

Mr. Kirkbride.

MUTUAL FIRE INSURANCE.

ANALYSIS.

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|---|---|
| 1. Short Title. | 33. Insurance on premium-note principle. Minimum rate. |
| 2. Formation of Association. Declaration. Governor may grant Warrant after publication. | 34. Form of policy. |
| 3. How meeting to be called. | 35. When policies may issue. |
| 4. Name and membership of Association. Office, &c. Fee for registration. | 36. Renewing policies. |
| 5. Election of directors. | 37. Mode of executing policies. Proviso in case of fraud. |
| 6. Power to admit members. | 38. Liability of premium note on cancellation of policy. |
| 7. Annual meeting for election of directors. | 39. Effect of cancellation on account of alienation, assignment, &c. Proviso. |
| 8. Annual report and statement. | 40. Association may accept premium notes. |
| 9. Notice of meetings. | 41. Part payment with application. |
| 10. Members to have votes proportionate to their insurance. | 42. Assessment upon premium notes. |
| 11. Election of directors. | 43. Assessment of premium notes. Notice to be given of the assessment. |
| 12. Mode of election. | 44. Policy void if note not paid in thirty days. May be renewed by subsequent payment. |
| 13. Provisions in case of tie. | 45. Notice of assessment. |
| 14. Qualification of directors. | 46. How assessments proportioned. |
| 15. Manager may be a director. His salary. | 47. Association may sue for assessment. |
| 16. Certain persons not eligible to be elected directors. | 48. Secretary's certificate <i>prima facie</i> evidence. |
| 17. Quorum of directors. | 49. When premium note to be returned. |
| 18. Recording dissent of directors. | 50. Directors may retain amount of premium note in case of loss. |
| 19. Vacancies, how filled up. | 51. Liability of members. |
| 20. Provisions in case of failure of election of directors on proper day. | 52. Property liable. |
| 21. Election of chairman. | 53. Reserve Fund. How composed. How applied. How invested. |
| 22. Appointment of manager and other officers. | 54. Treasurer to give security. |
| 23. Tariff of rates. | 55. Changing office of Association. |
| 24. Meetings of Board. | 56. Lands that may be held by the Association. |
| 25. Record of proceedings. | 57. Annual statement. What statement shall contain. (1.) Assets. (2.) Liabilities. (3.) Income of previous year. (4.) Expenditure of previous year. |
| 26. Board may pass by-laws. Alter and amend by-laws. | 58. Inquiries by Public Trustee. Penalty for not replying. |
| 27. Board to manage property of Association. | 59. Public Trustee to publish synopsis of business of each Association in the <i>Gazette</i> . Schedule. |
| 28. Reinsurance. | |
| 29. Withdrawal of members. | |
| 30. Investment of capital funds. | |
| 31. Directors may borrow money. Assets of Association to be liable for same. | |
| 32. Property which may be insured. | |

A BILL INTITULED

AN ACT to provide for the Establishment of Mutual Fire Insurance Associations. Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act is "The Mutual Fire Insurance Act." Short Title.

Formation of
Association.
Declaration.

2. Whenever one hundred or more persons, *being the owners of farm or isolated property*, shall have subscribed their names to a declaration that they have thereby bound themselves to form a Mutual Fire Insurance Association for the purpose of *mutual* insurance against loss or damage by fire, and to effect insurance in said Association against loss or damage by fire to the amount in the aggregate of not less than ~~twenty~~ *forty* thousand pounds (which declaration shall state the name of the Association and the place where its business will be conducted), and shall have filed such declaration in duplicate, one copy with the Public Trustee, and the other with the Registrar or Deputy-Registrar of Joint-stock Companies in the district in which the place of business of the Association is to be situate, the Governor in Council may, notwithstanding anything contained in the Companies Act or any other Act, upon application of a secretary *ad interim* of such Association, to be chosen by ten or more of such subscribers at their first meeting, to be held after ten days' notice given in a newspaper circulating in the district in which the place of business of the Association is to be established, grant a Warrant authorising such subscribers to constitute themselves ~~and~~ *together with* such others as may thereafter join with them an Association under the provisions herein contained, which Warrant shall state the name or designation of the said Association and the place of business thereof.

Governor may grant
Warrant after
publication.

How meeting to be
called.

3. As soon as convenient after such Warrant is obtained, the said secretary shall call a first general meeting of the said Association at the place so designated as the place of its business, and of which at least ten days' notice shall be given in a newspaper circulating in the district in which the business of the Association is to be conducted, or by notice posted to each subscriber at his or her post-office address.

Name and
membership of
Association.
Office, &c.

4. (1.) At such meeting the name of the Association (of which the word "Mutual" shall form a part) shall be formally adopted, as also the place of the office of the said Association, and thereupon ~~copies~~ *a copy* of the resolutions adopting such name and place of business, certified under the hand of the secretary *ad interim*, shall be filed with the Registrar or Deputy-Registrar of Joint-stock Companies of the district within which such place of business is to be situate; and, upon the filing of such ~~copies~~ *copy* of the resolutions, the several subscribers above mentioned, and all other persons thereafter effecting insurances therein, shall be and become members of the said Association, and shall be a body corporate by and under the name so adopted, which shall not thereafter be changed :

New subclause.

(2.) But the corporate powers of the association shall be forfeited by non-user, or discontinuance of business, or by suspension or cancellation of license.

Fee for registration.

Provided that the Registrar or Deputy-Registrar of Joint-stock Companies shall be entitled to charge a fee of not more than *five* pounds for any filing under this ~~Act~~ *section*.

Election of
directors.

5. At such meeting a Board of Directors shall be elected, chosen from among the subscribers; such Board to consist of not less than five nor more than nine; and no subscriber shall be elected as a

director unless he be a subscriber for insurance to at least two hundred ~~and fifty~~ pounds.

6. The Association may admit as a member thereof the owner of any farm or isolated property, movable or immovable, and may insure the same; and every person admitted a member of said Association by such insurance shall be entitled to the like rights, and be subjected to the like liabilities, as other members of said Association.

Power to admit members.

New proviso.

10 | Provided always that it shall not be competent for the Association to insure the property of persons who are not members of the said Association.

7. A meeting of the members for the election of directors and auditors shall be held in every year, at such time and place as may be prescribed by the by-laws or resolutions of the Association.

Annual meeting for election of directors.

8. At annual meetings, in addition to the election of directors and auditors, a report of the transactions of the Association for the year which shall have ended on the last day of the month last preceding the date of such annual meeting shall be presented and read, together with a full and unreserved statement of its affairs, exhibiting receipts and expenditure, assets and liabilities.

Annual report and statement.

Struck out.

25 | 9. Notice of any annual or special meetings of the members of said Association shall be published in one or more newspapers circulating in the district for at least two weeks previous to the day of such meeting, and the Board of Directors may convene at any time a general meeting of the Association upon any urgent occasion, giving notice thereof as herein provided.

New Clause.

30 | 9. All annual or special meetings of the members of the Association shall be convened by inserting in one or more newspapers circulating in the district wherein the registered office of the Association shall be situated in one number thereof in each of two consecutive weeks, or by sending by post a notice signed by the secretary or manager of the Association, that on some date to be named therein, not to be earlier than fourteen days after the date of the first insertion or postage as aforesaid and at the hour and place to be therein stated, such meetings shall be held.

Notice of meetings.

40 | 10. Each member of the Association shall be entitled, at all meetings of the Association at which he is present, to the number of votes proportioned to the amount by him insured, according to the following scale, that is to say: For any sum under two hundred and fifty pounds, one vote; from two hundred and fifty pounds to five hundred pounds, two votes; from five hundred pounds to one thousand pounds, three votes; and one vote for every additional thousand pounds: but no member shall be entitled to vote while in arrears for any assessment due by him to the Association.

Members to have votes proportionate to their insurance.

45 | 11. The election of directors shall be held and made by such members of the Association as shall attend for that purpose in their own proper persons.

Election of directors.

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New proviso.

Provided that the number of members so attending shall not be less than twenty per centum of the actual membership.

Mode of election.

12. The election of directors shall be by ballot.

Provision in case of tie.

13. If at any such election two or more members have an equal number of votes, then the members of the Association shall proceed to elect by ballot, until it is determined which of the persons so having an equal number of votes shall be the director or directors, so as to complete the whole number of directors to be elected.

Qualification of directors.

14. The directors shall be members of the Association and insurers therein, for the time they hold office, to the amount of two hundred and fifty pounds at least.

Struck out.

Manager may be a director.

15. The Board of Directors may appoint a manager, and the manager of any such Association may be a director of such Association, and may be paid an annual salary, but only under a by-law of the said Association.

His salary.

Certain persons not eligible to be elected directors.

16. No agent, or paid officer, or person in the employment of any such Association, other than the manager, shall be eligible to be elected a director, or shall be allowed to interfere in the election of directors for such Association.

Quorum of directors.

17. Three directors shall constitute a quorum for the transaction of business.

Recording dissent of directors.

18. Any director disagreeing with the majority of the Board at any meeting may have his dissent recorded, with his reasons therefor.

Vacancies, how filled up.

19. If any vacancy happen among the directors during the term for which they may have been elected, by death, resignation, ceasing to have the necessary qualification under the provisions aforesaid, insolvency, or by being absent without previous leave of the Board from three regular meetings of the Board in succession (which absence shall *ipso facto* create such vacancy), such vacancy shall be filled up for the remainder of the term, and as soon as may be after the vacancy occurs, by the election by the remaining directors of a duly qualified person to fill the same.

Provisions in case of failure of election of directors on proper day.

20. In case an election of directors be not made on the day on which it ought to have been made, the Association shall not for this cause be dissolved, but the election may be held on any subsequent day, at a meeting to be called by the directors for that purpose, or as is otherwise provided by the by-laws of the Association; and in such case the directors shall continue to hold office until their successors are elected.

Election of chairman.

21. The directors shall, at their first meeting after any such election, proceed to elect by ballot from among themselves a chairman, and at such election the secretary shall preside.

Appointment of manager and other officers.

22. The Board may from time to time appoint a manager, *who may be a director also*, a secretary, a treasurer, and such other officers, agents, or assistants as to them may seem necessary, prescribe their duties, fix their *salaries*, compensations, or allowances, take such security from them as may be required for the faithful performance of their respective duties, or may remove them and appoint others instead.

23. The said Board may also adopt a tariff of rates for insurance, and vary the same from time to time, and determine the sum to be insured on any property. Tariff of rates.
24. The said Board may hold their meetings monthly, or oftener if necessary, for transacting the business of the Association. Meetings of Board.
25. The said Board shall keep a record of their proceedings. Record of proceedings.
26. The Board of Directors may, from time to time, make and prescribe such regulations or by-laws as to them may appear needful and proper, respecting the funds and property of the Association, the duties of the officers, agents, and assistants thereof, the effectual carrying-out of the objects contemplated by the Association, the holding of the annual meeting, and such other matters as appertain to the business of the Association and are not contrary to law, and may from time to time alter and amend the said regulations or by-laws : Board may pass by-laws.
- 15 Provided that every by-law and every repeal, amendment, or re-enactment thereof shall be confirmed at a general meeting of the Association duly called for that purpose.
27. The Board of Directors shall superintend and have the management of the funds and property of the Association, and of all matters relating thereto not otherwise provided for. Board to manage property of Association.
28. The Board of Directors may make arrangements with any insurance company for the reinsurance of risks on such conditions with respect to the payment of premiums thereon as may be agreed between them. Reinsurance.
29. Any member of such Association may, with the consent of the directors, withdraw therefrom, upon such terms as the directors may require. Withdrawal of members.
30. The Board of Directors of any such Association may invest the capital and funds of the Association in ~~the shares of any chartered bank,~~ in mortgages on real estate, municipal debentures of any local body, or in the public securities of this colony. Investment of capital funds.
31. The Board of Directors of any such Association may borrow money for such period and on such conditions as shall seem expedient ; the whole of the assets, including premium notes of the Association, being held liable to pay the same : Provided always that the money so borrowed shall *only be for the purpose of paying ascertained fire losses, and shall not exceed one-half the amount remaining unpaid upon the premium notes of the Association.* Directors may borrow money. Assets of Association to be liable for same.
32. *Subject to the provisions of section six* the Association may insure ~~dwellinghouses, stores, shops, and other~~ isolated buildings ; also household furniture, merchandise, machinery, farm produce, and other commodities *contained in such buildings* against damage or loss by fire, whether the same happen by accident or by any other means, except that of design on the part of the insured, or by the invasion of an enemy, or by insurrection. Property which may be insured.
33. A Mutual Fire Insurance Association may effect insurance upon the premium-note principle for a period not exceeding ~~three~~ five years, but only on farm and other non-hazardous property, and the minimum of such premium notes shall not be less than one per centum per annum ~~on the value of the property insured, on the amount of the insurance effected, and the amount of the premium note shall in~~ Insurance on premium-note principle.
- 50 Minimum rate.

each case be in proportion to the tariff-rate prescribed for such insurance.

- Form of policy. 34. The Association may issue policies of insurance for any term not exceeding *three five* years.
- When policies may issue. 35. No policy of insurance shall be issued by any such Association until application shall have been made for insurance to the extent of at least *twenty forty* thousand pounds, and approved by the Board of Directors. 5
- Renewing policies. 36. Any policy may be renewed at the discretion of the Board of Directors by a renewal receipt instead of a new policy, on the insured giving his premium note or undertaking therefor. 10
- Mode of executing policies. 37. All policies of insurance issued by the Board of Directors, sealed with the seal of the Association, signed by the chairman, and countersigned by the secretary or acting-secretary, shall be binding on the Association : 15
- Proviso in case of fraud. Provided that any misrepresentation contained in application therefor, or any false statement respecting the title or ownership of the applicant or his circumstances, or the concealment of any encumbrance on the insured property or on the land on which it may be situate, or the failure *during the currency of the policy* to notify the Association of any change in the title, ~~or~~ ownership, *or encumbrance* of the insured property and to obtain the written consent thereto, shall render the policy void, and no claim for loss shall be recoverable thereunder unless the Board of Directors in their discretion shall see fit to waive the defect. 20
- Liability of premium note on cancellation of policy. 38. If the policy be cancelled or avoided by the Association, the liability of the insured on his premium note or undertaking shall cease from the date of such cancellation or avoidance on account of any loss that may occur to the Association thereafter, but the party insured shall nevertheless be liable to pay his proportion of the losses and expenses of the Association to the time of cancelling or avoiding the policy, and, on payment of his proportion of all assessments then payable and to become payable in respect of losses and expenses sustained up to such period, shall be entitled to a return of his premium note or undertaking, and such proportion of the premium paid by him as shall not have been absorbed by the losses and expenses of the Association up to such period, and a condition to this effect shall be indorsed on the policy. 25
- Effect of cancellation on account of alienation, assignment, &c. 39. If the Association become entitled to avoid a policy for alienation or partial alienation of the insured property, or of any interest therein, upon the return of the policy to the Association to be cancelled, unless the directors elect to continue the same, the assured shall be entitled to receive his ~~deposit~~ *premium* note or notes upon payment of his proportion of all losses and expenses which had accrued prior to such surrender, but the assignee may have the policy transferred to him ; and upon application to the directors such assignee on giving proper security to their satisfaction for such portion of the ~~deposit~~ *or premium* note or undertaking as remains unpaid, and with their consent within thirty days next after such alienation, may have the policy ratified and confirmed to him ; and by such ratification and confirmation said assignee shall be entitled to all the rights and privileges and be subject to all the liabilities and conditions to which the original party insured was entitled and subject : 30 35 40 45 50

Provided, however, that in case where the assignee is a mortgagee the directors may permit the policy to remain in force, and to be transferred to him by way of additional security, without requiring any premium note or undertaking from such assignee, or without his becoming in any manner personally liable for premiums or otherwise, but in such cases the premium note or undertaking and liability of the mortgagor in respect thereof shall continue and be in no wise affected.

40. The Association may accept premium notes *in the form prescribed in the Schedule hereto*, or may accept the undertaking of the insured for insurances, and may issue policies thereon, said notes or undertakings to be assessed for the losses and expenses of the Association in manner hereinafter provided.

41. The directors may shall demand a first payment on the premium note or undertaking at the time that application for insurance is made; and such payment shall be credited upon said premium note or undertaking, or against future assessments.

42. The directors may make assessments upon premium notes before losses have happened or expenses been incurred, and any surplus from any such assessments shall become part of the Reserve Fund.

43. All premium notes and undertakings belonging to the Association shall be assessed under the direction of the Board of Directors at such intervals, and for such sums, as the directors shall determine, and for such further sums as they may think necessary to meet the losses and other expenditure of said Association during the currency of the policies for which said notes or undertakings were given, and in respect to which they are liable for assessment; and every member of the Association or person who has given a premium note or undertaking shall pay the sums from time to time payable by him to the Association during the continuance of his policy, in accordance with such assessment; and any such assessment shall become payable in thirty days after notice of such assessment shall be posted to such member or person who has given the premium note or undertaking, directed to his post-office address, as given in his original application or in writing to the secretary of the Association.

44. If the assessment on the premium note or undertaking upon any policy be not paid within thirty days after the day on which the said assessment shall become due, the policy of insurance for which said assessments shall have been made shall be null and void, as respecting all claims for losses occurring during the time of such non-payment:

Provided always that the said policy shall be renewed when such assessment shall have been paid, unless the secretary give notice to the contrary to the assessed party in the manner herein provided; but nothing shall relieve the assured party from his liability to pay such assessment or any subsequent assessments, nor shall such assured party be entitled to recover the amount of any loss or damage which may happen to property insured under such policy while such assessment shall remain due and unpaid, unless the Board of Directors in their discretion shall decide otherwise.

Proviso.

Association may accept premium notes.

Part payment with application.

Assessment upon premium notes.

Assessment of premium notes.

Notice to be given of the assessment.

Policy void if note not paid in thirty days.

May be renewed by subsequent payment.

- Notice of assessment. 45. A notice of assessment upon any premium note or undertaking posted as aforesaid shall be deemed sufficient, if it embody the number of the policy, the period over which the assessment extends, the amount of the assessment, the time when and the place where payable. 5
- How assessments proportioned. 46. The assessment upon any premium notes or undertakings shall always be in proportion to the amount of said notes or undertakings.
- Association may sue for assessment. 47. If any member or other person who has given a liability with respect to a premium note or undertaking shall, for thirty days after notice of assessment shall have been posted to him in manner aforesaid, neglect or refuse to pay said assessment, the Association may sue for and recover the same with costs of suit, and such proceeding shall not be a waiver of any forfeiture incurred by such non-payment. 10 15
- Secretary's certificate *prima facie* evidence. 48. Whenever any assessment is made on any premium note or undertaking given to the Association for any risk taken, or as a consideration for any policy of insurance issued by the Association, and an action is brought to recover such assessment, the certificate of the secretary specifying such assessment, and the amount due to the Association on such note or undertaking by means thereof, shall be taken and received as *prima facie* evidence thereof in any Court in this colony. 20
- When premium note to be returned. 49. Forty days after the expiration of the term of insurance, the premium note or undertaking given for such insurance shall, on application therefor, be given up to the signer thereof, provided all losses and expenses with which said note or undertaking may be chargeable shall have been paid. 25
- Directors may retain amount of premium note in case of loss. 50. If there be any loss on property insured by the Association, the Board of Directors when paying the insurance thereon may retain thereout the amount of the premium note or undertaking given for insurance thereof of such property until the time has expired for which insurance has been made, and at the expiration of said time the insured shall have the right to demand and receive such part of the retained sum as, having been assessed for, has not been paid, 30 35
- Liability of members. 51. No member of any such Mutual Insurance Association shall be liable in respect of any loss or other claim or demand against the Association otherwise than upon and to the extent of the amount unpaid upon his premium note or undertaking.
- Property liable. 52. All the property and assets of the Association, including premium notes or undertakings, shall be liable for all losses which may arise. 40
- Reserve Fund. 53. The Association may shall form a Reserve Fund, to consist of all moneys which shall remain on hand at the end of each year after payment of the ordinary expenses and losses of the Association; and for that purpose the Board of Directors may levy an annual assessment, not exceeding twenty-five per centum on the premium notes or undertakings held by the said Association, and such annual assessment may be made in advance; and such Reserve Fund may from time to time be applied by the directors to pay off such liabilities of the Association as may not be provided for out of the ordinary receipts for the same or any succeeding year : 45 50
- How composed.
- How applied.

- Provided that such Reserve Fund shall be invested either in debentures or other securities of the Colony of New Zealand, or in municipal debentures, mortgages, or other securities, or may remain in a chartered bank on deposit at interest. How invested.
- 5 54. The treasurer or other officer having charge of the money of the Association shall give security, to the satisfaction of the Board of Directors, in a sum of not less than four hundred pounds, for the faithful discharge of his duties. Treasurer to give security.
- 10 55. The location of the office of the Association shall only be changed by a three-fifths vote of the members of the Association at a general meeting or a special meeting called for that purpose. Changing office of Association.
- 15 56. Any such Association may hold lands, but such lands only as are requisite for the accommodation of the Association in relation to the transaction of its business, or such lands as have been *bona fide* mortgaged to it by way of security, or conveyed to it in satisfaction of debts contracted in the course of its dealings previously to conveyance, or purchased at sales upon judgments obtained for such debts, and may, from time to time, sell, mortgage, and convey or lease any such lands. Lands that may be held by the Association.
- 20 57. It shall be the duty of the ~~chairman or manager and the~~ or secretary of each Association transacting business, annually on the ~~thirty first day of March~~ *first day of April*, or within three months thereafter, to prepare and deposit in the office of the Public Trustee a statement of the condition of such Association on the thirty-first day of March then next preceding, exhibiting the following facts and items in the following form, namely: -- Annual statement.
- 25 First, the assets of the Association, specifying --
What statement shall contain.
- 30 (a.) The value of real estate;
 (b.) The amount of cash on hand and deposited in banks to the credit of the Association, naming the banks and the amount in each;
 (c.) The amount of cash in Association's office and in agent's hands respectively;
 (d.) The amount of any loans or investments, and the nature of the security held therefor, in detail, and what (if any) payments are in arrear thereon;
 (e.) The amount of assessments on premium notes or undertakings on hand;
 (f.) The amount still payable upon premium notes or undertakings on hand;
 (g.) Other amounts due to the Association;
- 40 Secondly, the liabilities of the Association, specifying -- Liabilities.
- 45 (a.) The amount of losses due and yet unpaid;
 (b.) The amount of claims for losses resisted;
 (c.) The amount of losses incurred during the year, including those claimed but not adjusted;
 (d.) The amount payable for money borrowed, and security given, and interest payable;
 (e.) The amount of all other existing claims against the Association;
 (f.) The amount covered by policies in force in respect of each class of risk:
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Income of previous year.

Thirdly, the income of the Association during the preceding year, specifying—

- (a.) The amount of cash received on premium notes;
- (b.) The amount of premium notes or undertakings;
- (c.) The amount of interest received;
- (d.) The amount of income from all other sources:

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Expenditure of previous year.

Fourthly, the expenditure during the preceding year, specifying—

- (a.) The amount of losses paid during the year, stating how much of the same accrued prior and how much subsequent to the date of the last preceding statement, and the amount at which such prior accrued losses were estimated in such preceding statement; 10
- (b.) The amount of expenses paid during the year;
- (c.) The amount of taxes; 15
- (d.) The amount paid for reinsurance;
- (e.) The amount of all other payments and expenditure, under their appropriate heads.

Inquiries by Public Trustee.

58. Any Association shall further, when required, make prompt and explicit answer in reply to any inquiries in relation to its transactions which may be required by the Governor in Council *Public Trustee*; and any Association which fails to make and deposit such statement as in the last preceding section required, or to reply to such inquiry, its manager and secretary shall be subject respectively, for each offence, to a fine or penalty not exceeding *ten* pounds. 20 25

Penalty for not replying.

Public Trustee to publish synopsis of business of each Association in the *Gazette*.

59. It shall be the duty of the Public Trustee to publish in the *Gazette*, on or before the first day of July in each year, a synopsis of the business of each Mutual Fire Insurance Association doing business within the colony.

Schedule.

SCHEDULE.

PREMIUM NOTE OR UNDERTAKING.

I HEREBY undertake to pay to the Mutual Fire Insurance Association, at their office in _____, the sum of _____, in such proportions and at such times as shall be required by the Directors of the said Association. Any action which may be brought or commenced in a District any Court of competent jurisdiction in respect or on account of this note or undertaking, or any sum to be assessed thereon, may be brought and commenced against the maker hereof in the District Court for of the District wherein the Head Office or any Agency of the Association is situate.

The fixed payments hereon I hereby undertake to pay as follows, and I hereby agree that if any of the said three payments be not paid on or before the day herein appointed for the payment of the same, the policy or contract of insurance shall *ipso facto* be absolutely void as against the said Association:—

First fixed payment on the	day of	19	, £
Second fixed payment on the	day of	19	, £
Third fixed payment on the	day of	19	, £

(Signature.)

(Address.)

Date: _____, 19 _____