



# **Plan of Operation**

# **FACILITY ASSOCIATION**

## **Plan of Operation**

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Wherever appropriate herein the expression “broker” shall be deemed to include “brokerage”, “agent” and/or “agency”, the expression “brokerage” to include “agency” and the expression “his” to include “her”, “its” and/or “their”.

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**A. ARTICLES OF ASSOCIATION**

**ARTICLE I – ORGANIZATION**

1. The name of this organization shall be the “Facility Association” (hereinafter referred to in these Articles of Association and the Operating Principles as the “Association”). It may operate in Alberta under the name: "Market Availability Plan". It shall have its central office in such place within Canada as the Board of Directors (hereinafter referred to in these Articles of Association and Operating Principles as the “Board”) may from time to time determine.
2. The fiscal year end of the Association shall be as determined from time to time by the Board.

**ARTICLE II – OBJECTS AND POWERS**

1. The object of the Association shall be to ensure the availability of automobile insurance for owners and licensed drivers of motor vehicles who may otherwise have difficulty obtaining such insurance.
2. The Association may operate in any Province or Territory in Canada (hereinafter referred to as “jurisdiction”) where the legislation so permits or requires.
3. Where permitted or required by legislation and authorized by resolution of the Board the Association may operate a plan in connection with claims arising with respect to uninsured or unidentified motorists.
4. Where permitted by legislation and authorized by a majority of members in a jurisdiction the Association may operate a risk sharing pool or pools in such jurisdiction.
5. Where permitted by legislation and authorized by a majority of members in a jurisdiction, the Association may operate and may require the participation of its members and of all licensed agents and brokers in a supplementary market availability plan in such jurisdiction.

6.
  - (a) Where authorized by a majority of the votes of members in a jurisdiction and by resolution of the Board of Directors the Association shall operate a risk sharing pool or catastrophic claims fund to facilitate the due payment of statutory accident benefits to persons entitled thereto pursuant to the Ontario Insurance Act from a specified insolvent insurer that is subject to a winding-up order pursuant to the Winding-up Act R.S.C. 1985, c. W-10 as amended.
  - (b) Such pool or fund shall, as reasonably required by the insolvent insurer's liquidator, lend monies to the liquidator, or make guarantees to enable the liquidator to borrow monies, so as to ensure the prompt payment and administration of all such accident benefit claims.
  - (c) The Association may require that the administration of claims be undertaken by such member or members as proposed by the liquidator as the President and Chief Executive Officer may determine and may set such reasonable reporting requirements as the President and Chief Executive Officer may determine to be appropriate under the circumstances, following consultation with the liquidator.
  
7. The Association may establish, operate or participate in such programs, initiatives or activities and participate in such insurance industry programs, initiatives or activities as the Board may from time to time authorize in connection with the effective operation of the automobile insurance industry in a jurisdiction.

### **ARTICLE III – MEMBERSHIP**

1. Every insurer licensed to write automobile liability insurance in any jurisdiction in which the Association is qualified to operate is by operation of law and shall remain a member of the Association and shall be bound by these Articles of Association and the rules and directives adopted pursuant thereto.
  
2. Except as otherwise specifically provided, a group of insurers under either one ownership or common management shall constitute a single member for the purposes of these Articles of Association. A group of insurers under either one ownership or common management, but not both, may elect to be treated either as separate members or a single member for the purposes of termination of membership in the event such member discontinues writing automobile insurance in a jurisdiction.
  
3. In the event that an insurer is merged with another insurer or there is a consolidation of

insurers, the continuing insurer shall receive and be responsible for the assessments of each insurer merged or consolidated until the proportionate share of each such merged or consolidated insurer as established by its writings prior to such merger or consolidation has been determined and paid; provided, however, that the continuing insurer may be relieved from such obligations if another insurer has agreed to assume such obligations in a manner satisfactory to the Board.

4. In the event a member discontinues writing automobile insurance in a jurisdiction, it shall continue to pay assessments until its proportionate share established by its writings prior to discontinuance of business has been determined or fixed by the Board and paid; provided, however, that if the automobile business of an insurer discontinuing the writing of automobile insurance in the said jurisdiction has been purchased by, transferred to or reinsured by another insurer the latter shall receive and be responsible for the assessments of the former until the proportionate share of the former as established by its writings prior to such transfer has been determined and paid, unless another insurer has agreed to assume such obligation in a manner satisfactory to the Board.

#### **ARTICLE IV – VOTING RIGHTS OF MEMBERS**

1. Voting by members at an Annual General or Special meeting, or by mail, shall be based on the member's total volume of voluntary automobile direct written premium for the latest available full calendar year in all jurisdictions in which the Association has operated during such year with respect to coverages required to be obtained by insureds in accordance with the legislation applicable to them where the amount of such premium has been reported through the Automobile Statistical Plan in each case. The member shall have one vote for the initial \$1 of such premium and one vote for each additional full \$5,000,000 of such premium.
2. If the Board determines that any matter to be determined at any meeting of members affects only one jurisdiction, or if it is determined by resolution passed at any such meeting of members that such is the case, such matter shall be voted upon only by members operating in such jurisdiction.

Voting by members operating in such jurisdiction shall be based on a member's total volume of voluntary automobile direct written premiums for the latest available full calendar year in that jurisdiction with respect to coverages required to be obtained by

insureds in accordance with the legislation applicable in that jurisdiction where the amount of the premium has been reported through the Automobile Statistical Plan in each case. The member will have one vote for the initial \$1 of such premiums and one vote for each additional full \$5,000,000 of such premium.

#### **ARTICLE V – PARTICIPATION RATIOS AND SHARING**

1. For the purpose of determining participation in Association business there shall be five classes of business:
  - (a) private passenger non-fleet non-pool automobile business;
  - (b) all automobile business other than that included in (a) or transferred to a risk sharing pool;
  - (c) business transferred to a risk sharing pool other than a pool operated in Alberta, New Brunswick or Nova Scotia or Newfoundland and Labrador or a fund established pursuant to Section 6 of Article II;
  - (d) business transferred to a risk sharing pool operated in Alberta, New Brunswick or Nova Scotia or Newfoundland and Labrador;
  - (e) all uninsured or unidentified motorist claims and all amounts expended in connection with a pool or fund established pursuant to Section 6 of Article II.

At the end of each fiscal year, profit or loss for each class of business shall be determined separately for each accident year in each jurisdiction in accordance with accounting procedures approved by the Board. Calculations for an accident year shall include all policies earned during such calendar year. Profit shall be credited or distributed to each member and loss shall be charged against or collected from each member in accordance with the member's appropriate participation ratio determined in the manner hereinafter set forth in this Article V.

2. All of the data necessary to enable the proper determination of participation in Association Business and appropriate sharing shall be reported to the Statistical Agency by each member promptly as required.
3.
  - (a) With respect to all business in Class 1 (a), participation ratios will be as follows:
    - (i) in each jurisdiction in which a risk sharing pool is not in operation at any

- time during the year, other than the Northwest Territories, Nunavut and Yukon, each member will be liable for that proportion of private passenger non-fleet non-pool Association experience and all amounts expended in connection with such class that its respective “voluntary private passenger non-fleet third party liability direct earned car years” bears to the relevant provincial or territorial total of all such car years for all members for such jurisdiction. In any accident year in which a loss is sustained with respect to such business the member’s participation amount shall be reduced by three times the member’s “voluntary private passenger non-fleet third party liability direct earned car years” for business designated in the Automobile Statistical Plan as “Classes 08, 09, 10, 11, 12, 13, 18 and 19”.
- (ii) in each jurisdiction in which a risk sharing pool is in operation at any time during the year, other than the Northwest Territories, Nunavut and Yukon, each member will be liable for that proportion of private passenger non-fleet non-pool Association experience that its respective “voluntary private passenger non-fleet third party liability direct earned car years” bears to the relevant provincial or territorial total of all such car years for all members for such jurisdiction;
  - (iii) in the Northwest Territories, Nunavut and Yukon each member will be liable for a proportion of private passenger non-fleet non-pool Association experience as set out in (i) and (ii) above except that the ratio to be used shall be that of the member’s “voluntary private passenger non-fleet third party liability direct earned car years” in all jurisdictions in which the Association was operating during that year to the totals of such amounts for all members in all jurisdictions;
- (b) With respect to all business in Class 1 (b), participation ratios will be as follows:
- (i) in each jurisdiction, other than the Northwest Territories, Nunavut and Yukon, each member will be liable for that proportion of Association experience on automobile business other than that included in 1(a) or transferred to a risk sharing pool and all amounts expended in connection with that portion of such class that its respective voluntary automobile direct earned premium with respect to coverages required to be obtained by insureds in accordance with the legislation applicable to them where the amount of such premium has been reported through the Automobile Statistical Plan in each case is of the relevant provincial total of all such premiums for all members for such jurisdiction;
  - (ii) in the Northwest Territories, Nunavut and Yukon each member will be

liable for a proportion of Association experience on business other than that included in 1(a) or transferred to a risk sharing pool as set out in (i) above and all amounts expended in connection with that portion of such class except that the ratio to be used shall be that of the member's voluntary automobile direct earned premium with respect to coverages required to be obtained by insureds in accordance with the legislation applicable to them where the amount of such premium has been reported through the Automobile Statistical Plan in each case to the relevant total of all such premiums for all members in all jurisdictions in which the Association was operating during that year;

- (c) With respect to all business in Class 1 (c) , participation ratios will be as follows:
  - (i) with respect to 50% of such amount and all amounts expended in connection with such class in the proportion that the member's total "voluntary private passenger non-fleet third party liability direct earned car years" is of the total of all such car years for all members for such jurisdiction; and
  - (ii) with respect to the other 50% of such amount and all amounts expended in connection with such class on the basis of the proportion that the total earned third party liability car years with respect to risks ceded by such member to the risk sharing pool is of the total of such cars ceded by all members for such jurisdiction.
  - (iii) any directions necessary for the restating of sharing on the above basis from January 1, 1993 may be authorized by the Board.
  - (iv) with respect to members that are Servicing Carriers in such jurisdiction at the time of the commencement of operation of a risk sharing pool such members with respect to the period ending with the completion of the first full calendar year of operation of the risk sharing pool or such shorter period as may be determined by the Board having regard to the date of commencement shall share on the basis set out in paragraph (i) above as to 100% and the shares of the other members shall be adjusted accordingly. Thereafter all members shall share on the basis set out in paragraphs (i) and (ii)
  - (v) the sharing calculation for any period may be based upon estimated figures and such calculations shall be adjusted appropriately as soon as the actual figures become known.
- (d) With respect to business and all amounts expended in connection with Class 1(d) each member will share in the proportion that the total of its "voluntary private

passenger non-fleet third party liability direct earned car years" not ceded to a risk sharing pool is of the total of all "voluntary private passenger non-fleet third party liability direct earned car years" not ceded to a risk sharing pool by all members for such jurisdiction, subject to amendment by resolution of the Board.

- (e) With respect to all business and all amounts expended in connection with business in Class 1(e) each member will liable for that proportion of such amounts that its total voluntary automobile third party liability direct earned premium bears to the total of all voluntary automobile third party liability direct earned premium for all members for such jurisdiction.
4. For the purposes of allocations as described above, the following definition shall apply: "voluntary private passenger non-fleet third party liability direct earned car years" shall be the number of private passenger automobile third party liability car years which are coded as private passenger non-fleet automobile under the Automobile Statistical Plan earned by the member in each jurisdiction for the calendar year ending December 31 of the specific accident year's experience being distributed, excluding such Association car years.

#### **ARTICLE VI – MEETINGS OF THE MEMBERS**

1. An annual general meeting of the members shall be held not later than May 31<sup>st</sup> in each year, at such place and at such hour as may be designated by the Board.
2. The annual general meeting of members shall receive the annual reports of the Chairman of the Board, the President and Chief Executive Officer and the Auditor, shall elect directors and fix their compensation, if any, shall appoint the External Auditor and the Appointed Actuary for the ensuing year and consider such other matters as may be properly brought before the meeting.
3. A special meeting of the members may be called at any time by the Chairman of the Board. A special meeting shall be called by the Chairman of the Board whenever requested in writing by ten or more members. Notice of a special meeting shall state the purpose thereof and the time and place of holding of such meeting. No action shall be taken at a special meeting for a purpose not stated in the notice of meeting unless such action is approved at such meeting by the affirmative vote of a majority of the total votes held by all members.

4. Notice of each meeting of the members of the Association shall be given at least 15 days prior to the date of the meeting by ordinary mail, electronic communication, or telefax to each member at its office address according to the records of the Association except that notice of a meeting to amend the Articles of Association shall be given in the manner provided above at least 30 days prior to the date of the meeting. Notices of meetings at which it is proposed to amend the Articles of Association shall include a copy of the proposed amendments. Notice shall be deemed to have been given at the time it is deposited in a post box or post office for mailing, or delivered to a courier or industry distribution agency for transmission, and the accidental omission to give notice to any member shall not thereby invalidate the proceedings taken at the meeting.
5. Members present in person or by proxy and representing 51% or more of the total votes held by all members shall constitute a quorum at any meeting of the Association. Except as otherwise provided in Article IV, Section 2 of Article VI and Article XIX, all questions before a properly-called meeting of members where the quorum is present shall be decided by a simple majority of the votes cast in person or by proxy upon such question.

#### **ARTICLE VII – BOARD OF DIRECTORS**

1. The affairs and business of the Association shall be managed and controlled by a Board with authority Canada-wide. The Board shall be composed of sixteen directors of whom ten shall be elected or appointed from representatives of Insurers, three shall be elected or appointed from among any persons approved by the Insurance Brokers Association of Canada, two shall be elected or appointed from persons qualified to act as independent directors and one shall be the President and Chief Executive Officer. The ten Insurer representatives shall constitute a representative and equitably balanced cross-section of the automobile insurance industry. Of the three Insurance Broker Associations of Canada representatives one shall represent Alberta and the Territories, one Ontario, and one the Atlantic Provinces. To be eligible to be elected or appointed as an Insurer representative director, a person must be a senior official of a member insurer. To be eligible to be elected or appointed as an independent director a person must not currently or during a period of at least the immediately preceding five years have been employed in the insurance industry, had, or have been employed by an entity having, a business relationship with the Association, nor been involved in the regulation of the insurance industry, be, or have been in the immediately preceding year, a member of the Senate, Parliament or a provincial or territorial legislative assembly, a significant voting or participating shareholder in an insurance company licensed as an automobile insurer, or

be the spouse or common law partner of any of the persons referred to above and must be knowledgeable of the duties and obligations of the office of corporate director.

2. Members of the Board other than the President and Chief Executive Officer shall be elected for a term of two years with approximately one half of the directors to be elected at each annual general meeting.
3. It being desirable that one of the two independent directors be elected each year, the Board may direct that an independent director be elected or appointed for, or to complete, a one year term. A person holding office as an independent director may only serve as a director for a maximum of three terms.

In the event of vacancy, the remaining members of the Board shall appoint a person qualified to be a director to hold office until the next annual general meeting, at which time a qualified person shall be elected for any unexpired portion of the original term.

4. At the first meeting of the Board following a meeting of members at which directors are elected, the directors shall elect a Chairman from among its members and shall appoint a Deputy Chairman of the Board from among its members.
5. Meetings of the Board shall be held at such places and at such times as the Chairman may direct. Notice of each meeting shall be given to each director at least 24 hours before the time of such meeting. No notice shall be necessary if all directors are either present or have waived or waive notice. Notice may be given in writing or by oral, telephone, telefax or telegraph communication.
6. At any meeting of the Board a quorum shall be one-half of the members of the Board present in person or by telephone or other telecommunication facility. Each member of the Board shall have one vote and, except as otherwise expressly provided, it shall require the affirmative votes of a majority of the directors present at a duly constituted meeting to pass any resolution of the Board. Members of the Board may vote by telephone on any particular resolution being considered by the Board.
7. The Board shall have all necessary power and authority to conduct the affairs of the Association with the exception of those powers specifically reserved for or delegated to others by these Articles of Association. For certainty and without limiting the generality of the foregoing, the Board shall have the express authority to:

- (a) consider and approve strategic plans presented to it and review results in comparison to such plans;
  - (b) consider and approve the Enterprise Risk Management assessment and action plan annually and review results thereunder;
  - (c) monitor and assess the performances of the Board and its members, the Chief Executive Officer and all Committees;
  - (d) consider and approve the annual budget and monitor performance in comparison to budget;
  - (e) incur or authorize expenses on behalf of and borrow money in the name of the Association;
  - (f) authorize the execution of any contract or agreement on behalf of the Association and designate the person or persons authorized to execute the same on behalf of the Association;
  - (g) establish and maintain standards in the provision of policy and claim services and accounting requirements for Servicing Carriers and members using a risk sharing pool;
  - (h) subject to any applicable regulatory limit or direction, set, and from time to time by resolution vary, the permitted limit of use of a pool by a member, the percentage retention of a risk submitted to the risk sharing pool by a member and the basis of calculation of the participation ratio and sharing in connection with respect to a risk sharing pool;
  - (i) except as otherwise expressly provided appoint such committees and sub-committees as may be deemed advisable from time to time;
  - (j) consider and where deemed advisable approve any proposed amendments to the Operating Principles;
  - (k) consider and approve suggested rate changes and rate filings, provided however that the Board may specifically delegate any specific part or parts of this authority to the President and Chief Executive Officer;
  - (l) consider, approve and monitor investment plans;
  - (m) monitor and where deemed appropriate authorize the auditing of members to ensure compliance with security and privacy requirements in connection with the UIP.
8. A director shall be removed from office in the event that he or she no longer qualifies to hold the position of director in accordance with the provisions of Section 1 of this Article or in the event that such person would be required to cease holding such office under the provisions set out in the Canada Not-For-Profit Corporations Act.

9. A director may be removed from office on the basis of having committed an act or a failure to act which could reasonably cause meaningful harm to the Association where such removal is approved by affirmative vote of at least 75% of the other directors.

### **ARTICLE VIII – ADMINISTRATION**

#### **(President and Chief Executive Officer and Committees)**

1. The Board shall appoint a President and Chief Executive Officer to carry out the duties and functions and to exercise the powers hereinafter specified together with such other duties as the Board may from time to time specifically require.
2. The President and Chief Executive Officer shall manage, direct and supervise the daily operation of the Association, the Risk Sharing Pool and the Uninsured or Unidentified Motorist programs operated by the Association. The President and Chief Executive Officer shall have general authority over the engagement, discharge and supervision of staff, the expenditure of approved budgeted funds and for ensuring that directions from the Board and the committees of the Board are followed. The President and Chief Executive Officer shall direct the engagement and use of consulting support staff and facilities and shall be the initial contact person between the Association and others. The President and Chief Executive Officer shall have authority to communicate and negotiate with regulatory bodies, and to make commitments as authorized by the Board.
3. For certainty and in addition and without limiting the generality of the foregoing the President and Chief Executive Officer shall have express authority to:
  - (a) develop strategy and related objectives together with other management personnel and the Board;
  - (b) develop means to ensure the tracking and review of performance as against objectives;
  - (c) ensure that adequate information and sound advice is provided to the Board to enable effective governance of the Association;
  - (d) ensure compliance with directions from the Board or from committees;
  - (e) approve and file with respect to proposed rate changes as authorized by the Board;
  - (f) develop an annual budget for approval by the Board and provide quarterly reports with respect to actual performance in relation to such budget;
  - (g) represent the Association with and manage relations with regulators and

- regulatory bodies;
  - (h) manage, direct and supervise the daily operation of the Association and its mechanisms including the exercise of general authority over staff, including engagement and discharge;
  - (i) ensure all aspects of the operations of the Association are conducted in accordance with the Plan of Operation and all applicable laws and regulations;
  - (j) ensure that all applicable human resource policies are current and are made known to employees as required;
  - (k) develop and maintain an appropriate communications policy for the Association;
  - (l) direct the engagement of appropriate consulting and support staff;
  - (m) review and determine applications for write-offs by Servicing Carriers or by members within the monetary amounts authorized by the Board;
  - (n) make appointments and reassignments of brokers to Servicing Carriers in accordance with the Operating Principles;
  - (o) consider and approve changes to the Rules of Operation where such changes are clerical in nature or are required due to approved amendments to the Articles of Association or the Operating Principles;
  - (p) consider and determine all matters concerning premises, equipment and facilities utilized or employed by the Association;
  - (q) carry out such other duties as are expressly delegated to the President and Chief Executive Officer by the Board.
4. The Board shall appoint an Audit and Risk Committee and a Governance and Human Resources Committee to carry out the duties and functions and to exercise the powers hereinafter specified together with such other duties as the Board may from time to time specifically require of them. Such other committees, including a Rules and Rates Committee, an Accounting Committee, an Actuarial Committee, a Claims Committee, a Risk Sharing Pool Procedures Committee, Provincial Operating Committees, Market Monitoring Committees and other committees as may be considered advisable, shall be constituted and appointed as set out in the Articles of Association.
5. The Governance and Human Resources Committee shall have five members including the Chairman of the Board, the Deputy Chairman of the Board, the immediate past Chairman of the Board and two other members appointed by the Board. If the immediate Past Chairman of the Board is no longer a Board member, the Board shall appoint one other member from the members of the Board.

6. The Governance and Human Resources Committee shall be responsible for and have express authority to:
  - (a) make recommendations regarding the selection and appointment of the Chairman of the Board and Deputy Chairman of the Board;
  - (b) make recommendations regarding the appointment of a President and Chief Executive Officer;
  - (c) make recommendations regarding the appointment or nomination of persons to the office of independent director;
  - (d) nominate persons for election or appointment to the Board;
  - (e) direct and assist in the assessment process with respect to the Board;
  - (f) consider and make appointment of members of all committees where approval of the Board is not specifically required;
  - (g) review and report with respect to committee mandates and annual committee performance assessments;
  - (h) supervise, direct the conduct of and report to the Board with respect to any litigation in which the Association is involved;
  - (i) review, consider and make recommendations to the Board in connection with Servicing Carriers, including appointment, termination or other action;
  - (j) review and determine appeals by a broker, company or Servicing Carrier in connection with an appointment to a Servicing Carrier;
  - (k) consider and approve performance plans, reviews and compensation arrangements with respect to Executive Management;
  - (l) consider and approve human resources policies;
  - (m) carry out such other duties or functions as may be set for it by the Board;
  - (n) make recommendations with respect to director's compensation.
  
7. The Governance and Human Resources Committee shall adopt its own procedures regarding meetings and communications but all decisions shall require the affirmative votes of a majority of the members of the Governance and Human Resources Committee.
  
8. The Audit and Risk Committee shall be responsible for and have express authority to:
  - (a) monitor the Board-approved Enterprise Risk Management plan;
  - (b) assist the Board in its oversight role with respect to the integrity of the financial statements;
  - (c) review significant accounting policies with management and the Auditor for appropriateness, completeness and acceptability with relevant standards;
  - (d) monitor the engagement and the work of the External Auditors;

- (e) recommend External Auditors to the membership for appointment;
  - (f) ensure Facility Association maintains adequate internal controls and review any incidents of control failure;
  - (g) ensure Facility Association has a structured process in place to ensure regulatory compliance and review any incidents of regulatory non-compliance;
  - (h) review audits of Servicing Carriers, audits of Risk Sharing Pool using companies and other work performed by internal auditors as required;
  - (i) review any reported incidents of conflict of interest;
  - (j) review any incidents reported under the Whistleblower policy;
  - (k) review any incidents of privacy breaches;
  - (l) carry out such other duties or functions as may be set for it by the Board.
9. The Audit and Risk Committee shall adopt its own procedures regarding meetings and communications but all decisions shall require the affirmative votes of a majority of the members of the Audit and Risk Committee.

**ARTICLE IX – SERVICING CARRIER APPOINTMENTS AND ALLOWANCES****Underlined section(s) - Pending approval from Alberta and Newfoundland & Labrador**

1. Pursuant to the Operating Principles the Board shall designate, from among the eligible members applying, those members of the Association who are authorized to act as Servicing Carriers. Additional Servicing Carriers may be designated as necessary. The Board shall provide for the establishment of the scope, terms, standards and compensation applicable to the services to be provided. Servicing Carriers so designated must meet the eligibility requirements for Servicing Carriers. It is desirable to designate one or more Servicing Carriers from each of the types of marketing methods, provided each is qualified to handle Servicing Carrier responsibilities in an efficient manner.
2. Servicing Carriers shall be reimbursed for servicing Association business on the following basis:
  - (a) For operating costs excluding claims expenses, the following percentage of written premiums:
    - Ontario 9.9%; Other jurisdictions 9%; plus
  - A service fee equal to the following percentage of written premiums:
    - Ontario 0.9%; Other jurisdictions 1.0%; plus

The actual costs of Driver Record Abstracts, as well as an amount to defray the costs of obtaining Prior Carrier Reports, such amount to be as from time to time determined by the Board; and

- (b) For claims expenses, both allocated and unallocated, the following percentage of earned premiums:

Nova Scotia; Northwest Territories; Nunavut and Yukon [effective February 1, 2003]	12%
Ontario [effective March 1, 2003]	12%
New Brunswick [effective October 1, 2008]	12%
Prince Edward Island [effective December 1, 2008]	12%
<u>Alberta and Newfoundland &amp; Labrador</u> <u>[amendment effective when approved]</u>	<u>10%</u>

The rates of reimbursement are predicated on an earned/incurred loss ratio as follows:

Nova Scotia; Northwest Territories; Nunavut and Yukon [effective February 1, 2003]	65%
Ontario [effective March 1, 2003]	65%
New Brunswick [effective October 1, 2008]	65%
Prince Edward Island [effective December 1, 2008]	65%
<u>Alberta and Newfoundland &amp; Labrador</u> <u>[amendment effective when approved]</u>	<u>67.5%</u>

The rates will be adjusted retroactively in accordance with the formula described in the Accounting and Statistical Manual which, on average, increases (decreases) the rate by 0.5% for each 5% of increase (decrease) in that loss ratio.

“Loss Ratio” refers to losses only, does not include loss expense or I.B.N.R. or actuarial present value adjustment and is computed by accident year and by jurisdiction.

- (c) For the purpose of this section the term “written premiums” shall mean direct written premiums including commissions.
3. The Board at its sole discretion may offer or allow a Servicing Carrier reimbursement in whole or in part for specific extraordinary expenses incurred in qualifying for, continuing

- as or ceasing to be a Servicing Carrier. Such expense must be explained and supported in such detail as is required by the Board, must in the judgment of the Board be significantly in excess of the normal additional expense expected to be incurred by the Servicing Carrier and must actually be incurred before reimbursement may be allowed.
4. The Board at its sole discretion may authorize reimbursement to Servicing Carriers of normal insurance business losses incurred in connection with Association business. Such normal business losses shall be as defined and designated by the Board but shall not include any loss or expense incurred as a result of fraud or dishonesty on the part of the Servicing Carrier's claims personnel (including but not limited to independent adjusters), and in the event of any loss or expense of this nature the Servicing Carrier shall hold the Association harmless from and reimburse it for any such loss or expense incurred by the Association.
  5. In the event that a Servicing Carrier is found liable, or agrees, to make payment to the Association of any amount as damages or compensation for any breach by such Servicing Carrier of any of its obligations to the Association, it will not be entitled either as a Servicing Carrier or as a member to share in the benefit of such payment.

#### **ARTICLE X – ELIGIBILITY OF RISKS**

1. To be eligible for insurance through the Association in any jurisdiction a risk shall be insured for at least the statutory minimum automobile coverage in the jurisdiction concerned, in accordance with the Rules of Operation.
2. In addition, in any jurisdiction in which the Association is operating a risk sharing pool into which a risk is eligible for transfer, such risk shall be eligible for coverage in the Association other than through such risk sharing pool only if it is a "Residual Market Risk".
3. A RESIDUAL MARKET RISK in any jurisdiction other than Alberta is a risk which includes coverage in connection with:
  - (a) any motor vehicle that is not a Private Passenger Vehicle; or
  - (b) any Private Passenger Vehicle with respect to which an insurer to whom an application has been made to insure the risk is authorized at law to decline to issue or refuse to renew a contract of insurance in respect of such risk.

4. A RESIDUAL MARKET RISK in Alberta is a risk which includes coverage in connection with:
  - (a) any motor vehicle that is not a Private Passenger Vehicle; or
  - (b) a risk that satisfies one or more of the criteria set out in the Manual of Rules and Rates; or
  - (c) which an adverse contract action is permitted by the provisions of the Insurance Act of Alberta or by regulation made thereunder;
  
5. To facilitate the implementation of the change in the eligibility of risks in Alberta as Residual Market Risks each Servicing Carrier:
  - (a) will identify each risk currently insured through the Association by it which no longer qualify as a Residual Market Risk as of October 1, 2004;
  - (b) provide a detailed list of such risks to the originating agent or broker on or before August 31, 2004;
  - (c) non-renew any such risks still in force at its next renewal date where such renewal date is on or after October 1, 2005 unless then qualified;
  - (d) accommodate and act upon any request by a consumer for a mid-term cancellation of a policy insured through the Association where it no longer qualifies as a Residual Market Risk;
  - (e) assess each risk insured through the Association by it at renewal to ascertain that it then qualified as a Residual Market Risk failing which the originating agent or broker is to be instructed to place such risk in the regular market;
  - (f) ensure that appropriate notice is provided to both the insured and agent or broker in the event a policy is to be non-renewed as set out above;
  - (g) ensure that all risks insured through the Association are considered in view of the Maximum Premium Grid as established by Regulation pursuant to the Alberta Insurance Act and receive refunds or credits as required thereunder.

#### **ARTICLE XI – RISK SHARING POOL**

1. The purpose of a risk sharing pool is to assist members in the provision of automobile insurance to certain owners or licensed drivers through the members' normal production facilities and their normal binding arrangements and to provide for the sharing of such risks.

- A risk sharing pool or pools may be operated in any jurisdiction where authorized or required by law and authorized by the affirmative majority vote of members operating in such jurisdiction.
2. Where any word or expression not defined herein is defined by the regulatory authority for the jurisdiction concerned such definition shall apply herein. The following definitions shall apply for the purposes of Article X, Article XI (including XI.1, XI.2, XI.3, XI.4, and XI.5) and Part IV of the Operating Principles.
- (a) Dispatch Date: The date on which a transfer notification can be established to have left a member's Canadian head office, or the office designated by the member for that jurisdiction, for delivery to the risk sharing pool;
  - (b) Jurisdiction: A province of Canada, the Northwest Territories, Nunavut or Yukon;
  - (c) Residual Market Risk: a risk as set out in the applicable part of Article X;
  - (d) Voluntary private passenger non-fleet third party liability direct earned car years: as defined in Article V, Section 4.
3. The initial start up costs of any such risk sharing pool shall be borne by such of the members and on such basis as the Board may decide is appropriate.
- The Board shall determine and declare the date upon which any such risk sharing pool shall commence operation.
4. Rules and requirements with respect to Claims Reporting in connection with policies transferred to a risk sharing pool together with penalties for failure to comply with such requirements may be established from time to time and set out in the Operating Principles and members using such pools will be bound by such provisions.
5. Where the termination of the operation of a risk sharing pool is authorized by a majority of the members in a jurisdiction in which such pool is in operation, the Board shall determine and declare:
- (a) the date or dates after which a risk or risks or any renewal thereof shall no longer be allowed to be transferred to such pool;
  - (b) the date or dates upon which a risk or risks must be withdrawn from such pool;
  - (c) any procedure to be followed and any notifications to be given in connection with the termination of the operation of such pool.

**XI.1 – ONTARIO RISK SHARING POOL**

1. The Association has established pursuant to the provisions hereinafter set out and continues a risk sharing pool (hereinafter called the "Ontario Pool") restricted to Ontario members and Ontario business.
2. For the purposes of the application of Article X, Article XI.1 and Part IV of the Operating Principles to the Pool the following definition shall apply:
  - (a) **Private Passenger Vehicle:**

A motor vehicle listed in the Private Passenger Rate Group Tables contained in the Manual of Rules and Rates used in whole or in part for pleasure, commute, business or farming operations and not weighing more than 4500 kg. Business use does not include use as driver training vehicles, funeral vehicles, courtesy cars, vehicles held for sale or used for demonstrating or testing or any use listed in the Commercial or Public Sections of the Manual of Rules and Rates, even though Private Passenger rates are used to determine the premium; but excluding any vehicle while in transit from a point of purchase to a permanent location where one of such points is within a jurisdiction in which the Pool is in operation and further excluding any vehicle insured as part of a fleet, synthetic fleet or group plan unless such vehicle is individually rated in accordance with rates filed with the applicable regulatory authority and is coded as a private passenger non-fleet automobile under the Automobile Statistical Plan.

Note: Any vehicle classified as a recreational vehicle, for example, an antique vehicle, a motor home, or a motorcycle, is not eligible for placement in the Ontario Pool.
3. Members are entitled to transfer, subject to the provisions hereinafter set out, the applicable percentage of any risk that satisfies the Eligibility Requirements.
4.
  - (a) The following are the requirements for a risk to be eligible for transfer to the Ontario Pool:
    - (i) The vehicle is used in whole or in part as a Private Passenger Vehicle, provided that where such vehicle has a non-Private Passenger Vehicle use in addition to a Private Passenger Vehicle use only the coverage with respect to the Private Passenger Vehicle use is eligible for transfer and in the event that such transfer results in liability arising from a non-private passenger use of the vehicle that liability will be that of the transferring

- member and not of the Ontario Pool; and
- (ii) The risk is not eligible for insurance through the Association as a Residual Market Risk as defined in Article X; and
  - (iii) The member has followed all appropriate classification and rate procedures and has requested previous-insurer report(s) and driver record abstract(s); and
  - (iv) The risk is insured against Third Party Liability for at least the statutory limit; and
  - (v) The premiums charged by the member to the insured for those parts of the insurance that are transferable to the Ontario Pool are in accordance with its approved premiums for such risk.
- (b) A risk purportedly transferred to the Ontario Pool which was not eligible for transfer at that time due to a failure to comply with one or more of requirements (i), (ii) or (iii) due to an intentionally incorrect classification or rate will be considered ineligible for transfer, the purported transfer shall be deemed to be invalid and all claims, expenses and receipts or credits will be for the account of the submitting member. This provision shall not apply to a risk in relation to a specific term of transfer where a period ending the later of 24 months from the date of such transfer or 2 months after the first audit of the member following such transfer has expired.
- (c) A risk purportedly transferred to the Ontario Pool in connection with which there has been a failure to comply with one or more of the requirements with respect to previous-insurer report(s) or driver record abstract(s) shall be dealt with as set out in the Ontario Risk Sharing Pool Procedures Manual in accordance with provisions established by the Board from time to time.
- (d) If it is determined that a company is not ordering the appropriate reports, or has adopted a practice which fails to provide for proper compliance with its obligations, the company will be dealt with as an exception and a further investigation, or, where determined by the President and Chief Executive Officer to be appropriate, a full audit will follow.
- (e) Where it is decided that a full audit of all risks transferred by the member is appropriate the costs of the audit will be billed to the member.
- (f) Where such investigation or audit demonstrates to the satisfaction of the Audit and Risk Committee that there has been a general failure to order the required reports on time the expense allowance referred to in subsection 6(b) to the member will be reduced by two percentage points for a period of six months.
- (g) Flagrant or continued failure to comply with these obligations could result in a

directive to the member to remove all risks from the Ontario Pool. This penalty would only be applied after a follow-up review by the President and Chief Executive Officer and the Audit and Risk Committee, and referral to the Board.

5. In respect of an eligible risk that a member wishes to transfer to the Ontario Pool:
- (a) The member may provide whatever coverages and limits it deems appropriate.
  - (b) *Any risk transferred will be transferred at 100%. The Board may from time to time by resolution set the percentage of a risk to be retained by the members for their own accounts, and establish maximum transferable limits and minimum deductibles with respect to risks transferred.*
  - (c) The applicable percentage of all coverages provided by the member shall be transferred, subject to the following limitations:
    - (i) The maximum transferable limit in respect of Third Party Liability shall be the applicable percentage of \$2,000,000 (two million dollars) or as from time to time determined by the Board.
    - (ii) Transferred basic All-Perils or Collision coverage shall be subject to a minimum deductible of the applicable percentage of \$100 (one hundred dollars) or as from time to time determined by the Board.
    - (iii) Transferred basic Comprehensive or Specified-Perils coverage shall be subject to a minimum deductible of the applicable percentage of \$50 (fifty dollars) or as from time to time determined by the Board.
    - (iv) The maximum transferable limit in respect of “Family Protection coverage” shall be the applicable percentage of \$2,000,000 (two million dollars) or as from time to time determined by the Board.
    - (v) Other transferred endorsement coverages shall be subject to the maximum limits and minimum deductibles that are from time to time determined by the Board.

Members may write coverage in excess of these limitations but such coverage and all expenses and liabilities in connection therewith will be for the member’s own account.

6. In respect of each risk being transferred to the Ontario Pool:
- (a) The premium actually charged by the member to the Insured net of any premium payment service charges charged to the Insured shall be the transfer premium in respect of each coverage provided that it is as approved by the regulatory authority concerned for the coverage and the applicable limit or deductible.
  - (b) The member shall be entitled as a result of the transfer of premium to an expense

allowance in an amount equal to a percentage of the written premium applicable to the transferred coverages, such percentage for use during a calendar year to be calculated on the basis set out in the Accounting and Statistical Manual using the base information employed to calculate the expense factor included in the member's rate filing with respect to private passenger vehicle coverage last approved by the applicable rate approving body for the jurisdiction in which the Ontario Pool is operating prior to August 31st of the year immediately prior to the calendar year in which the transfer is made. The Board shall from time to time establish a maximum percentage of premium for such expense allowance and if the calculation of the member's expense allowance percentage is higher than such percentage, then the percentage established by the Board as a maximum shall be used.

- (c) Each member shall provide to the Association written details of the component amounts of the expense factor included in the rate filing to be used for the purposes of this calculation, such information to be provided in the form from time to time set out in the Accounting and Statistical Manual and such information being certified by the member's actuary. The member shall and hereby does authorize the release to the Association by the rate approving body of information in its possession in connection with the member's expense factor.
  - (d) Such allowance is to settle all expenses incurred by the member including acquisition costs, operating costs and loss adjustment costs, but not including premium taxes and professional fees (such professional fees to be stipulated in the Ontario Risk Sharing Pool Claims Guide with compensation to be as therein directed).
  - (e) In this section the word "member" shall mean "insurer" and the provisions of this section 6 shall apply to each insurer of a group of insurers separately.
7. In respect of an eligible risk that is "new" to the member – i.e., a new policy or a new (additional) vehicle:
- (a) If the required transfer notification by form, disc or tape is dispatched to the Ontario Pool no later than fifteen days after the commencement date of the period of insurance concerned, the transfer effective date shall be the said commencement date and there shall be no prejudice to the member's right to recover from the Ontario Pool in respect of a claim that arises within the period but prior to dispatch of the transfer form.
  - (b) If the required transfer notification is dispatched to the Ontario Pool more than

fifteen days after the commencement date of the period of insurance concerned, the transfer effective date shall be the day following the date of dispatch of the notification and the transferred premium shall be pro-rata of that applicable to the period of insurance provided by the policy.

8. In respect of an eligible risk that is a "renewal" to the member.
  - (a) If the required transfer notification is dispatched to the Ontario Pool no later than the commencement date of the period of insurance concerned, the transfer effective date shall be the said commencement date.
  - (b) If the required transfer notification is dispatched to the Ontario Pool later than the commencement date of the period of insurance concerned, the transfer effective date shall be the day following the date of dispatch of the transfer notification and the transferred premium shall be pro-rata of that applicable to the period of insurance provided by the policy.
  
9. In respect of all other eligible risks that are transferred to the Ontario Pool in mid-term the transfer effective date shall be the day following the date of dispatch of the transfer notification and the transferred premium shall be pro-rata of that applicable to the period of insurance provided by the policy.
  
10. Satisfactory evidence sufficient to establish the "dispatch date" for the purposes of sections 7 and 8 above shall be as determined from time to time by the Board.
  
11. A member may not in a calendar year in which the Ontario Pool is operating, transfer to the Ontario Pool any risk where such transfer would constitute a transfer by it in such calendar year of voluntary private passenger non-fleet third party liability direct written car years in excess of the number of such car years equal to 5% of its total voluntary private passenger non-fleet third party liability direct written car years for such jurisdiction in the immediately preceding calendar year provided that:
  - (a) any purported transfer in contravention of such restriction shall be ineffective and the risk shall remain solely for the account of the member purporting to effect the transfer unless authorized as hereinafter set out;
  - (b) a member may apply to the Board for approval of transfers in excess of such limit. Such approval may be given retroactively and in such form as the Board deems advisable.

12. Any risk transferred to the Ontario Pool within the first fifteen days after the commencement date of the period of insurance with respect to which a claim is incurred during such fifteen day period and any risk with respect to which a claim is incurred while such risk is within the Ontario Pool must remain within the Ontario Pool and may not be withdrawn by the member until at least the date of the first renewal following the incurring of such claim. Members may withdraw other risks transferred by them to the Ontario Pool in accordance with the procedures set out in the Ontario Risk Sharing Pool Procedures Manual.

### **XI.2 – ALBERTA RISK SHARING POOL**

1. The Association hereby establishes a risk sharing pool (herein called the "Alberta Pool" into which Alberta members are entitled to transfer, subject to the provisions hereinafter set out, the applicable percentage of any Alberta risk that satisfies the Eligibility Requirements.
2. For the purposes of the application of Article X, Article XI.2 and Part IV of the Operating Principles to the Alberta Pool the following definitions shall apply:
  - (a) Private Passenger Vehicle – as defined in the Automobile Insurance Premiums Regulation pursuant to The Insurance Act of Alberta.
  - (b) Non Grid Risk – a risk in connection with which the premium is other than the premium for such risk calculated in accordance with the grid established for the purposes of the Automobile Insurance Premiums Regulation pursuant to the Insurance Act of Alberta.
3. (a) The following are the requirements for a risk to be eligible for transfer to the Alberta Pool:
  - (i) The premiums charged by the member to the insured for those parts of the insurance transferable to the Alberta Pool are either at the regulated grid premium or are in accordance with its filed and/or approved premium for such risk;
  - (ii) The vehicle is a Private Passenger Vehicle;
  - (iii) The member has followed all appropriate classification and rate procedures and has requested previous-insurer report(s) and driver record abstract(s), provided that, at the inception of the operation of the Alberta Pool and until the Board directs otherwise, risks may be transferred mid-

term without the ordering of previous insurer reports or driver record abstracts; and

- (iv) The risk is insured against Third Party Liability for at least the statutory limit.
  - (b) A risk purportedly transferred to the Alberta Pool which was not eligible for transfer at that time due to a failure to comply with one or more of requirements (i), (ii) or (iii) due to an intentionally incorrect classification or rate will be considered ineligible for transfer, the purported transfer shall be deemed to be invalid and all claims, expenses and receipts or credits will be for the account of the submitting member. This provision shall not apply to a risk in relation to a specific term of transfer where a period ending the later of 24 months from the date of such transfer or 2 months after the first audit of the member following such transfer has expired.
  - (c) A risk purportedly transferred to the Alberta Pool in connection with which there has been a failure to comply with one or more of the requirements with respect to previous-insurer report(s) or driver record abstract(s) shall be dealt with as set out in the Risk Sharing Pool Procedures Manual in accordance with provisions established by the Board from time to time.
  - (d) If it is determined that a company is not ordering the appropriate reports, or has adopted a practice which fails to provide for proper compliance with its obligations, the company will be dealt with as an exception and a further investigation, or, where determined by the President and Chief Executive Officer to be appropriate, a full audit will follow.
  - (e) Where it is decided that a full audit of all risks transferred by the member is appropriate the costs of the audit will be billed to the member.
  - (f) Where such investigation or audit demonstrates to the satisfaction of the Audit and Risk Committee that there has been a general failure to order the required reports on time the expense allowance referred to in subsection 5(b) to the member will be reduced by two percentage points for a period of six months.
  - (g) Flagrant or continued failure to comply with these obligations could result in a directive to the member to remove all risks from the Alberta Pool. This penalty would only be applied after a follow-up review by the President and Chief Executive Officer and the Audit and Risk Committee, and referral to the Board.
4. In respect of an eligible risk that a member wishes to transfer to the Alberta Pool:
- (a) The member may provide whatever coverages and limits it deems appropriate.

- (b) At inception of the Alberta Pool any risk transferred will be transferred at 100%. The Board may from time to time by resolution set the percentage of a risk to be retained by the members for their own accounts.
- (c) The applicable percentage of all coverages provided by the member shall be transferred, subject to the following limitations:
  - (i) The maximum transferable limit in respect of Third Party Liability shall be the applicable percentage of \$2,000,000 (two million dollars) or as from time to time determined by the Board.
  - (ii) Transferred basic All-Perils or Collision coverage shall be subject to a minimum deductible of the applicable percentage of \$100 (one hundred dollars) or as from time to time determined by the Board.
  - (iii) Transferred basic Comprehensive or Specified-Perils coverage shall be subject to a minimum deductible of the applicable percentage of \$50 (fifty dollars) or as from time to time determined by the Board.
  - (iv) The maximum transferable limit in respect of “Family Protection coverage” shall be the applicable percentage of \$2,000,000 (two million dollars) or as from time to time determined by the Board.
  - (v) Other transferred endorsement coverages shall be subject to the maximum limits and minimum deductibles that are from time to time determined by the Board.

Members may write coverage in excess of these limitations but such coverage and all expenses and liabilities in connection therewith will be for the member’s own account.

5. In respect of each risk being transferred to the Alberta Pool:

- (a) The premium actually charged by the member to the Insured net of any premium payment service charges charged to the Insured shall be the transfer premium in respect of each coverage provided that it is as approved by the regulatory authority concerned for the coverage and the applicable limit or deductible.
- (b) The member shall be entitled as a result of the transfer of premium to an expense allowance in an amount equal to a percentage of the written premium applicable to the transferred coverages, such percentage for use during a calendar year to be determined by the Board in consultation with the Superintendent of Insurance.
- (c) Such allowance is to settle all expenses incurred by the member including acquisition costs, operating costs and loss adjustment costs, but not including premium taxes and professional fees (such professional fees to be stipulated in the Alberta Risk Sharing Pool Claims Guide with compensation to be as therein

directed).

- (d) In this section the word “member” shall mean “insurer” and the provisions of this section 5 shall apply to each insurer of a group of insurers separately.
6. In respect of an eligible risk that is “new” to the member – i.e., a new policy or a new (additional) vehicle:
- (a) If the required transfer notification by form, disc or tape is dispatched to the Alberta Pool no later than fifteen days after the commencement date of the period of insurance concerned, the transfer effective date shall be the said commencement date and there shall be no prejudice to the member’s right to recover from the Alberta Pool in respect of a claim that arises within the period but prior to dispatch of the transfer form.
  - (b) If the required transfer notification is dispatched to the Alberta Pool more than fifteen days after the commencement date of the period of insurance concerned, the transfer effective date shall be the day following the date of dispatch of the notification and the transferred premium shall be pro-rata of that applicable to the period of insurance provided by the policy.
7. In respect of an eligible risk that is a “renewal” to the member:
- (a) If the required transfer notification is dispatched to the Alberta Pool no later than the commencement date of the period of insurance concerned, the transfer effective date shall be the said commencement date.
  - (b) If the required transfer notification is dispatched to the Alberta Pool later than the commencement date of the period of insurance concerned, the transfer effective date shall be the day following the date of dispatch of the transfer notification and the transferred premium shall be pro-rata of that applicable to the period of insurance provided by the policy.
8. In respect of all other eligible risks that are transferred to the Alberta Pool in mid-term the transfer effective date shall be the day following the date of dispatch of the transfer notification and the transferred premium shall be pro-rata of that applicable to the period of insurance provided by the policy.
9. Satisfactory evidence sufficient to establish the “dispatch date” for the purposes of sections 7 and 8 above shall be as determined from time to time by the Board.

10. A member may not in a calendar year in which the Alberta Pool is operating, transfer to the Alberta Pool any Non-Grid Risk where such transfer would constitute a transfer by it in such calendar year of voluntary private passenger non-fleet third party liability direct written car years in excess of the number of such car years equal to a percentage as set by the Board by resolution from time to time of the number of its total voluntary private passenger non-fleet third party liability direct written car years for such jurisdiction in the immediately preceding calendar year less the number of grid risk private passenger non-fleet third party liability direct written car years ceded to the Alberta Pool by it in the same period and provided that:
- (a) any purported transfer in contravention of such restriction shall be ineffective and the risk shall remain solely for the account of the member purporting to effect the transfer unless authorized as hereinafter set out;
  - (b) a member may apply to the Board for approval of transfers in excess of such limit. Such approval may be given retroactively and in such form as the Board deems advisable.

The limit at the inception of the Alberta Pool shall be 4%.

Risks for which the premium is as established by the statutory premium grid may be transferred to the Alberta Pool without limit.

11. Members shall specifically identify risks transferred to the Alberta Pool that are Non Grid Risks and the results of the Alberta Pool in connection with such risks shall be maintained and reported separately from risks for which the premium has been established by the statutory premium grid.
12. Any risk transferred to the Alberta Pool within the first fifteen days after the commencement date of the period of insurance with respect to which a claim is incurred during such fifteen day period and any risk with respect to which a claim is incurred while such risk is within the Alberta Pool must remain within the Alberta Pool and may not be withdrawn by the member until at least the date of the first renewal following the incurring of such claim. Members may withdraw other risks transferred by them to the Alberta Pool in accordance with the procedures set out in the Alberta Risk Sharing Pool Procedures Manual.
13. The share of any loss resulting from the operation of the Alberta Pool for each fiscal year for each member shall be calculated in accordance with the procedures set out in the Accounting and Statistical Manual and communicated to such member by the

Association. It is anticipated that the member will include the recapture of such loss in its calculations with respect to subsequent rate calculations.

### **XI.3 – NEW BRUNSWICK RISK SHARING POOL**

1. The Association hereby establishes a risk sharing pool (herein called the "New Brunswick Pool") into which New Brunswick members are entitled to transfer, subject to the provisions hereinafter set out, the applicable percentage of any New Brunswick risk that satisfies the Eligibility Requirements.
2. For the purposes of the application of Article X, Article XI.3 and Part IV of the Operating Principles to the New Brunswick Pool the following definitions shall apply:

(a) Private Passenger Vehicle:

A motor vehicle listed in the Private Passenger Rate Group Tables contained in the Manual of Rules and Rates used in whole or in part for pleasure, commute, business or farming operations and not weighing more than 4500 kg. Business use does not include use as driver training vehicles, funeral vehicles, courtesy cars, vehicles held for sale or used for demonstrating or testing or any use listed in the Commercial or Public Sections of the Manual of Rules and Rates, even though Private Passenger rates are used to determine the premium; but excluding any vehicle while in transit from a point of purchase to a permanent location where one of such points is within a jurisdiction in which the New Brunswick Pool is in operation and further excluding any vehicle insured as part of a fleet, synthetic fleet or group plan unless such vehicle is individually rated in accordance with rates filed with the applicable regulatory authority and is coded as a private passenger non-fleet automobile under the Automobile Statistical Plan.

Note: Any vehicle classified as a recreational vehicle, for example, an antique vehicle, a motor home, or a motorcycle, is not eligible for placement in the New Brunswick Pool.

3. (a) The following are the requirements for a risk to be eligible for transfer to the New Brunswick Pool:
  - (i) *The vehicle is used in whole or in part as a Private Passenger Vehicle, provided that where such vehicle has a non-Private Passenger Vehicle use in addition to a Private Passenger Vehicle use only the coverage with respect to the Private Passenger Vehicle use is eligible for transfer and in the event that such transfer results in liability arising from a non-private*

- passenger use of the vehicle that liability will be that of the transferring member and not of the New Brunswick Pool; and*
- (ii) *The member has followed all appropriate classification and rate procedures and has requested previous-insurer report(s) and driver record abstract(s); and*
- (iii) *The risk is insured against Third Party Liability for at least the statutory limit; and*
- (iv) *The premiums charged by the member to the insured for those parts of the insurance that are transferable to the New Brunswick Pool are in accordance with its approved premiums for such risk.*
- (b) A risk purportedly transferred to the New Brunswick Pool which was not eligible for transfer at that time due to a failure to comply with one or more of requirements set out above *will be considered ineligible for transfer, the purported transfer shall be deemed to be invalid and all claims, expenses and receipts or credits will be for the account of the submitting member. This provision shall not apply to a risk in relation to a specific term of transfer where a period ending the later of 24 months from the date of such transfer or 2 months after the first audit of the member following such transfer has expired.*
- (c) A risk purportedly transferred to the New Brunswick Pool in connection with which there has been a failure to comply with one or more of the requirements with respect to previous-insurer report(s), driver record abstract(s) or Autoplus report(s) shall be dealt with as set out in the appropriate Risk Sharing Pool Procedures Manual in accordance with provisions established by the Board from time to time.
- (d) If it is determined that a company is not ordering the appropriate reports, or has adopted a practice which fails to provide for proper compliance with its obligations, the company will be dealt with as an exception and a further investigation, or, where determined by the President and Chief Executive Officer to be appropriate, a full audit will follow.
- (e) Where it is decided that a full audit of all risks transferred by the member is appropriate the costs of the audit will be billed to the member.
- (f) Where such investigation or audit demonstrates to the satisfaction of the Audit and Risk Committee that there has been a general failure to order the required reports on time the expense allowance referred to in subsection 5(b) to the member will be reduced by two percentage points for a period of six months.
- (g) Flagrant or continued failure to comply with these obligations could result in a directive to the member to remove all risks from the New Brunswick Pool. This

penalty would only be applied after a follow-up review by the President and Chief Executive Officer and the Audit and Risk Committee, and referral to the Board.

4. In respect of an eligible risk that a member wishes to transfer to the New Brunswick Pool:

- (a) The member may provide whatever coverages and limits it deems appropriate.
- (b) At inception of the New Brunswick Pool any risk transferred will be transferred at 100%. The Board may from time to time by resolution set the percentage of a risk to be retained by the members for their own accounts, and establish maximum transferable limits and minimum deductibles with respect to risks transferred.

Members may write coverage in excess of these limitations but such coverage and all expenses and liabilities in connection therewith will be for the member's own account.

5. In respect of each risk being transferred to the New Brunswick Pool:

- (a) The premium actually charged by the member to the Insured net of any premium payment service charges charged to the Insured shall be the transfer premium in respect of each coverage provided that it is as approved by the regulatory authority concerned for the coverage and the applicable limit or deductible, and that it is a premium that is no lower than the member's manual rate.
- (b) The member shall be entitled as a result of the transfer of premium to an expense allowance in an amount equal to a percentage of the written premium applicable to the transferred coverages, such percentage for use during a calendar year to be determined by the Board.
- (c) Such allowance is to settle all expenses incurred by the member including acquisition costs, operating costs and loss adjustment costs, but not including premium taxes and professional fees (such professional fees to be stipulated in the applicable Risk Sharing Pool Claims Guide with compensation to be as therein directed).
- (d) In this section the word "member" shall mean "insurer" and the provisions of this section 5 shall apply to each insurer of a group of insurers separately.

6. In respect of an eligible risk that is "new" to the member – i.e., a new policy or a new (additional) vehicle:

- (a) If the required transfer notification by form, disc or tape is dispatched to the New Brunswick Pool no later than fifteen days after the commencement date of the

period of insurance concerned, the transfer effective date shall be the said commencement date and there shall be no prejudice to the member's right to recover from the New Brunswick Pool in respect of a claim that arises within the period but prior to dispatch of the transfer form.

- (b) If the required transfer notification is dispatched to the New Brunswick Pool more than fifteen days after the commencement date of the period of insurance concerned, the transfer effective date shall be the day following the date of dispatch of the notification and the transferred premium shall be pro-rata of that applicable to the period of insurance provided by the policy.
7. In respect of an eligible risk that is a "renewal" to the member:
- (a) If the required transfer notification is dispatched to the New Brunswick Pool no later than the commencement date of the period of insurance concerned, the transfer effective date shall be the said commencement date.
  - (b) If the required transfer notification is dispatched to the New Brunswick Pool later than the commencement date of the period of insurance concerned, the transfer effective date shall be the day following the date of dispatch of the transfer notification and the transferred premium shall be pro-rata of that applicable to the period of insurance provided by the policy.
8. In respect of all other eligible risks that are transferred to the New Brunswick Pool in mid-term the transfer effective date shall be the day following the date of dispatch of the transfer notification and the transferred premium shall be pro-rata of that applicable to the period of insurance provided by the policy.
9. Satisfactory evidence sufficient to establish the "dispatch date" for the purposes of sections 7 and 8 above shall be as determined from time to time by the Board.
10. A member may not in a calendar year in which the New Brunswick Pool is operating, transfer to the New Brunswick Pool any eligible risk where such transfer would constitute a transfer by it in such calendar year of voluntary private passenger non-fleet, third party direct written car years in excess of the number of such car years equal to a percentage as set by the Board by resolution from time to time of the number of its total voluntary private passenger non-fleet third party liability direct written car years for such jurisdiction in the immediately preceding calendar year provided that.
- (a) any purported transfer in contravention of such restriction shall be ineffective

and the risk shall remain solely for the account of the member purporting to effect the transfer unless authorized as hereinafter set out;

- (b) a member may apply to the Board for approval of transfers in excess of such limit. Such approval may be given retroactively and in such form as the Board deems advisable.

The limit at the inception of the New Brunswick Pool shall be 8%.

11. Any risk transferred to the New Brunswick Pool within the first fifteen days after the commencement date of the period of insurance with respect to which a claim is incurred during such fifteen day period and any risk with respect to which a claim is incurred while such risk is within the New Brunswick Pool must remain within the New Brunswick Pool and may not be withdrawn by the member until at least the date of the first renewal following the incurring of such claim. Members may withdraw other risks transferred by them to the New Brunswick Pool in accordance with the procedures set out in the appropriate Risk Sharing Pool Procedures Manual.
12. The share of any loss or gain resulting from the operation of the New Brunswick Pool for each fiscal year for each member shall be calculated in accordance with the procedures set out in the Accounting and Statistical Manual and communicated to such member by the Association. The member will include the recapture of such loss in its calculations with respect to subsequent rate calculations with such loss or gain to be distributed evenly to all drivers.
13. Claims transferred to the New Brunswick Pool shall include all paid losses, case reserves and IBNR including eligible claims settlement expenses but not including expenses relating to outside adjusters.

#### **XI.4 – NOVA SCOTIA RISK SHARING POOL**

1. The Association hereby establishes a risk sharing pool (herein called the "*Nova Scotia Pool*") into which Nova Scotia members are entitled to transfer, subject to the provisions hereinafter set out, the applicable percentage of any Nova Scotia risk that satisfies the Eligibility Requirements with respect to such Pool.
2. For the purposes of the application of Article X, Article XI.4 and Part IV of the Operating Principles to the Nova Scotia Pool the following definitions shall apply:

## (a) Private Passenger Vehicle:

A motor vehicle listed in the Private Passenger Rate Group Tables contained in the Manual of Rules and Rates used in whole or in part for pleasure, commute, business or farming operations and not weighing more than 4500 kg. Business use does not include use as driver training vehicles, funeral vehicles, courtesy cars, vehicles held for sale or used for demonstrating or testing or any use listed in the Commercial or Public Sections of the Manual of Rules and Rates, even though Private Passenger rates are used to determine the premium; but excluding any vehicle while in transit from a point of purchase to a permanent location where one of such points is within a jurisdiction in which a Nova Scotia Pool is in operation and further excluding any vehicle insured as part of a fleet, synthetic fleet or group plan unless such vehicle is individually rated in accordance with rates filed with the applicable regulatory authority and is coded as a private passenger non-fleet automobile under the Automobile Statistical Plan.

Note: Any vehicle classified as a recreational vehicle, for example, an antique vehicle, a motor home, or a motorcycle, is not eligible for placement in a Nova Scotia Pool.

3. (a) The following are the requirements for a risk to be eligible for transfer to the *Nova Scotia Pool*:

- (i) *The vehicle is used in whole or in part as a Private Passenger Vehicle, provided that where such vehicle has a non-Private Passenger Vehicle use in addition to a Private Passenger Vehicle use only the coverage with respect to the Private Passenger Vehicle use is eligible for transfer and in the event that such transfer results in liability arising from a non-private passenger use of the vehicle that liability will be that of the transferring member and not of the Nova Scotia Pool; and*
- (ii) *The member has followed all appropriate classification and rate procedures and has requested previous-insurer report(s) and driver record abstract(s); and*
- (iii) *The risk is insured against Third Party Liability for at least the statutory limit; and*
- (iv) *The premiums charged by the member to the insured for those parts of the insurance that are transferable to the Nova Scotia Pool are in accordance with its approved premiums for such risk.*

- (v) The premiums charged by the member to the insured for those parts of the insurance transferred to the Nova Scotia Pool are in accordance with its approved premiums for such risk.
  - (b) A risk purportedly transferred to a Nova Scotia Pool which was not eligible for transfer at that time due to a failure to comply with one or more of requirements set out above will be considered ineligible for transfer, the purported transfer shall be deemed to be invalid and all claims, expenses and receipts or credits will be for the account of the submitting member. This provision shall not apply to a risk in relation to a specific term of transfer where a period ending the later of 24 months from the date of such transfer or 2 months after the first audit of the member following such transfer has expired.
  - (c) A risk purportedly transferred to a Nova Scotia Pool in connection with which there has been a failure to comply with one or more of the requirements with respect to previous-insurer report(s), driver record abstract(s) or Autoplus report(s) shall be dealt with as set out in the appropriate Risk Sharing Pool Procedures Manual in accordance with provisions established by the Board from time to time.
  - (d) If it is determined that a company is not ordering the appropriate reports, or has adopted a practice which fails to provide for proper compliance with its obligations, the company will be dealt with as an exception and a further investigation, or, where determined by the President and Chief Executive Officer to be appropriate, a full audit will follow.
  - (e) Where it is decided that a full audit of all risks transferred by the member is appropriate the costs of the audit will be billed to the member.
  - (f) Where such investigation or audit demonstrates to the satisfaction of the Audit and Risk Committee that there has been a general failure to order the required reports on time the expense allowance referred to in subsection 5(b) to the member will be reduced by two percentage points for a period of six months.
  - (g) Flagrant or continued failure to comply with these obligations could result in a directive to the member to remove all risks from a Nova Scotia Pool. This penalty would only be applied after a follow-up review by the President and Chief Executive Officer and the Audit and Risk Committee, and referral to the Board.
4. In respect of an eligible risk that a member wishes to transfer to a Nova Scotia Pool:
- (a) The member may provide whatever coverages and limits it deems appropriate.

- (b) Any risk transferred will be transferred at 100%. The Board may from time to time by resolution establish maximum transfer limits and minimum deductibles with respect to risks transferred. Members may write coverage in excess of these limitations but such coverage and all expenses and liabilities in connection therewith will be for the member's own account.
  
- 5. In respect of each risk being transferred to a Nova Scotia Pool:
  - (a) The premium actually charged by the member to the Insured net of any premium payment service charges charged to the Insured shall be the transfer premium in respect of each coverage provided that it is as approved by the regulatory authority concerned for the coverage and the applicable limit or deductible, and that it is a premium that is no lower than the member's manual rate.
  - (b) The member shall be entitled as a result of the transfer of premium to an expense allowance in an amount equal to a percentage of the written premium applicable to the transferred coverages, such percentage for use during a calendar year to be determined by the Board.
  - (c) Such allowance is to settle all expenses incurred by the member including acquisition costs, operating costs and loss adjustment costs, but not including premium taxes and professional fees (such professional fees to be stipulated in the applicable Risk Sharing Pool Claims Guide with compensation to be as therein directed).
  - (d) In this section the word "member" shall mean "insurer" and the provisions of this section 5 shall apply to each insurer of a group of insurers separately.
  
- 6. In respect of an eligible risk that is "new" to the member – i.e., a new policy or a new (additional) vehicle:
  - (a) If the required transfer notification by form, disc or tape is dispatched to the applicable Nova Scotia Pool no later than fifteen days after the commencement date of the period of insurance concerned, the transfer effective date shall be the said commencement date and there shall be no prejudice to the member's right to recover from such Pool in respect of a claim that arises within the period but prior to dispatch of the transfer form.
  - (b) If the required transfer notification is dispatched to the applicable Nova Scotia Pool more than fifteen days after the commencement date of the period of insurance concerned, the transfer effective date shall be the day following the

date of dispatch of the notification and the transferred premium shall be pro-rata of that applicable to the period of insurance provided by the policy.

7. In respect of an eligible risk that is a “renewal” to the member:
  - (a) If the required transfer notification is dispatched to the applicable Nova Scotia Pool no later than the commencement date of the period of insurance concerned, the transfer effective date shall be the said commencement date.
  - (b) If the required transfer notification is dispatched to the applicable Nova Scotia Pool later than the commencement date of the period of insurance concerned, the transfer effective date shall be the day following the date of dispatch of the transfer notification and the transferred premium shall be pro-rata of that applicable to the period of insurance provided by the policy.
8. In respect of all other eligible risks that are transferred to a Nova Scotia Pool in mid-term the transfer effective date shall be the day following the date of dispatch of the transfer notification and the transferred premium shall be pro-rata of that applicable to the period of insurance provided by the policy.
9. Satisfactory evidence sufficient to establish the “dispatch date” for the purposes of sections 7 and 8 above shall be as determined from time to time by the Board.
10. Any risk transferred to a Nova Scotia Pool within the first fifteen days after the commencement date of the period of insurance with respect to which a claim is incurred during such fifteen day period and any risk with respect to which a claim is incurred while such risk is within such Pool must remain within that Pool and may not be withdrawn by the member until at least the date of the first renewal following the incurring of such claim. Members may withdraw other risks transferred by them to a Nova Scotia Pool in accordance with the procedures set out in the appropriate Risk Sharing Pool Procedures Manual.
11. The share of any loss or gain resulting from the operation of the Nova Scotia Pool for each fiscal year for each member shall be calculated in accordance with the procedures set out in the Accounting and Statistical Manual and communicated to such member by the Association. The member will include the recapture of such loss in its calculations with respect to subsequent rate calculations with such loss or gain to be distributed evenly to all drivers.

12. Claims transferred to a Nova Scotia Pool shall include all paid losses, case reserves and IBNR including eligible claims settlement expenses but not including expenses relating to outside adjusters.
13. *A member may not in a calendar year in which the Nova Scotia Pool is operating, transfer to the Nova Scotia Pool any eligible risk where such transfer would constitute a transfer by it in such calendar year of voluntary private passenger non-fleet, third party direct written car years in excess of the number of such car years equal to a percentage as set by the Board by resolution from time to time of the number of its total voluntary private passenger non-fleet third party liability direct written car years for such jurisdiction in the immediately preceding calendar year provided that:*
  - (a) *any purported transfer in contravention of such restriction shall be ineffective and the risk shall remain solely for the account of the member purporting to effect the transfer unless authorized as hereinafter set out;*
  - (b) *a member may apply to the Board for approval of transfers in excess of such limit. Such approval may be given retroactively and in such form as the Board deems advisable.*

#### **XI.5 – NEWFOUNDLAND AND LABRADOR RISK SHARING POOL**

1. The Association hereby establishes a risk sharing pool (herein called the "Newfoundland and Labrador Pool" into which Newfoundland and Labrador members are entitled to transfer, subject to the provisions hereinafter set out, the applicable percentage of any Newfoundland and Labrador risk that satisfies the Eligibility Requirements.
2. For the purposes of the application of Article X, Article XI.5 and Part IV of the Operating Principles to the Newfoundland and Labrador Pool the following definition shall apply:
  - (a) **Private Passenger Vehicle:**

A motor vehicle listed in the Private Passenger Rate Group Tables contained in the Manual of Rules and Rates used in whole or in part for pleasure, commute, business or farming operations and not weighing more than 4500 kg. Business use does not include use as driver training vehicles, funeral vehicles, courtesy cars, vehicles held for sale or used for demonstrating or testing or any use listed in the Commercial or Public Sections of the Manual of Rules and Rates, even though Private Passenger rates are used to determine the premium; but excluding any vehicle while in transit from a point of purchase to a permanent location where one of such points is within a jurisdiction in which the Newfoundland and

Labrador Pool is in operation and further excluding any vehicle insured as part of a fleet, synthetic fleet or group plan unless such vehicle is individually rated in accordance with rates filed with the applicable regulatory authority and is coded as a private passenger non-fleet automobile under the Automobile Statistical Plan.

Note: Any vehicle classified as a recreational vehicle, for example, an antique vehicle, a motor home, or a motorcycle, is not eligible for placement in the Newfoundland and Labrador Pool

3. Members are entitled to transfer, subject to the provisions hereinafter set out, the applicable percentage of any risk that satisfies the Eligibility Requirements.
4. (a) The following are the requirements for a risk to be eligible for transfer to the Newfoundland and Labrador Pool:
  - (i) The vehicle is used in whole or in part as a Private Passenger Vehicle, provided that where such vehicle has a non-Private Passenger Vehicle use in addition to a Private Passenger Vehicle use only the coverage with respect to the Private Passenger Vehicle use is eligible for transfer and in the event that such transfer results in liability arising from a non-private passenger use of the vehicle that liability will be that of the transferring member and not of the Newfoundland and Labrador Pool; and
  - (ii) The member has followed all appropriate classification and rate procedures and has requested previous-insurer report(s) and driver record abstract(s); and
  - (iii) The risk is insured against Third Party Liability for at least the statutory limit; and
  - (iv) The premiums charged by the member to the insured for those parts of the insurance that are transferable to the Newfoundland and Labrador Pool are in accordance with its approved premiums for such risk.
- (b) A risk purportedly transferred to the Newfoundland and Labrador Pool which was not eligible for transfer at that time due to a failure to comply with one or more of requirements (i), (ii), (iii) or (iv) due to an intentionally incorrect classification or rate will be considered ineligible for transfer, the purported transfer shall be deemed to be invalid and all claims, expenses and receipts or credits will be for the account of the submitting member. This provision shall not apply to a risk in relation to a specific term of transfer where a period ending the later of 24 months from the date of such transfer or 2 months after the first

audit of the member following such transfer has expired.

- (c) A risk purportedly transferred to the Newfoundland and Labrador Pool in connection with which there has been a failure to comply with one or more of the requirements with respect to previous-insurer report(s) or driver record abstract(s) shall be dealt with as set out in the Newfoundland and Labrador Risk Sharing Pool Procedures Manual in accordance with provisions established by the Board from time to time.
  - (d) If it is determined that a company is not ordering the appropriate reports, or has adopted a practice which fails to provide for proper compliance with its obligations, the company will be dealt with as an exception and a further investigation, or, where determined by the President and Chief Executive Officer to be appropriate, a full audit will follow.
  - (e) Where it is decided that a full audit of all risks transferred by the member is appropriate the costs of the audit will be billed to the member.
  - (f) Where such investigation or audit demonstrates to the satisfaction of the Audit and Risk Committee that there has been a general failure to order the required reports on time the expense allowance referred to in subsection 6(b) to the member will be reduced by two percentage points for a period of six months.
  - (g) Flagrant or continued failure to comply with these obligations could result in a directive to the member to remove all risks from the Newfoundland and Labrador Pool. This penalty would only be applied after a follow-up review by the President and Chief Executive Officer and the Audit and Risk Committee, and referral to the Board.
5. In respect of an eligible risk that a member wishes to transfer to the Newfoundland and Labrador Pool:
- (a) The member may provide whatever coverages and limits it deems appropriate.
  - (b) At inception of the Newfoundland & Labrador Pool any risk transferred will be transferred at 100%. The Board may from time to time by resolution set the percentage of a risk to be retained by the members for their own accounts, and establish maximum transferable limits and minimum deductibles with respect to risks transferred.
- Members may write coverage in excess of these limitations but such coverage and all expenses and liabilities in connection therewith will be for the member's own account.
6. In respect of each risk being transferred to the Newfoundland and Labrador Pool:
- (a) The premium actually charged by the member to the Insured net of any premium

payment service charges charged to the Insured shall be the transfer premium in respect of each coverage provided that it is as approved by the regulatory authority concerned for the coverage and the applicable limit or deductible, and that it is a premium that is no lower than the member's manual rate.

- (b) The member shall be entitled as a result of the transfer of premium to an expense allowance in an amount equal to a percentage of the written premium applicable to the transferred coverages, such percentage for use during a calendar year to be determined by the Board.
  - (c) Such allowance is to settle all expenses incurred by the member including acquisition costs, operating costs and loss adjustment costs, but not including premium taxes and professional fees (such professional fees to be stipulated in the Risk Sharing Pool Claims Guide with compensation to be as therein directed).
  - (d) In this section the word “member” shall mean “insurer” and the provisions of this section 6 shall apply to each insurer of a group of insurers separately.
7. In respect of an eligible risk that is “new” to the member – i.e., a new policy or a new (additional) vehicle:
- (a) If the required transfer notification by form, disc or tape is dispatched to the Newfoundland and Labrador Pool no later than fifteen days after the commencement date of the period of insurance concerned, the transfer effective date shall be the said commencement date and there shall be no prejudice to the member’s right to recover from the Newfoundland and Labrador Pool in respect of a claim that arises within the period but prior to dispatch of the transfer form.
  - (b) If the required transfer notification is dispatched to the Newfoundland and Labrador Pool more than fifteen days after the commencement date of the period of insurance concerned, the transfer effective date shall be the day following the date of dispatch of the notification and the transferred premium shall be pro-rata of that applicable to the period of insurance provided by the policy.
8. In respect of an eligible risk that is a "renewal" to the member.
- (a) If the required transfer notification is dispatched to the Newfoundland and Labrador Pool no later than the commencement date of the period of insurance concerned, the transfer effective date shall be the said commencement date.
  - (b) If the required transfer notification is dispatched to the Newfoundland and Labrador Pool later than the commencement date of the period of insurance concerned, the transfer effective date shall be the day following the date of dispatch of the transfer notification and the transferred premium shall be pro-rata of that applicable to the period of insurance provided by the policy.

9. In respect of all other eligible risks that are transferred to the Newfoundland and Labrador Pool in mid-term the transfer effective date shall be the day following the date of dispatch of the transfer notification and the transferred premium shall be pro-rata of that applicable to the period of insurance provided by the policy.
10. Satisfactory evidence sufficient to establish the “dispatch date” for the purposes of sections 8 and 9 above shall be as determined from time to time by the Board.
11. A member may not in a calendar year in which the Newfoundland and Labrador Pool is operating, transfer to the Newfoundland and Labrador Pool any risk where such transfer would constitute a transfer by it in such calendar year of voluntary private passenger non-fleet third party liability direct written car years in excess of the number of such car years equal to a percentage as set by the Board by resolution from time to time of its total voluntary private passenger non-fleet third party liability direct written car years for such jurisdiction in the immediately preceding calendar year provided that:
- (a) any purported transfer in contravention of such restriction shall be ineffective and the risk shall remain solely for the account of the member purporting to effect the transfer unless authorized as hereinafter set out;
  - (b) a member may apply to the Board for approval of transfers in excess of such limit. Such approval may be given retroactively and in such form as the Board deems advisable.
- The limit at the inception of the Newfoundland and Labrador Pool shall be 5%.
12. Any risk transferred to the Newfoundland and Labrador Pool within the first fifteen days after the commencement date of the period of insurance with respect to which a claim is incurred during such fifteen day period and any risk with respect to which a claim is incurred while such risk is within the Newfoundland and Labrador Pool must remain within the Newfoundland and Labrador Pool and may not be withdrawn by the member until at least the date of the first renewal following the incurring of such claim. Members may withdraw other risks transferred by them to the Newfoundland and Labrador Pool in accordance with the procedures set out in the Newfoundland and Labrador Risk Sharing Pool Procedures Manual.
13. The share of any loss or gain resulting from the operation of the Newfoundland and Labrador Pool for each fiscal year for each member shall be calculated in accordance with the procedures set out in the Accounting and Statistical Manual and communicated to such member by the Association. The member will include the recapture of such loss

in its calculations with respect to subsequent rate calculations with such loss or gain to be distributed evenly to all drivers.

**ARTICLE XII – ALBERTA SUPPLEMENTARY MARKET AVAILABILITY PLAN**

1. The Association shall participate in and require the participation of its Alberta members and all Alberta agents and brokers in the Supplementary Market Availability Plan ("SMAP") in Alberta.
2. The requirements with respect to the operation of the SMAP will be as set out in the Alberta Supplementary Market Availability Plan Manual.
3. SMAP will be operated and complied with in conjunction with and supplementary to the Alberta Facility Association Residual Market program and the Alberta Pool.

**ARTICLE XIII – INSURANCE POLICIES**

1. Each member shall ensure that any owner or licensed driver of a motor vehicle applying to it is able to obtain automobile insurance either through issuing such insurance itself for its own account, issuing such insurance itself and placing it in a risk sharing pool where such is in operation, seeing that the application is directed to enable coverage to be written through the Association by a Servicing Carrier where permitted or by complying with the procedures and requirements of a supplementary market availability plan where in operation.

Where, in a jurisdiction in which a risk sharing pool into which the risk can be transferred is being operated by the Association, an application is received by a Servicing Carrier in connection with a risk that does not qualify as a Residual Market Risk, the Servicing Carrier shall instruct the submitting agent or broker to submit such application to one of the members with whom such agent or broker has a voluntary market contract or agreement and such agent or broker shall forthwith submit the application to such member.

In the event that such agent or broker does not have a voluntary market contract or agreement such agent or broker, unless otherwise authorized by the provisions of the Plan, shall immediately direct the applicant to an agent or broker who does have a voluntary market agreement for submission of an application as herein before provided. In the absence of any agreement to the contrary this shall not result in a sub-agency or sub-brokerage relationship being created.

2. The Servicing Carrier shall be named as the Insurer on all automobile insurance policies and binders it issues on behalf of the Association.
3. No policy shall be issued on behalf of the Association in excess of the limitations established in the Plan or Rules of Operation.
4. In section 1 of this Article XIII the word “member” shall mean “insurer” and notwithstanding section 2 of Article III the provisions section 1 of Article XIII shall apply to each insurer of a group of insurers separately.

#### **ARTICLE XIV – UNDERWRITING INFORMATION PLAN**

1. The Association shall provide and administer an underwriting information plan (“UIP”) to enable the identification, collection and transformation of data into information to assist the valid and appropriate risk assessment by members. Such data is then by definition UIP data.
2. Each member is required to participate in the UIP and to report to or in accordance with the direction of the Association, in each jurisdiction in which such member operates, in the manner and at the time directed, all information directed to be provided as set out in the Procedures Manual of the UIP.
3. Subject to any applicable legislative requirements the Board is authorized to create a Procedures Manual for the UIP, such Procedures Manual to provide for all aspects of the operation of the UIP and, in particular but without limiting the generality of the foregoing:
  - (a) the information required to be reported;
  - (b) the reporting format for such information;
  - (c) the timing for reporting;
  - (d) the method of transmission of such information;
  - (e) the right and means available to the Association to verify the information;
  - (f) the use to which the information may be put and any restrictions applicable;
  - (g) the requirements for security and privacy in connection with the information;

- (h) the determination and method of sharing of the cost of operation of UIP;
  - (i) the rights of enforcement by the Association including deficiency fees and penalties.
4. The Board shall have authority to give such direction and enter into such arrangements and agreements as it may feel appropriate in order to create and properly operate the UIP.
  5. The Association shall take all reasonable steps to ensure that all information provided in connection with the UIP is at all time maintained separate, distinct and apart from any information provided by members pursuant to any statistical plan or plans maintained by the applicable legislation of any jurisdiction, and the Association shall require any person or entity contracted by the Association to engage in any aspect of the operation of the UIP to take such steps.
  6. The Association shall take all reasonable steps to ensure that any information collected in connection with the UIP is at no time permitted to fall into the custody or control of any “institution” within the meaning of the Ontario Freedom of Information and Protection of Privacy Act or any successors or amendments thereto, or of any similar applicable legislation in any other jurisdiction, and the Association shall require any person or entity contracted by the Association to engage in any aspect of the operation of the UIP to take such steps.

#### **ARTICLE XV – JOINT LIABILITY FOR ASSOCIATION BUSINESS**

1. In the event of failure of any member, through insolvency or otherwise, to pay promptly its portion of any loss or expense after the Board shall have made written demand upon the member to pay such loss or expense, the Board shall report the delinquency to all members.
2. If the loss or expense remains unpaid beyond a reasonable period all of the other members, upon notification by the Board, shall promptly pay their respective shares of such loss or expense, each contributing its respective share as provided in Article V with the basis of sharing adjusted to exclude the car years or premiums earned of the member in default. Members having made such contributions shall have the right of recovery therefor against the member in default, provided, however, that the Board may enter into an agreement with any such member in default, or with the legal representative thereof, or, in the case of a member who has or is withdrawing from business in one or more

jurisdictions, in connection with prospective shares of loss or expense in future years as to an amount which shall constitute a full settlement of all of the obligations of said member to the remaining members. The Board may authorize the commencement of a representative action to be taken in the name of the Association for the full amount of such unpaid loss or expense.

#### **ARTICLE XVI – INDEMNIFICATION**

1. Other than with respect to an action, suit, claim or proceeding by the Association as against a Servicing Carrier, any person or member made a party to an action, suit or proceeding because such person or member served or is serving on the Board, the Audit and Risk Committee, the Governance and Human Resources Committee or other committee or sub-committee of the Association, or was or is an officer, member or employee of the Association, or acts or has acted as a Servicing Carrier pursuant to Article IX of these Articles, shall be indemnified and held harmless by the Association against all costs (including the amounts of judgments, settlements, fines or penalties) and expenses incurred in connection with such action, suit or proceeding; provided, however, that such indemnification shall not be provided in any matter in which the person or member shall be finally adjudged in any such action, suit or proceeding to have committed a breach of duty involving gross negligence, bad faith, dishonesty, willful misfeasance or reckless disregard of the responsibilities of his office. In the event of settlement of a matter before final adjudication, indemnification shall be provided only if the Association is advised by independent counsel that the person or member to be indemnified did not in counsel's opinion commit such a breach of duty.
2. The costs and expenses of such indemnification shall be prorated and paid for by the members, each contributing in accordance with Article V.

#### **ARTICLE XVII – RECORDS AND REPORTS**

1. With the exception of any information, records, data or other material forming part of the UIP, which shall be maintained secure and confidential, the books of account, records, reports and other documents of the Association shall be open to inspection by any member at such time and under such conditions and directives as the Board shall determine.

2. The books of account of the Association shall be audited at least every twelve months by a firm of auditors who shall be appointed by the members at each annual general meeting.
3. The books of account of Servicing Carriers shall be audited at least once a year by a firm of auditors designated by the Board.

#### **ARTICLE XVIII – AUDITING OF MEMBERS**

The Association may audit the records of any member relating to the subject matter of the Plan of Operation and may establish what policies, records, books of account, documents and related material it deems necessary to carry out its functions. Such material shall be provided by the members in the form and with the frequency reasonably required by the Association.

#### **ARTICLE XIX – APPEALS**

1. Any broker aggrieved with respect to his appointment to a Servicing Carrier, and any Servicing Carrier aggrieved with respect to the appointment to it of a broker, may make a written request to the Governance and Human Resources Committee for specific relief. Any request so received will be considered and answered within 60 days.
2. Any member or Servicing Carrier aggrieved with respect to any action or decision of the Board, Governance and Human Resources Committee, President and Chief Executive Officer or the Association or any Committee thereof, may make written request of the Board for specific relief. Any request so received will be considered and answered within 90 days.

#### **ARTICLE XX – AMENDMENTS**

1. An amendment to these Articles of Association may be proposed at any time by the Board or by any member. Such amendment may be made at any properly constituted meeting of the members, provided that proper notice of the proposed amendment has been given to the members pursuant to Article VI and provided that such amendment received affirmative votes cast in person or by proxy at such meeting representing 51% or more of the total number of votes held by all members.

2. An amendment to these Articles of Association may also be made if the proposed amendment, set out in writing, is sent to each member at its last address of record with the Association and if within sixty days of the mailing of such amendment, signed consents to the amendment are received from members representing 51% or more of the total number of votes held by all members.
3. An amendment to the Operating Principles may be proposed at any time by the Board, the Governance and Human Resources Committee or by any member.
4. Where an amendment to the Operating Principles is proposed it shall be considered by the Board at a duly constituted meeting and may be approved in accordance with authorized procedure by the affirmative vote of at least 51% of the members of the Board, to become effective at such time as is designated by the Board or by operation of law.
5. Where an amendment to the Operating Principles has been approved by the Board notice of such amendment, its effective date or proposed effective date and the reason therefore will be sent to the members within 30 days of its approval by the Board.
6. Where an amendment to the Operating Principles has been proposed by a member and not approved by the Board a special meeting of members may be called if requested pursuant to Article VI to consider such proposed amendment and such proposed amendment shall become effective if approval is received from members representing 51% or more of the total number of votes held by all members.
7. The President and Chief Executive Officer shall have the power to approve proposed amendments to the Rules of Operation as set out in section 3 (o) of Article VIII. All other proposed amendments to the Rules of Operation shall be reviewed by the Governance and Human Resources Committee who shall have the power to approve such proposed amendments. Any such approved amendments shall be effective at such time as is designated or, where applicable, by operation of law and Members shall be advised of all such amendments and the effective date thereof..

**ARTICLE XXI – PLAN OF OPERATION AND RULES OF OPERATION**

1. The Plan of Operation (hereinafter called “the Plan”) and the Rules of Operation (hereinafter called “the Rules”) shall continue in force as currently constituted in any jurisdiction in which the Association is currently in operation. The Plan and Rules may become effective in any other jurisdiction upon being authorized or required by law at a date or dates to be established by the Board.
  
2. The Plan shall consist of:
  - (a) The Articles of Association;
  - (b) The Operating Principles
    - Part I - General
    - Part II - Servicing Carriers
    - Part III - Brokers
    - Part IV - Risk Sharing Pool
  
3. The Rules shall consist of:
  - (a) Accounting and Statistical Manual
  - (b) Manual of Rules and Rates
  - (c) Facility Association Residual Market Claims Guide
  - (d) Ontario Risk Sharing Pool Claims Guide
  - (e) Alberta Risk Sharing Pool Claims Guide
  - (f) New Brunswick Risk Sharing Pool Claims Guide
  - (g) Nova Scotia Risk Sharing Pool Claims Guide
  - (h) *Newfoundland and Labrador Risk Sharing Pool Claims Guide*
  - (i) Ontario Risk Sharing Pool Procedures Manual
  - (j) Alberta Risk Sharing Pool Procedures Manual
  - (k) New Brunswick Risk Sharing Pool Procedures Manual
  - (l) Nova Scotia Risk Sharing Pool Procedures Manual
  - (m) *Newfoundland and Labrador Risk Sharing Pool Procedures Manual*
  - (n) Alberta Supplementary Market Availability Plan Manual
  - (o) Underwriting Information Plan Manual
  - (p) such additional manuals, forms and procedures adopted and approved in accordance with the Plan.
  
4. With respect to non risk sharing pool business, the Rules shall include provisions establishing the coverages to be afforded, the limits of liability to be made available, the deductible options to be offered, the rating plans and classifications to be used for

automobile insurance issued on behalf of the Association, premium payment requirements and commissions to be paid brokers on Association business and, with respect to risk sharing pool business, eligibility requirements, coverage acceptable for transfer, premium on transfer, transfer procedures, mid-term and other changes and claims handling and other expenses and allowances.

The Rules may include such other provisions as the Board or the members may approve as appropriate.

#### **ARTICLE XXII – REPRESENTATIVE ACTIONS AND LAW**

1. In the event of the failure of a member or a Servicing Carrier to meet any of its obligations under these Articles of Association or under or pursuant to the Operating Principles or the Rules, an action to enforce such obligation may be commenced and prosecuted in the name of the Association which may include the interests of all of the members of the Association. Each member agrees that it will not plead nor rely upon as a defence, and that it will be estopped from pleading or relying upon, the lack of status or capacity of the Association to bring such action in its name or its right to assert and recover claims in the place and stead and on behalf of any or all members or to treat all such claims as a single claim vested in the Association.
2. The interpretation of the contract formed by the agreement between the members to accept and be bound by these Articles of Association, the Operating Principles and the Rules shall be governed by the laws of the Province of Ontario.

**B. OPERATING PRINCIPLES**

**PART I – GENERAL**

**SECTION 1 – RATES**

All automobile risks written through the Association by Servicing Carriers shall be subject to the rules, rates, surcharges, minimum premiums and classifications of the Association.

**SECTION 2 – EXTRA HAZARDOUS RISKS**

If an applicant presents a risk which is greater than that contemplated by the rate established by the Association, the Servicing Carrier shall consult with the Provincial Operating Committee and/or the Rules and Rates Committee for an increase in such rate.

**SECTION 3 – COMMISSIONS**

The rates of commission on Association business shall be as specified in Appendix C attached to this Plan and forming a part of this Section. The rates set out in Appendix C, or any of them, may be changed from time to time by a resolution of the Board, such change or changes becoming effective at such time as is specified by the Board and in accordance with any applicable legislation.

**PART II – SERVICING CARRIERS**

**INTRODUCTION**

The following Eligibility Requirement and Service Standards are to be used by the Board in its appointment of Servicing Carriers. Other specific requirements and standards are listed in:

1. Articles of Association
2. Rules of Operation
3. Servicing Carrier Contract

Groups of companies under one ownership or common management shall be treated as a single company under these provisions.

**SECTION 1 – ELIGIBILITY REQUIREMENTS**

- A. To qualify as a Servicing Carrier in a particular jurisdiction a member must be a licensed automobile insurer currently providing service throughout such jurisdiction.  
The member must also commit itself to having the capability of properly underwriting, processing and maintaining a level of policy and claim service for all Association risks equal to that rendered in the voluntary market.
- B. If a Servicing Carrier normally services its voluntary market policies from an office not physically located in the jurisdiction, it is acceptable to service its Association policies from that office provided the same level of service is maintained including hours of operation that are the same as normal hours of operation in the originating jurisdiction. If a Servicing Carrier does not have claims facilities in the jurisdiction it will be necessary to designate another insurance company or an independent claims adjusting firm to provide some other means acceptable to the Board for the purpose of claims settlement and service.
- C. Commercial Lines Automobile service facilities must be available to Servicing Carriers in order that proper service will be rendered in respect of this class of business.
- D. Companies applying to the Board to be Servicing Carriers may make application to be reimbursed for extraordinary start-up expense. It will, however, be the responsibility of the Board to make the judgments as to what costs are extraordinary and to give due consideration to any extraordinary expense reimbursement applied for.

**SECTION 2 – SERVICE STANDARDS**

- A. Servicing Carriers must confirm driving records for New Business and Renewals through Driver Record Abstracts and also must confirm classifications and territories to ensure that the proper premium is charged.
- B. Servicing Carriers must issue policies within 30 days of the receipt of the application or as required by regulation. They must issue renewals at least 30 days in advance of their effective dates where notice is provided directly to the insured and 45 days in advance of the effective date where notice is provided to the broker.

- C. Servicing Carriers must carry out all subsequent policy transactions within 30 days of the effective date of receipt of the change or as required by regulation.
- D. Servicing Carriers must carry out all necessary accounting procedures as outlined by the Rules of Operation.
- E. Servicing Carriers must properly identify the broker in regard to every transaction and make reports by broker to the Association as required.
- F. Servicing Carriers must collect the necessary data to disburse commission payments to brokers and store this data and report same to Canada Revenue Agency.
- G. Servicing Carriers must generate the statistical and accounting information in the report format required. The required content and format of these reports are as specified in the Rules of Operation.
- H. Servicing Carriers may, during periods authorized by the Board and upon compliance with such procedures as may be prescribed by the Board and for the purpose of depopulating the Association and after obtaining the approval of the agent or broker concerned, solicit and accept for their own account, rather than as a Servicing Carrier on behalf of the Association, renewal applications with respect to coverage previously placed through the Association.
- I. Notwithstanding anything contained herein, Servicing Carriers must comply with the requirements of all applicable legislation.
- J. Policy records and claim records will be retained in accordance with the standards maintained for the Servicing Carrier's regular market book.
- K. The Servicing Carrier will develop and maintain a Business Continuity Plan for its Facility Association business and Volume Change Plan to address unexpected fluctuations in volume. These plans must be made available to Facility Association for review on at least an annual basis..
- L. In the event of notice of termination of this Agreement due to the commencement of

bankruptcy proceedings the Servicing Carrier agrees to provide Facility Association or other designated Servicing Carrier(s) with access to its Facility Association policy data for the purpose of transferring policies to another Servicing Carrier mid term or at renewal.

**SECTION 3 – WITHDRAWAL AS A SERVICING CARRIER**

A Servicing Carrier who wishes to discontinue acting in that capacity shall notify the Board of its intention at least eighteen months in advance of the intended date of discontinuance provided that such 18 month notice requirement shall be reduced to six months in the event that:

- (i) any material terms of the Servicing Carrier Agreement, including this Plan of Operation are altered without the concurrence of the Servicing Carrier or
- (ii) there is a material change in the new volume allocation, including the allocation of Brokers or Agents to the Servicing Carrier, whether such change in volume allocation occurs prior or subsequent to the issuance of the notice of termination by the Servicing Carrier as provided for under this Section 3. This provision shall not be interpreted to permit the reallocation of existing volume by the Facility Association, except as such reallocation may otherwise be permitted under existing procedures which have been authorized by the Board.

The President and Chief Executive Officer will arrange for the reassignment of brokers appointed to the Servicing Carrier and an orderly procedure for the writing of new and renewal Association business by another Servicing Carrier(s).

Unless other suitable arrangements are approved by the Board, the Servicing Carrier will (a) continue all policy service and accounting functions until existing policies expire and (b) administer all claims reported on Association policies to their ultimate conclusion, or to the expiry of a period of 60 months following the said date of discontinuance, whichever first occurs. The Board will assume control of claims outstanding beyond 60 months from the said date of discontinuance.

**PART III – BROKERS****APPOINTMENTS TO SERVICING CARRIERS**

Every licensed broker in a jurisdiction is eligible for appointment to a Servicing Carrier pursuant to this Plan of Operation. Each broker is appointed to only one Servicing Carrier and every effort will be made to ensure that the appointment is to a company operating in the broker's own marketing method. Individual brokers who are part of one brokerage will be appointed in the name of that brokerage to one Servicing Carrier.

Reassignment of brokers appointed to a Servicing Carrier that ceases to be a Servicing Carrier shall be based on the initial procedure for selection of a Servicing Carrier.

The form of application for appointment to a Servicing Carrier is appended hereto as Appendix D.

Each broker is required to complete a Facility Association Broker/Agency Contract with the Servicing Carrier on appointment (including re-assignment).

In appropriate circumstances the Association may authorize the transfer of a broker from one Servicing Carrier to another. In any such case, however, any sums payable to the first Servicing Carrier must be paid before the transfer is completed.

Notwithstanding the above provisions, under circumstances designated by the Board a broker may be appointed to a second Servicing Carrier solely for the purpose of placing risks with certain specific characteristics or servicing requirements. In such case a separate Facility Association Broker/Agency Contract will be completed.

**PART IV – RISK SHARING POOLS****SECTION 1 – CHANGES AFFECTING A TRANSFERRED RISK****A. INITIAL CLASSIFICATION OR RATING**

If, subsequent to the transfer of a risk to a risk sharing pool (hereinafter called an "RSP"), the member receives information that affects the initial classification and/or

rating of the risk (such as an undisclosed use of the vehicle or undisclosed prior claims and/or convictions) and does not cancel the insurance for non-disclosure:

- (1) If the information does not affect the risk's eligibility for transfer, the risk may remain transferred to the RSP provided that the member amends the premium appropriately and proceeds as stated in item B below – provided however that if the member received the information later than sixty days after the commencement date of the period of insurance, the member may permit the premium to remain unchanged until the expiry of that period of insurance.
- (2) If the eligibility requirement is no longer satisfied, the member shall cancel the transfer effective no later than twenty-one days after the date on which the information came to its knowledge and claim a refund of the transferred premium on a pro-rata basis – except that, if the member received the information later than sixty days after the commencement date of the period of insurance, the member may permit the transfer to remain until the expiry of that period of insurance.

#### **B. MID-TERM CHANGES**

Any change of coverage that occurs during the period of insurance, and any other change that affects the premium and/or statistical information previously reported, shall promptly be reported by the member by means of an approved method. The occurrence of a claim and/or conviction during the period of insurance is not of itself regarded as requiring a change of premium during that period.

#### **SECTION 2 – TRANSFER FORMS**

Members shall complete and submit individual Premium Transfer Forms and Premium Batch Control Forms in respect of all written premiums and refunds, in written, tape, disc or other approved method in accordance with the applicable Risk Sharing Pool Procedures Manual. The individual forms or records shall contain all the applicable statistical information.

#### **SECTION 3 – SERVICING OF TRANSFERRED RISKS**

A member who has transferred a risk to the RSP will provide the same services in connection with administration, payment options, claims investigation and handling and other consumer services and facilities as it would if such risk had been retained by it for its own account.

**SECTION 4 – CLAIM PROCEDURES****A. INVESTIGATION AND SETTLEMENT**

In respect of every claim on insurance transferred to the RSP:

- (1) It shall be the responsibility of the member concerned to investigate, defend and settle the claim or suit as it would in the absence of the RSP. The Association shall have the right and shall be given the opportunity of associating with the member in the defence of any claim or suit and shall receive the full co-operation of the member.
- (2) The RSP shall contribute to the loss adjustment cost in connection with internal costs and external loss adjustment costs other than professional fees through payment of the amount determined on a basis to be established by the Board from time to time as set out in the applicable provisions of Article XI.1, Section 6(b) or Article XI.2, Section 5(b). The member shall be reimbursed in connection with expenses for professional fees on the basis established in the applicable Facility Association Risk Sharing Pool Claims Guide.

**B. TRANSFER FORMS**

In respect of claims on transferred risk:

- (1) Members shall promptly complete and submit individual Claim Transfer Forms and Claim Batch Control Forms by written, tape, disc or other approved method in respect of all claim payments and recoveries and all new reserves and reserve changes in accordance with procedures authorized by the Board and published by the Association. The individual forms shall contain all the applicable statistical information.

**C. LARGE CLAIMS**

- (1) When the cost of any one loss on a transferred risk is estimated by the member to reach or exceed such amount as may require reporting pursuant to the provisions of the Facility Association Risk Sharing Claims Guide as a large loss the member shall comply with the procedures set out in the applicable Facility Association Risk Sharing Claims Guide as approved by the Board from time to time.
- (2) When the total amount paid by the member and recoverable from the RSP in

respect of one accident exceeds \$100,000.00 or such other amount as may from time to time be determined by the Board it will upon the request of the member be paid such amount by special remittance immediately upon receipt by the RSP of the required information as stipulated in the applicable Risk Sharing Pool Procedures Manual.

**D. CLAIMS REPORTING**

- (1) A member shall within twelve months from the date it receives a claim under a policy that has been transferred to an RSP, including any loss for which settlement expenses would be incurred by the member without there being any claims payment, report to the Association that it will be claiming against the RSP in connection therewith.
- (2) If a member fails to comply with this requirement, the Association management may require the member to remove the claim from the RSP due to late reporting. In any such case the member shall have the right to appeal such decision to the Claims Committee and to the Board.

# **APPENDICES**

**FACILITY ASSOCIATION  
MEMBERSHIP AGREEMENT**

The undersigned, in consideration of the mutual promises and undertakings made and given by each member of the Facility Association to each and every other member and of the rights and benefits accruing through the Facility Association, hereby covenants and agrees with each of the other members of the Facility Association:

1. To be and remain a member of the Facility Association subject to the provisions of the Articles of Association of the Facility Association; and
2. To be bound and comply with all the provisions of the Articles of Association, Operating Principles and Rules of Operation of the Facility Association.

It is further acknowledged that this instrument is one of a series of instruments signed individually by members but with the intention that they, together with the Articles of Association, Operating Principles and Rules of Operation, be considered as a single contract.

Dated at the City of \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_ in the Province of \_\_\_\_\_.

\_\_\_\_\_ CORPORATE SEAL  
(Member)

Per: \_\_\_\_\_  
(Signature)

**FACILITY ASSOCIATION**

**APPLICATION FOR APPOINTMENT AS A SERVICING CARRIER IN**

1. Company Name \_\_\_\_\_

2. Canadian Head Office Address \_\_\_\_\_  
Province \_\_\_\_\_ Postal Code \_\_\_\_\_

3. Address of office that will handle Association business for the above jurisdiction:  
Province \_\_\_\_\_ Postal Code \_\_\_\_\_

4. Company is part of \_\_\_\_\_ group and, is  is not  under the same control and management.

5. Marketing method presently used: Independent Broker / Agent   
Exclusive Agent   
Other (specify)  \_\_\_\_\_

6. Latest available annual figures for Automobile insurance written by the Company in the above mentioned jurisdiction:  
Premiums \$ \_\_\_\_\_  
No. of risks \_\_\_\_\_

7. Estimated annual capability as a Servicing Carrier in above jurisdiction:  
Premiums \$ \_\_\_\_\_  
No. of risks \_\_\_\_\_

8. Location of POLICY SERVICE facilities in above jurisdiction (or elsewhere if not in the same jurisdiction):

**FOR PRIVATE PASSENGER (non-fleet) POLICIES**

**FOR ALL OTHER AUTOMOBILE POLICIES**

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
Province Postal Code

\_\_\_\_\_  
Province Postal Code

\_\_\_\_\_  
Name & Title of Person in charge

\_\_\_\_\_  
Name & Title of Person in charge

\_\_\_\_\_  
Telephone (Area Code and Number)

\_\_\_\_\_  
Telephone (Area Code and Number)

9. Location of CLAIM SERVICE facilities on jurisdiction-wide basis. If to be provided by other than the Company applying for appointment as a Servicing Carrier, please answer Question 10.

Claim Service by Applicant.

Company Name \_\_\_\_\_

Address \_\_\_\_\_ Postal Code \_\_\_\_\_

Name and Title of Person in Charge \_\_\_\_\_

Telephone Area Code \_\_\_\_\_ Number \_\_\_\_\_

10. Alternative CLAIM SERVICE arrangements: give reasons for alternatives, the standards of service expected and attach written agreements and commitments from alternative sources:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

11. Does the company applying as a Servicing Carrier meet the eligibility requirements as defined in the Operating Principles?

Yes  No  If no, explain \_\_\_\_\_  
\_\_\_\_\_

12. Does the company applying have the necessary internal systems, procedures and controls to accurately report to the Facility Association all information in the categories below in accordance with format, frequency and other requirements specified in the Rules of Operation?

	YES	NO
A) Premium Statistics	<input type="checkbox"/>	<input type="checkbox"/>
B) Claim Statistics	<input type="checkbox"/>	<input type="checkbox"/>
C) Claim Reserves	<input type="checkbox"/>	<input type="checkbox"/>
D) Financial		
1) Premiums Written Earned and Collections	<input type="checkbox"/>	<input type="checkbox"/>
2) Accounts rendering and payment	<input type="checkbox"/>	<input type="checkbox"/>

CHIEF EXECUTIVE OFFICER: Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_ 20\_\_

**FACILITY ASSOCIATION**

The rates of commission on Facility Association non-pool business shall be as follows:

**O.P.F. 1**

- \* 1. Private Passenger Vehicles (see Note hereunder):
  - a. Class 10/11/12 9 %
  - b. Other 11 %

**Subject to a Maximum Commission of \$370 per vehicle per annum.**

- \* 2. Motor-Homes .....
  - \* 3. Cabin/Home Trailers .....
  - \* 4. Other private-type trailers .....
  - \* 5. Camper Units.....
- } If used for pleasure purposes, see “Private Passenger Vehicles”; otherwise see “Other Commercial Vehicles”.

- 6. Motorcycles/Mopeds .....
  - 7. All-Terrain Vehicles  
Snow Vehicles and  
other recreational vehicles.....
- } Including Police/Fire Department vehicles and Commercial use ..... 7 ½ %

**Subject to a Maximum Commission of \$185 per vehicle per annum.**

- 8. Long-Haul Vehicles (including trailers) .....
  - 9. Public Buses .....
  - 10. Taxis, Limousine Services (incl. airport) .....
- } 6 %
- \* 11. Other “Public” Vehicles (including Police/Fire Department vehicles, Funeral vehicles, Buses other than Public Buses, Van Pool, Ambulances) 10 %

**Subject to a Maximum Commission of \$370 per vehicle per annum.**

\* 12. Other Commercial Vehicles (including trailers) ..... 10 %

13. Experience-rated risks, Maximum Annual Fee per vehicle shall not exceed ..... 7 ½ %

\* Excluding experience-rated risks.

**O.P.F. 2** (“Driver’s policy”) – in accordance with the rating.

**O.P.F. 4** (“Garage” risks) ..... 10 %

**O.P.F. 6** (“Non-Owned Automobile Liability”) ..... 10 %

- Note:
1. The expression “Private Passenger Vehicles” includes Antique/Classic automobiles, Commercial-Type vehicles that are rated as Private Passenger vehicles and Driving School vehicles (Class 07), but excludes vehicles rated as Commercial or Public vehicles, Fire and Police Department vehicles (Class 53) and Funeral vehicles (Class 75).
  2. For six month policies the cap is 50% of the annual amount shown above.
  3. No other additional fee for Service may be charged.

*The base rate of commission on Risk Sharing Pool business must not be less than the standard policy commission base rate that would be applicable if such business had been retained by the insurer for its own account.*

**FACILITY ASSOCIATION**

The rates of commission on Facility Association non-pool business shall be as follows:

**S.P.F. 1**

- \* 1. Private Passenger Vehicles (see Note hereunder):
  - a. Class 10/11/12 ..... 9 %
  - b. Other ..... 11 %
  
- \* 2. Motor-Homes ..... )
- \* 3. Cabin/Home Trailers ..... )
- \* 4. Other private-type trailers ..... )
- \* 5. Camper Units..... )
- 6. Motorcycles/Mopeds ..... )
- 7. All-Terrain Vehicles  
Snow Vehicles and  
other recreational vehicles..... )
- 8. Long-Haul Vehicles (including trailers) ..... )
- 9. Public Buses .. . ..... )
- 10. Taxis, Limousine Services (incl. airport) ..... )
  
- \* 11. Other “Public” Vehicles (including Police/Fire Department  
vehicles, Funeral vehicles, Buses other than Public Buses,  
Van Pool, Ambulances) ..... 10 %
  
- \* 12. Other Commercial Vehicles (including trailers) ..... 10 %
  
- 13. Experience-rated risks except those for which the  
standard commission rate is lower ..... 7 ½ %

If used for pleasure purposes, see “Private Passenger Vehicles”; otherwise see “Other Commercial Vehicles”.

Including Police/Fire Department vehicles and Commercial use ..... 7 ½ %

..... 6 %

\* Excluding experience-rated risks.

<b><u>S.P.F. 2</u></b>	(“Driver’s policy”) – in accordance with the rating.	
<b><u>S.P.F. 4</u></b>	(“Garage” risks) .....	10 %
<b><u>S.P.F. 6</u></b>	(“Non-Owned Automobile Liability”) .....	10 %

Note: The expression “Private Passenger Vehicles” includes Antique/Classic automobiles, Commercial-Type vehicles that are rated as Private Passenger vehicles and Driving School vehicles (Class 07), but excludes vehicles rated as Commercial or Public vehicles, Fire and Police Department vehicles (Class 53) and Funeral vehicles (Class 75).

*The base rate of commission on Risk Sharing Pool business must not be less than the standard policy commission base rate that would be applicable if such business had been retained by the insurer for its own account.*



**APPENDIX D - (All Provinces excluding Ontario)**

**FACILITY ASSOCIATION  
APPLICATION FOR APPOINTMENT TO A SERVICING CARRIER  
(PLEASE TYPE OR PRINT)**

Province

Item 1: Registered Name of Agency/Brokerage

Item 2: Mailing Address # 1

Street City Postal Code

Mailing Address # 2

Street City Postal Code

Business Telephone    Area Code Fax    Area Code

Item 3: a) Provincial Licence or Certificate Number

b) Effective and Expiry Dates of Licence or Certificate

Effective Date Expiry Date

Day Month Year Day Month Year

Item 4: Name of your Sponsoring Company of Automobile Insurance (if applicable) \_\_\_\_\_

Item 5: Please check (✓) the appropriate box:

A.  Independent Broker/Agent

B.  Direct Writer Agent

C.  Exclusive Agent

If you are employed as a Direct Writer or Exclusive Agent, do you operate out of a Branch Office of the Company? If so, give the address of the Branch Office, if other than Item (2) above:

Street City Postal Code

Item 6: Name of you Principal Automobile Insurer \_\_\_\_\_

Item 7: List other Company (ies) with whom you write Automobile Insurance:

\_\_\_\_\_

\_\_\_\_\_

Item 8: Have you previously operated as an Insurance Agent, Broker or Producer? If so, list the name of the Agency/Brokerage with whom you were associated and the name of its Facility Association Servicing Carrier:

\_\_\_\_\_

\_\_\_\_\_

Item 9: Indicate the volume of Automobile premiums written through your Agency/Brokerage in the voluntary market. Check (4) the appropriate box:

A. 500,000 or less

B. 500,001 to 1,000,000

C. 1,000,001 to 2,000,000

D. 2,000,001 or more

Item 10: Indicate your Servicing Carrier preference (see the list in the enclosed letter of instruction).

NOTE: Do not indicate Companies not included on the list.

1<sup>st</sup> choice \_\_\_\_\_

2<sup>nd</sup> choice \_\_\_\_\_

3<sup>rd</sup> choice \_\_\_\_\_

**I/WE HEREBY APPLY TO THE FACILITY ASSOCIATION FOR AN AGENCY/BROKERAGE APPOINTMENT**

List of Principals in the Agency/Brokerage

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

Authorized Signatures of designated individual or principal

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**FACILITY ASSOCIATION**

NEW

REVISION

**PLEASE RETURN THIS FORM TO THE FACILITY ASSOCIATION**