

HANDLING AND PAYMENT MODEL AGREEMENT*

**(can be modified and adapted in accordance with the Bureau's own situation)*

BETWEEN THE BUREAU OF.....[*Please add the name of the Bureau granting the approval*]

AND[*Please add the name of the correspondent*] HEREINAFTER REFERRED TO AS THE CORRESPONDENT¹,

The following is agreed:

Article 1

1.1 Authorisation given to the correspondent

The Bureau of[*Please add the name of the Bureau granting the approval*] is responsible for managing and settling claims involving the civil liability in respect of the use of a motor vehicle in [*Please add the country concerned*] that is covered by an international motor insurance certificate (Green Card or delivered for a vehicle which is normally based in.....[*Please fill in accordingly*] pursuant to the Internal Regulations of the Council of Bureaux (called Internal Regulations hereafter), the provisions of which are binding on the signatories of such regulations.

The Bureau of[*Please add the name of the Bureau granting the approval*] authorises.....[*the correspondent*] to handle and settle, in its name and under the conditions set out below, claims regarding civil liability in respect of the use of motor vehicles covered by insurance by the foreign insurers listed in a rider hereto that have applied for the services of a correspondent.

This authorisation is granted to the correspondent under the strict condition that it does not accept to manage any claims regarding civil liability from foreign insurers other than those listed in the rider hereto or referred on the website without the consent of the Bureau of.....[*Please add the name of the Bureau granting the approval*].

¹ Correspondent shall be understood in the meaning of Article 4 of the Internal Regulations.

[1.2 Cases of outsourcing: wording to be used unless prevented by the national legislation

Exceptionally, and after having produced a written agreement of the foreign insurer which requested its approval, the correspondent shall be authorised to delegate the claims handling to a Bureau member or to a specialised organisation established in [Please add the country concerned] (so-called the subcontractor hereafter).

In the convention signed with the correspondent, the subcontractor shall commit itself to respect the Internal Regulations, the national law and the present Agreement as well as the obligations applying to the correspondent. It shall also indicate on each document and letter (correspondence, e-mail, fax, etc.....), the corporate name of the correspondent and the foreign insurer's Green Card code, specifying that it settles claims on its behalf.

The correspondent remains legally and financially liable of the files management by the subcontractor, and guarantees the payments of the sums owed by it, in case of default of payment.

The correspondent and the subcontractor will designate a contact person in each entity to solve possible difficulties].

Article 2

Scope of the mandate given to the correspondent

It is expressly specified that the authorisation granted to the correspondent exclusively concerns claims resulting of an accident caused by a vehicle covered by MTPL insurance of the insurance companies which requested its approval.

The correspondent may be informed of these claims *inter alia* by the Bureau of..... [Please add the name of the Bureau granting the approval] the foreign insured person, his/her insurer, the injured party or one of its representatives.

Article 3

Limit of the mandate

The correspondent's authorisation to manage a file shall only take effect as from the time when the identity of the foreign insurer has been established by any means whatsoever.

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This authorisation shall terminate in the event that the foreign insurer contests the insurance cover.

In these cases, the correspondent shall promptly notify the Bureau of[*Please add the name of the Bureau granting the approval*] thereof and return the entire file to this Bureau (except in the event that the Bureau of [*Please add the name of the Bureau granting the approval*] provides other instructions).

The correspondent shall be reimbursed of any justified **emergency** costs [*it is left at the discretion of the Bureau whether such reimbursement should apply only if there is a valid Green Card or a confirmation that the vehicle is normally based in the country concerned*] by the Bureau to which the file is to be returned. Such costs shall not include any handling fees.”

Article 4

Rights of the Bureau of[*Please add the name of the Bureau granting the approval*]

4.1. The Bureau of [*Please add the name of the Bureau granting the approval*] shall have solely the competence to decide on any issue relating to the interpretation of the laws applicable in.....[*Please add the country concerned*], even if it refers to the laws of a foreign country. The Bureau of [*Please add the name of the Bureau granting the approval*] delegates to the correspondent being its representative the possibility to decide on any issue relating to the interpretation of the law applicable in[*Please add the country concerned*]

4.2. The Bureau of[*Please add the name of the Bureau granting the approval*] may, at any time take over the handling and settlement of a claim from a correspondent without any obligation to justify its decision.

Article 5

The obligations of the correspondent for handlings claims

5.1. General commitments

5.1.1 The correspondent undertakes to handle and to pay in[*Please add the country concerned*] the claims for which it has received an authorisation.

5.1.2 The correspondent undertakes to obtain, as soon as possible the confirmation of the insurance cover by the insurer which requested its appointment.

5.1.3 The correspondent shall handle all claims in conformity with any legal or regulatory provisions applicable in the country in which the accident took place, relating to the liability, compensation of the injured parties and the compulsory motor insurance, in the name of the Bureau of[*Please add the name of the Bureau granting the approval*] arising out of accidents occurring in that country involving vehicles insured by the insurance company which requested its approval. The correspondent shall refrain from asking the approval of this company for interpreting the law of the accident on any issue relating to the law applicable in the country of the accident.

5.1.4 When a settlement is in excess of the conditions or limits applicable pursuant to the laws on compulsory motor insurance against civil liability in force in[*Please add the country concerned*], but is covered by the insurance policy, the correspondent shall consult the foreign insurer and obtain its approval as regards the part of the claim that falls outside the scope of these conditions or limits. (Pursuant to the provisions of Article 2 of Directive 90/232/EEC, the insurer's consent is not required when the responsible party is insured with an insurer that carries on its business in the European Economic Area.).

5.1.5. It is not allowed to the correspondent to ask for the payment to be subject to the receipt of the relevant amounts from the foreign insurer.

5.1.6 The correspondent expressly commits itself to comply with the instructions of the Bureau of.....[*Please add the name of the Bureau granting the approval*], either from a general standpoint or in respect of a particular file.

5.1.7 The correspondent commits also itself to act in accordance with the relevant legislation on data protection.

5.2 Offer to the injured party

For EEA countries and other countries in which the national law provides for an offer of compensation to the victims.

Besides the model agreement, the attention of the foreign insurers should be drawn on the necessity to include provisions regulating the procedure of the offer in their agreements with their correspondents.

5.2.1. Pursuant to [*Please add the relevant reference to the national law*], the correspondent is required either to make a reasoned offer to the victim in cases where liability is not contested and the damages have been quantified or to provide a reasoned reply to the victim to the points made in the claim in cases where liability is denied or has

not been clearly determined or the damages have not been fully quantified. In that context, the correspondent shall apply its national law.

5.2.2. If a claim is not handled by the correspondent in conformity with the provisions of the 1st paragraph of Article 4.4 of the Internal Regulations, and due to this lack of performance, the Bureau of[*Please add the name of the Bureau granting the approval*] is required to pay sanctions as provided for by the[*Please add the correspondent's country*] regulatory provisions, it shall be reimbursed by the correspondent for the amount paid. (***Decision n° 5 of 2005 GA: if the Bureau is not reimbursed by the correspondent, the Bureau which approved the correspondent shall be reimbursed directly by the bureau which requested the approval.***)

5.3 Duty in case of court proceeding

5.3.1 Correspondent's duty

The correspondent shall not receive any authorisation *ad litem* enabling it to be summoned to court or to serve a writ in its capacity as representative of the Bureau of..... [*Please add the name of the Bureau granting the approval*] or the foreign insurer which appointed it. In the event that a writ is served, it shall preliminarily raise the issue of its lack of capacity and shall immediately inform the Bureau of[*Please add the name of the Bureau granting the approval*] thereof.

Since the injured party is always entitled to sue directly the foreign insurer which requested the approval of the correspondent, the latter shall not raise the unacceptability of the lawsuit, if it is aware of the intention to do so by the injured party.

The correspondent may however defend the Bureau of..... [*Please add the name of the Bureau granting the approval*] if it was authorised to do so, defend the latter and the insured person on their respective behalf before the relevant court(s), without joining the proceedings or acting in its own behalf, in order to avoid a judgment being handed down to the correspondent itself.

5.3.2 Information to the Bureau on court proceedings

The correspondent undertakes to systematically inform the Bureau of[*Please add the name of the Bureau granting the approval*] about the progress of any court proceedings.

The correspondent shall not take any legal action without the prior consent of the Bureau of [*Please add the name of the Bureau granting the approval*],

1. when a dispute relates to or is likely to relate to the Green Card system;
2. when a dispute is brought before the Supreme Court.

Nonetheless, in case of an emergency, the correspondent shall take all the requisite protective measures.

5.4 Other information to the Bureau

The Bureau of*[Please add the name of the Bureau granting the approval]* shall be kept informed about any financial risks it may incur.

The correspondent shall inform the Bureau of..... *[Please add the name of the Bureau granting the approval]* of any difficulties that it can encounter when handling claims.

5.5 Statistical data asked from the correspondent *[provision left at the Bureau's discretion]*

In order to provide the statistical data asked by the CoB every year and in the event that any person or entity other than the Bureau transmits its claim directly to the correspondent (short cut), the latter undertakes to notify to the Bureau of ... *[Please add the name of your Bureau granting the approval]* the number of claims submitted directly to it during the year. Claims concerning material damage shall be listed separately from those concerning personal injuries, and the country in which the foreign vehicle is normally based or has its Green Card issued shall be specified.

Other statistical data asked from the correspondent:.... *[Please fill in accordingly if you wish to receive other statistical data: provisions on other data are left at the discretion of the Bureau].*

The Bureau of..... *[Please add the name of the Bureau granting the approval]* commits itself not to disclose any other statistical data than the consolidated ones.

Article 6

Information of the correspondent to the insurer

The correspondent commits itself to inform as soon as possible the insurer which issued the Green Card of the estimated amount of the claim with a split between material damages and bodily injuries.

If the correspondent when handling the claim receives further information which can modify its former estimate, it shall inform the foreign insurer without delay. The provision of such information shall not delay the claim settlement.

Article 7

7.1. Freedom for conditions of reimbursement and handling fees.

Subject to the provisions of Article 4 of the Internal Regulations, the correspondent may agree with the foreign insurer at the latter's request on the terms and conditions of reimbursement of the amounts paid to the injured parties at its own discretion, as well as on the calculation of the handling fees. However, in the event that the Bureau of [*Please add the name of the Bureau granting the approval*] is requested to act in place of the correspondent, it shall apply the rules as provided for in Article 5 of the Internal Regulations and shall by no means be bound by the rules agreed on between the insurer and the correspondent.

The correspondent shall keep the Bureau of [*Please add the name of the Bureau granting the approval*] informed of any difficulties it encounters in obtaining the reimbursement of the compensation it has paid without delay.

7.2 Lack of reimbursement of the correspondents

Pursuant to the provisions of Article 4.7 of the Internal Regulations, the correspondent may obtain the amounts it has disbursed for the foreign insurer which appointed it from the Bureau of [*Please add the name of the Bureau granting the approval*] if it is unable to obtain the reimbursement of these amounts. This request should be addressed to the Bureau of [*Please add the name of the Bureau granting the approval*] within a maximum period of one year from the date of the last payment made in favour of the injured party.

The Bureau of [*Please add the name of the Bureau granting the approval*] shall reimburse the correspondent for the costs and expenses relating to the compensation of the injured parties including a handling fee if due and the late interest in accordance with the conditions set out in Article 5 of the Internal Regulations. However, the requested handling fee and late interest shall not exceed the provisions of Articles 5.1.3 and 5.2. of the Internal Regulations. The handling fee and late interest shall be reimbursed to the correspondent by the Bureau of [*Please add the name of your Bureau granting the approval*] which sent its request for reimbursement according to Article 5, after such amounts are received from the Bureau of which the insurer is or was a Member of. Before paying such costs and expenses, the Bureau of [*Please add the name of the Bureau granting the approval*] shall ensure that payment was duly made in accordance with the provisions of Article 4.4 of the Internal Regulations.

Article 8

Audits of the Correspondents

The Bureau of[*Please add the name of the Bureau granting the approval*] may analyse the performance of the correspondent's business on site in order to ensure the smooth management of the Green Card system. Following this analysis, a preliminary report shall be issued together with recommendations where applicable, and the findings of the said report shall be discussed with the correspondent. In such case, the Bureau of [*Please add the name of the Bureau granting the approval*] shall not disclose any confidential and sensitive matters that it might be aware of in the course of the audit.

Article 9

Sanctions

In the event of a serious breach by the correspondent of its obligations pursuant to the Internal Regulations, the national law and the present agreement, the Bureau of[*Please add the name of the Bureau granting the approval*] shall be entitled to withdraw its approval.

The decision to withdraw the approval shall be reasoned and preceded by

1. a warning granting the correspondent a deadline to remedy the defaults noted within a time limit given by the Bureau of [*Please add the name of the Bureau granting the approval*];
2. If the defaults noted are not corrected by the deadline set, the Bureau / the Board [*Or please add any other relevant body*] shall address an official warning to the correspondent granting a final deadline of..... [*Please add the time limit*] to remedy to the defaults noted, unless the agreement would be withdrawn.

The Bureau of..... [*Please add the name of the Bureau granting the approval*] reserves its right to inform the other Bureau and the insurer which requested the approval of the situation and, if required so, the Supervisory Authority.

Article 10

Withdrawal of the approval

The Bureau of[*Please add the name of the Bureau granting the approval*] shall immediately notify the Bureau which submitted the request for approval and specify the date on which its approval shall cease to have effect. The correspondent commits itself to comply with the Bureau's instructions relating to the pending files.

The correspondent may not seek for the payment of any indemnity following the termination of its authorisation.

Article 11

Termination of the Agreement

This agreement shall remain in force for as long as each of the foreign insurers listed in a rider hereto wishes to appoint*[Please add the name of the correspondent]* which signed the present agreement.

In the event that the designated correspondent wishes to terminate its relationship with the insurer which requested its approval at its own initiative, it shall inform the Bureau of*[Please add the name of the Bureau granting the approval]* thereof, which will send the request to the Bureau concerned. The Bureau of*[Please add the name of the Bureau granting the approval]* shall set the date of termination of the authorisation. The correspondent will continue to handle the pending files, unless another solution is agreed by the Bureau of *[Please add the name of the Bureau granting the approval]*.

Done in two originals on.....

For the correspondent

For the Bureau of

[respective signatures to be added]