
Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_ .

\_\_\_\_\_  
Notary Public - Commissioner of Deeds  
(Give date commission expires)

Responding Party

STATE OF )  
 )ss.:  
COUNTY OF )

\_\_\_\_\_  
(Give name of person signing the Submission)  
being duly sworn, deposes and says: that the undersigned is an  
[officer] [director] [Partner] [other \_\_\_\_\_] of

\_\_\_\_\_  
(Give name of party)  
One of the parties above named; that the undersigned signed the  
foregoing Submission for and as the act of the said party; that the  
undersigned knows the contents thereof and that each of the state-  
ments made and answers to items contained therein is true.

\_\_\_\_\_  
(Signature)  
Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_ .

\_\_\_\_\_  
Notary Public - Commissioner of Deeds