

ABI GENERAL TERMS OF AGREEMENT (GTA) BETWEEN SUBSCRIBING INSURERS (Insurers) AND CREDIT HIRE ORGANISATIONS (CHOs)

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GTA Technical Committee

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ABI GENERAL TERMS OF AGREEMENT (the GTA) BETWEEN SUBSCRIBING INSURERS (Insurers) AND CREDIT HIRE ORGANISATIONS (CHOs)

1 INTRODUCTION

- 1.1 These terms of Agreement (GTA) set out the arrangements between subscribers for the provision of replacement vehicles to third party motorists (referred to as customers throughout), and, where appropriate, the undertaking of repairs. Whilst intended to provide comprehensive guidelines, these are entirely voluntary between the subscribers involved, who may elect to un-subscribe from the GTA at any time.
- 1.2 The 29th May 2012 version of the GTA has been developed by representatives of insurers and CHOs appointed through their respective trade associations and by reference to all GTA subscribers, as a working agreement between subscribers.
- 1.3 The GTA is only intended to apply to situations where a CHO feels their customer has prospects of full recovery against an at fault driver's insurer and all subscribers are required to follow the GTA in such cases. In all other cases (i.e. those where full recovery is not anticipated) the subscribers may elect to follow the same principles, provided that they comply with the spirit and terms of the GTA, including the application of the relevant settlement rates.
- 1.4 CHOs will, on request, provide individual insurers with management statistics relating to their own cases and be prepared to liaise with individual insurers to meet their reasonable requirements that may differ from those set out in the GTA. Any CHO and any insurer may bilaterally negotiate changes to any aspect of this agreement providing amendments are not to the detriment of other subscribers.
- 1.5 Neither the respective trade associations of insurers and CHOs and their members, nor those representing insurers and CHOs (as individuals or the employers of those engaged in the development of the GTA) are to be held accountable for the terms of the GTA. If any subscribers use the terms of the GTA as the basis for bi-lateral agreements, it will be their responsibility to ensure that such terms remain appropriate. Neither the respective trade associations of insurers and CHOs and their members, nor those representing insurers and CHOs in the development of the GTA through the Technical Committee (whether as individuals or through their employers) may be held accountable by any such subscriber for the terms of the GTA.
- 1.6 Enclosure 1 is part of the GTA wording and sets out collection arrangements for GTA subscriptions, the need to co-operate with GTA audits and audits for new CHO applicants. It should be noted that failure to pay subscriptions and/or to co-operate in an audit or engage

in the process will be deemed to mean that the subscriber no longer wishes to subscribe to the protocol and their company name will be removed from the subscriber list.

2 GTA ADMINISTRATION ARRANGEMENTS

- 2.1 Subscribing CHOs are those that offer a service from a range of vehicles, a hire vehicle to customers for delivery to the customer within four working hours under normal circumstances (exceptional circumstances could include non-standard vehicles or remote locations). They will have been vetted by an appropriate person(s) nominated by the Technical Committee and their documentation, scripts and work processes will have been deemed to be acceptable.
- 2.2 Subscribing insurers and subscribing CHOs are listed on the ABI's website <http://www.abi.org.uk/tphire> ("the ABI website"). Subscribing CHOs settlement rates are also listed on the ABI website.
- 2.3 Paragraph relating to 2nd Tier status deleted 1.1.2013.
- 2.4 All subscribers are required to have an up to date nominated contact(s) who will act as the final dispute resolution point for the subscriber. Their names and contact details are listed on the ABI GTA website.
- 2.5 Responsibility for the operation and wording of the GTA will be through the GTA Technical Committee. This will comprise an equal number of representatives of subscribing insurers and CHOs, nominated from the ABI Focus Group of insurers and CHO trade associations, plus an independent Chairman and Secretary, agreed by the Technical Committee. The Secretary shall not have any vote in the Technical Committee.
- 2.6 The purpose of the Technical Committee is to oversee the smooth running of the GTA including issues arising from its wording, operation, dispute resolution and adherence to its terms and the spirit of the agreement. It also undertakes an annual review of the range of daily settlement rates, late payment penalties, administration fee and any other additional charges.
- 2.7 The Technical Committee operates a dispute resolution facility to settle disputes arising between individual subscribers on issues of principle or interpretation of operation or wording of the GTA. These arrangements are:
 - a) All subscribers to the GTA are required to abide by the dispute resolution procedures described in the protocol and all disputes between individual subscribers concerning claims made under the GTA must be resolved in accordance with the mechanism set out (unless the two subscribers at issue have agreed alternative bilateral arrangements for the resolution of their disputes).

- b) This disputes mechanism will only be used in respect of any dispute which meets the following cumulative conditions:
- (1) the dispute has been notified to the other subscriber involved within 30 days of a Payment Pack (as referred to in paragraph 6) being issued in relation to the relevant claim(s) or for a CHO within 30 days of the issue coming to light in respect of a GTA claim;
 - (2) deadlock has been reached and confirmed between the final dispute resolution contacts for the respective businesses as set out on the ABI website. In relation to any dispute where the dispute is not escalated by either subscriber to its final dispute resolution contacts within 30 days of the dispute being formally raised in writing with the relevant subscriber, a deadlock will be deemed to have occurred;
 - (3) in the opinion of either party to the dispute, the dispute raises issues of principle or interpretation of operation or wording of the GTA. Where the parties to the dispute agree that the dispute does not concern any issues of principle or interpretation of operation or wording of the GTA, the dispute shall be resolved by commercial settlement between those parties outside of this dispute mechanism, failing which the CHO may elect to invoke paragraph 6.14; and
 - (4) the dispute has been referred to the Technical Committee under sub-paragraph c) below within a strict time limit of 60 days from the dispute first being raised by a subscriber in relation to the relevant claim(s).
- c) Formal complaints should be sent to the Independent Secretary, Joint Technical Committee (Email: phil@heskethmediation.com) with supporting documentation and confirmation of the deadlock. The Secretary will check the complaint, ensure it is relevant to the GTA and refine it as necessary. The Secretary will check that the relevant complaint is not out of time and will indicate to the complainant if he/she considers that the complaint does not raise issues of principle or interpretation of operation or wording of the GTA. Such indication about the nature of the complaint will not be binding on the complainant who, having taking into account the views of the Secretary, may decide to proceed with the referral of the complaint.
- d) The Secretary will agree a final version with the complainant and then send it to the subscriber being complained about with a request for a detailed, rational response in writing within 30 days. The Secretary will use his/her best endeavours to resolve the complaint with advice or views to either party within that 30 day

period. Either that will resolve the complaint or it will be clear there is no agreement between the two parties. They will be informed if this is the case and told it will then be sent to the Technical Committee for consideration. In the absence of information or a response from the subscriber to which a complaint is being made within that 30 day period, the complaining subscriber's complaint will still be considered by the Technical Committee.

- e) If a complaint is sent to the Technical Committee, the complaint and any response will be sent to the insurer and CHO representatives on the Technical Committee for views with the subscriber names omitted. Technical Committee members will be asked to use their best endeavours to give their comments (including as to whether the complaint raises an issue of principle or interpretation of operation or wording of the GTA) within a set period, usually 30 days. If there is no clear view the complaint will go to the next meeting of the Technical Committee to consider.
- f) If the Technical Committee unanimously reaches a conclusion, then both subscribers will be informed of the decision and, if appropriate, the decision reached will be publicised to subscribers for information (with the subscriber names omitted). If the Technical Committee is not able to reach a unanimous view, then the Chairman will be required to make a decision on behalf of the Technical Committee that will be communicated to both subscribers. If the Chairman is required to make a decision in this manner, the following additional provisions shall apply:
 - (i) Subject to the following provisions, the Chairman will in his absolute discretion decide the procedure to be adopted to determine the matter and the timetable for the same.
 - (ii) The Chairman will be required to take into account the debates of the Technical Committee and any submissions made by insurer and/or CHO representatives at the Technical Committee.
 - (iii) The Chairman will have the power to conduct such surveys, tests and/or investigations as he reasonably believes appropriate or to request further information or submissions from the Technical Committee or subscribers.
 - (iv) The Chairman will make his decision in writing to the parties to the dispute, setting out what he has considered and taken into account in reaching his conclusion. He will not be required, however, to give reasons for his decision. In so doing, the Chairman will not be acting as arbitrator and the provisions of the Arbitration Act 1996 (or any subsequent modification or replacement of that Act) will not apply.

- g) Any decisions taken by the Technical Committee or Chairman are open to challenge by non-binding determination which shall proceed if at least one of the relevant subscribers requests such a determination, in which case the relevant subscribers will be required to pay the advance detailed below. Within 30 days of a subscriber notifying the Secretary of the Technical Committee of its request for a determination, the Technical Committee shall appoint an independent adjudicator from the Chartered Institute of Arbitrators. The subscribers will be required to lodge with the Secretary of the Technical Committee the full amount of the independent adjudicator's costs before the non-binding determination proceeds. The Secretary of the Technical Committee will hold such advances until the independent adjudicator has reached his/her determination. The successful party will have their advance repaid and the Secretary of the Technical Committee will pay to the adjudicator the advance paid by the 'losing' subscriber. The decision of the independent adjudicator will then be publicised to subscribers for information (with the subscriber names omitted).
- h) If one subscriber fails to agree to or to lodge the advance required for the non-binding determination then, in the absence of insurer / CHO associations agreeing to act or to fund the advance for them, and provided that the other subscriber has lodged the advance required, there will be a presumption that the other subscriber is correct without the need for the non-binding determination to take place. In such event, the advance lodged by the other subscriber will immediately be repaid. This will then be publicised to subscribers for information (with the subscriber names omitted).
- i) Any conclusion reached by the Technical Committee, Chairman or independent adjudicator will apply, albeit in a non-binding manner, as between only those subscribers that have referred the dispute and in respect only of that particular dispute as referred. Without prejudice to the generality of the foregoing, any such conclusion will not apply to any similar claims, whether past or present, between those same subscribers or to any similar claims, whether past or present, between any other subscribers, all of which would need to be separately referred to the Technical Committee under this dispute resolution mechanism.
- j) If the insurer prevails in the dispute before the Technical Committee, Chairman or independent adjudicator, the relevant claim(s) will be treated for the purposes of paragraph 6 as being as old as at the date the complaint was notified to the Secretary of the Technical Committee under paragraph 2.7(c), so that the insurer can still fully settle the claim(s) in accordance with the GTA (as clarified in relation to those claims) without incurring any late payment charges. If the CHO prevails and the claim(s) and any late payment charges is (are) not paid in full in accordance with the GTA (as clarified in relation to those claims), the CHO may choose to pursue the claim(s) outside the scope of the GTA in accordance

with paragraph 6.14. Subscribers acknowledge that, in either case, the GTA terms and conditions, including the dispute resolution arrangements, are accepted by subscribers as having no relevance in law in relation to any claim(s) that are taken outside the scope of the GTA in accordance with paragraph 6.14 and cannot be cited in any legal proceedings. Nothing in the dispute resolution arrangements will limit or restrict the right of a CHO to remove a claim from the GTA in accordance with paragraph 6.14.

- k) Whether the complaint is resolved by the Technical Committee, Chairman or by an independent adjudicator and whether or not it is pursued by the relevant subscribers outside the scope of the GTA, if the Technical Committee considers that a “FAQ” (as published on the ABI website) or other change to the GTA is required to clarify the issue that was in dispute between the relevant subscribers for the future, they may take appropriate steps to issue a FAQ and/or amend the GTA as described in paragraph 2.8.

2.8 Changes will only be made to the terms of the GTA (including the “FAQs” published on the ABI website) or the range of daily settlement rates, late payment penalties, administration fees or any other additional charges (including any charges that are to be expressly stipulated as non-payable) following discussions in the Technical Committee and, where required under this paragraph 2.8 or agreed desirable by the Technical Committee, comments invited from all subscribers on any significant changes. Subscribers may agree separate arrangements in relation to the acceptance of all such changes on a bilateral basis.

- a) Changes to the terms of the GTA or late payment penalties, administration fees or any other additional charges (including any charges that are to be expressly stipulated as non-payable) will be introduced if they are unanimously endorsed by the Technical Committee. Where the Technical Committee is not unanimous, the Chairman will use his/her best endeavours to seek an agreed view, taking into account the views of all parties and, if necessary, mediate back and forth between the parties to assist in reaching an agreed resolution. If unanimity proves impossible, the Chairman will be empowered to make a decision on behalf of the Technical Committee that will be binding on the Technical Committee and all subscribers. If the Chairman is required to make a binding decision in this manner, the following additional provisions shall apply:
 - (i) Subject to the following provisions, the Chairman will in his absolute discretion decide the procedure to be adopted to determine the matter and the timetable for the same.
 - (ii) The Chairman will be required to take into account the debates of the Technical Committee and any submissions made by insurer and/or CHO representatives.

- (iii) The Chairman will have the power to conduct such surveys, tests and/or investigations as he reasonably believes appropriate or to request further information or submissions from the Technical Committee or subscribers.
 - (iv) The Chairman will make his determination in writing to the parties, setting out what he has considered and taken into account in reaching his conclusion. He will not be required, however, to give reasons for his determination. In so doing, the Chairman will not be acting as arbitrator and the provisions of the Arbitration Act 1996 (or any subsequent modification or replacement of that Act) will not apply.
 - (v) The Chairman may on his own initiative or at the written request of either party, correct any clerical mistake, error or ambiguity within his determination. Any corrections will be made within 3 days of any such request.
 - (vi) The Chairman will receive no additional or special remuneration for making this decision, and any costs incurred by the subscribers and their representatives on the Technical Committee shall be borne by them. Any costs incurred by any third parties required to participate pursuant to sub-paragraph (iii) above shall be borne by the subscribers collectively or by the representatives on the Technical Committee.
- b) Changes to the range of daily settlement rates will always be a significant change to the GTA and comments must always be invited from all subscribers before the change can take effect. Any unanimous view reached by the Technical Committee or any decision taken by the Chairman in relation to the range of daily settlement rates is therefore only a recommendation to subscribers.
 - c) Any changes to the range of daily settlement rates will only take effect as from 1 July in the relevant year (or such alternative date as may be agreed by all Technical Committee representatives). All other changes to the terms of the GTA (including the "FAQs" published on the ABI website) or late payment penalties, administration fees or any other additional charges (including any charges that are to be expressly stipulated as non-payable) shall take effect as determined by the Technical Committee or Chairman as appropriate, provided that they may not be retrospective.

2.9 Any decisions taken by the Technical Committee or Chairman under paragraph 2.8 are open to challenge where the challenge is supported by a minimum of 25% of insurer or CHO subscribers (by number of subscribers). The challenge must be set out in writing with clear reasons set out. The decision will then be referred to independent arbitration that will be paid for by the insurers/CHOs making the challenge. The decision of the arbitrator will be binding. The arbitrator

appointed must be independent and not involved in the insurance or accident management industries.

- 2.10 The Technical Committee will take appropriate account of all applicable legislation, including competition law, and regulations and will take legal advice where it considers it appropriate. The Chairman will have the power to seek legal or other professional advice in his/her own right on any matter within his/her terms of reference.
- 2.11 The Technical Committee will have the right to arrange periodic CHO audits of adherence to the GTA by an appropriate person nominated by the Technical Committee, provided that such right of audit will only extend to matters concerning hire and repair.
- 2.12 Applications from insurers and CHOs to subscribe to the GTA should be addressed to the ABI by email (motor@abi.org.uk) or by fax (0207 696 8995). Notices from any subscriber of its decision to un-subscribe from the GTA should be addressed to the ABI at the same email or fax number and will take effect immediately. The withdrawal will be publicised on the ABI website as soon as possible.

3 ACCEPTANCE OF CUSTOMERS UNDER THE GTA

- 3.1 The overriding principle for the GTA is that whoever is first to a customer and obtains their agreement should provide the service and all subscribers should not seek to intervene. All subscribers must, therefore, not seek to transfer a customer who has agreed to accept a vehicle into an alternative replacement vehicle.
- 3.2 First to a customer is defined as the receipt by the customer of a suitable offer that they can understand. All subscribers communicating an offer solely by letter stand the risk of it not having been received, understood or being sufficient for the customer.
- 3.3 A mitigation statement signed by the customer provides confirmation that the customer advised the CHO that no offer had been received from the insurer before accepting the CHO offering (subject to paragraph 3.6).
- 3.4 If a customer states that they have received a suitable offer from the at fault driver's insurer, then the CHO should suggest that the customer contacts the at fault insurer to take up their offer.
- 3.5 If they fail to do so, the CHO must either contact the at fault driver's insurer and try and agree supplier terms for the hire or, if they want to pursue the full GTA settlement rate, record why the customer is unwilling to accept the insurer offer. For such hires, the mitigation statement signed by the customer should state that the reason why the offer from the insurer was not acceptable and that the customer appreciates that they may be liable for the hire. CHOs must be aware

that there would need to be compelling reasons [i.e. ones that would be likely to prevail in court] for the full GTA settlement rate to be recoverable in these circumstances.

- 3.6 If the insurer believes they were first to offer a suitable free replacement vehicle which ought to have been accepted, they must tell the CHO within 5 working days of receipt of the Advice Form/claim notification (this must be submitted by the CHO immediately the identity of the at fault driver's is known) or they cannot refuse to meet any reasonable hire claim on these grounds (or suggest intervention settlement rates) until they tell the CHO and only then from 1 working day from the date they advise the CHO.

4 INFORMATION REQUIREMENTS FOR NEW BUSINESS AND MONITORING ARRANGEMENTS

- 4.1 The CHO must advise the at fault driver's insurer of a potential claim immediately their identity is known (using a New Claim Advice Form, Appendix A, or similar).
- 4.2 Insurers must respond to the CHO's New Claim Advice Form within 5 working days of receipt confirming the correct handling centre and, where known, the claims reference number. If an insurer fails to do so then it is responsible for any delays resulting from documents being sent to the first notification point.
- 4.3 The CHO must advise its customers of their duty to mitigate losses (both at the start of a hire and in the event of changes in circumstances e.g. an overseas holiday without the need of the hire vehicle) and assist on issues of claims procedure. The CHO must ensure that their customers complete a Mitigation Questionnaire/Statement of Truth Form as part of the Payment Pack.
- 4.4 The CHO will normally provide the customer with an appropriate class of replacement vehicle based upon the customer's need. The at fault driver's insurer should be consulted in the event of a dispute about the class of vehicle to which the customer is entitled. Customers may opt for a higher class vehicle than is needed or an extension of the hire period at their own cost.
- 4.5 Where the vehicle owned is a prestige vehicle the CHO will make enquiries to ensure the customer has a need for such a vehicle. Where the vehicle is over 6 years old it is the exception, rather than the rule, that a similar prestige replacement is required. Need will then be determined by the make, model, value and use of the vehicle.
- 4.6 The hire period commences when the customer both needs and takes delivery of the replacement vehicle. Where it was reasonable for the customer to believe the vehicle to be unusable and/or unroadworthy but the engineer subsequently confirms the vehicle to be usable, the hire will be paid up to the date the disagreement is resolved.

'Roadworthy' embraces 'usable and roadworthy' so as to include aspects such as deficient locks, panel damage or a need for a prestige vehicle. It is accepted that the position is different if the customer's objective seems to be to act in a wholly unreasonable manner.

- 4.7 Where cash in lieu of repair is provided, the hire is deemed to stop immediately after payment is received. A further hire (subject to need etc) or a loss of use payment can be claimed under this agreement if the vehicle is subsequently put in for repair within 3 months of the date of receipt of the cash in lieu cheque unless there are exceptional circumstances.
- 4.8 The hire period ends not later than 24 hours after repairs to the customer's vehicle have been completed. For total loss/replacement vehicle situations see paragraph 4.14.
- 4.9 Insurers wishing to terminate a hire period must give the CHO notice of at least 1 working day (working days are defined as Monday to Friday, excluding bank holidays).
- 4.10 The CHO will monitor the hire period throughout the period of the hire:
- CHOs will check with a garage that a repair has been authorised within 3 working days of the vehicle going in.
 - CHOs will make a further check with the garage after the lesser of 5 working days or 3 working days before the hire should have ended.
 - CHOs will check with the garage 3 working days before the hire should have ended.
- 4.11 CHOs should inform the at fault driver's insurer in all instances where there are 'unreasonable' delays (defined as delays that are at least two working days longer than expected or over 20% more than the estimated hire period notified to the CHO) with a notification of the delay. If the repair is delayed beyond these periods then the CHO should undertake checks every 5 working days after the original hire period should have ended. Any further delays should be notified to the at fault driver's insurer.

Examples: 10 day hire - CHO to check with the garage within 3 days of the vehicle going in that the repair has been authorised. Check 3 working days before the 10 day hire should end that all is on time. If the repair will be completed on time or within 2 additional working days then no action is required. Note: hire could, with a weekend, then extend up to 14 days maximum. If on checking 3 working days before the 10 day hire should end it is discovered the repair is delayed by 3 working days then the at fault driver's insurer should be informed. A further check should be made 3 working days before the end of what is now a 13-15 day hire (to accommodate weekends) that all is well.

20 day hire - check with the garage within 3 days of the vehicle going in that the repair has been authorised. Check after a further 5 working days that all is proceeding as normal. If it is, a further check will be necessary that all is on time, 3 working days before the 20 day hire should end. If repair will be completed on time or within 2 additional working days then no action required. If on checking after the first 5 working day check it is discovered the repair will be delayed by, say, 10 working days, then the at fault driver's insurer should be informed. Unless the CHO is advised to the contrary the next check should be made after 25 days that all is on time with the revised 30 day period. If all is well then a final check should be made 3 working days before the hire is due to end that all is well. If either of these two checks indicates a further delay beyond an extra 2 working days the at fault driver's insurer must be notified.

- 4.12 When a hire has been correctly monitored and reported, insurers accept responsibility for delays resulting from lengthened hire periods. This will include insurers not disputing unavoidable delays in repair times due to unavailable parts if the correct monitoring and reporting has been carried out by the CHO. Insurers accept that comprehensive repair monitoring can be more difficult and CHOs can only monitor the information they receive from garages including estimated completion dates.
- 4.13 In particular, providing that the CHO has correctly monitored the repair, the CHO will not be responsible and the hire period will not be reduced, if an engineer fails to liaise with the at-fault driver's insurer if a significant delay is likely for required parts (paragraph 6.3(viii) of the Repair Protocol) or subsequently if the supply of parts is delayed (paragraph 6.2 of the Repair Protocol).
- 4.14 When a vehicle is deemed to be a total loss then the CHO should check within 10 working days of the hire commencing, that the vehicle has been inspected and an offer made to the customer. If it hasn't then the CHO should inform the at fault driver's insurer. This can be extended by up to 4 working days where the CHOs procedures provide for an offer being agreed with the customer. The CHO should inform the at fault driver's insurer of any dispute on value so they can consider any appropriate action. The hire may continue until 7 calendar days (a week) after receipt of the final settlement cheque by the customer or their representative. The at fault driver's insurer will advise the CHO, at their request, as soon as possible of the date on which their total loss settlement cheque is issued. If any extension to these limits is sought then the CHO must contact the insurer and obtain consent that the additional period will be covered.

5 GTA SETTLEMENT RATES AND CHARGES

- 5.1 In any claim made under the GTA, subscribers must adhere strictly to the applicable settlement rates and other charges permitted under the GTA. Any charges claimed that have been expressly stipulated as non-

payable under the GTA or under any "FAQ" (as agreed by the Technical Committee and published on the ABI website) will be deemed to not to have been included in the claim and will be waived as between subscribers, such that the claim will be settled if paid in full without such charges.

5.2 In respect of hires started on or after 15th June 2012, the at fault driver's insurer will pay the CHO a fee of £37 per hire (where the customer retains responsibility for payment of the hire charges) plus the relevant daily settlement rate for the replacement vehicle as set out in the ABI website. Hires started between 1st July 2011 and before 15th June 2012 will warrant a payment to the CHO of £31 and hires before 1st July 2011 a payment of £30. All fees/hire settlement rates quoted in the GTA and shown on the website are exclusive of VAT.

5.3 The daily settlement rate is the amount paid for each 24-hour period e.g. 15.00 Monday 1 July to 15.00 Tuesday 9 July is eight days. The daily settlement rates are inclusive of:

- free delivery/collection of the vehicle
- 24 hour breakdown cover
- unlimited mileage
- full liability, theft and damage insurance subject to a £50 excess unless the customer has a third party/TPFT policy or their own motor insurance policy excess exceeds this figure, when a higher excess can apply but with no compulsory additional charge to the customer.

5.4 The only extra amounts that may be charged to an insurer are:

- non-standard risk drivers defined as (without exceptions) under 25 or over 70 years old, a lack of driving experience (held a full driving licence for less than 12 months), occupation (Limited to: Professional Sportsmen/Women, Actors, Entertainers, Gamblers and Musicians, Publicans, Journalists) and/or convictions resulting in an unspent ban or 7 or more outstanding points in the last 4 years:
 - (i) an administration fee of £10, plus any other direct costs, for arranging insurance from the customer's own insurer or, if this is not available,
 - (ii) The additional insurance premium per hire claim is set at £5.50 per day capped at £110 for all individual hire claims other than for bike hires where the cap is £148.50.
- £5 per day for necessary extras (when available and not already part of the daily hire rate) such as estate vehicles, automatic vehicles, tow bars and baby seats (which reflect the customer's damaged vehicle type/fitments).

- Topboxes and Panniers – a £35 (plus Vat) flat rate fee per hire can be charged for Top Boxes and/or Panniers where need AND regular use can be demonstrated for example – Couriers, Delivery Riders and Storage for a Commuter.
- £12 per day add-on to the agreed daily settlement rate for dual control vehicles (£7 per day add-on if insurance cover not provided).

5.5 The only extra charges that may be charged to the customer (with a full explanation of how the charges are applied and that these will be paid by him/her) are:

- payment for fuel (the CHO may require an appropriate deposit against this item, or alternatively may take a credit card swipe)
- extra facilities requested by the customer, beyond what can be justified by need
- failed delivery/collection for which the customer is responsible
- usual running costs as specified in the CHO's standard hire agreement
- any excess protection payment to protect the excess amount.

6 PAYMENT ARRANGEMENTS AND PENALTY PAYMENTS

6.1 The CHO will submit a Payment Pack in support of a single payment request to the at fault driver's insurer as soon as full documentation is available. The pack will set out all charges, with documentation and supporting evidence under an agreed covering letter (example attached, Appendix D) providing payment details.

6.2 The Payment Pack will consist of:

- (i) Covering letter detailing cheque(s) required and documents submitted (example, Appendix D)
- (ii) Mitigation Questionnaire/Statement of Truth signed by hirer (example, Appendix C)
- (iii) New Claims Advice Form (unless previously submitted) (example, Appendix A).
- (iv) Hire Period Validation Form (example, Appendix B) if necessary.

6.3 And the following as appropriate:

- (i) Independent Engineer's inspection report

- (ii) Repair account approved by Independent Engineer or credit organisation
- (iii) Storage and recovery accounts
- (iv) If appropriate, explanation for failure to provide insurer with immediate notification
- (v) Other items if appropriate

6.4 Insurers should check information and make any enquiries on the CHO Payment Pack within 30 days. Insurers accept it should be the rare exception, rather than the rule, that dates in the hire period validation form need to be checked with other insurers.

6.5 Where delays are experienced in CHOs receiving payments because insurers are awaiting information from others insurers or elsewhere, in order just to check information already provided by a CHO, then the at fault driver's insurer receiving the Payment Pack accepts responsibility for any delay and is required to pay any late penalty payments.

6.6 Where delays result from a lack of receipt of documents by an insurer from a CHO, proof of sending will be accepted by the insurer as the appropriate start date from which penalty payments apply.

6.7 Insurers will settle CHOs' claims within one calendar month from the date of dispatch of the full Payment Pack to the correct handling centre. Where the insurer has not advised a handling centre the Payment Pack should be sent to the insurer's contact address recorded on the ABI website (if more than one contact address given, then the address to which the original notification was directed). Other than in exceptional circumstances insurers should redirect claims within their office and CHOs will not be expected to re-issue Payment Packs and claims.

6.8 For hires which start before 15th June 2012 failure to settle within the period in paragraph 6.7 and subsequent one month periods will result in the following late payment additions to the total invoice:

Period between dispatch of claim to insurer and receipt of payment	Late Payment Penalties (total additional %)	
	<u>Hire</u>	<u>Repair If applicable</u>
Up to one calendar month	None	None
Between one and two calendar months	7½%	2½%
Between two and three calendar months	15%	5%

For hires which start on or after 15th June 2012 failure to settle within the period in paragraph 6.7 and subsequent one month periods will result in the following late payment additions to the total invoice:

Period between dispatch of claim to insurer and receipt of payment	Late Payment Penalties (total additional %)	
--	---	--

	<u>Hire</u>	<u>Repair If applicable</u>
Up to one calendar month	None	None
Between one and two calendar months	12½%	2½%
Between two and three calendar months	20%	5%

- 6.9 It is accepted that insurers will not always be able to settle quickly in cases where liability is at issue but they must use their best endeavours to ensure that an early decision is given on liability. Where an insurer suspects there may be a liability dispute they should inform the CHO without delay of the reason why (unless fraud is suspected) and what further enquiries they are undertaking. This guidance applies both while a hire is underway and after the hire has been completed. Where requested by a CHO, insurers must supply information to confirm that a genuine liability dispute exists. Insurers and CHOs must not delay decisions on liability as a mechanism for delaying settlement beyond 3 months.
- 6.10 If an insurer does not question liability within 21 days of receipt of the Payment Pack, penalty payments apply in full to the net amount eventually paid.
- 6.11 A late payment premium will not be payable in cases where there is a genuine liability dispute that results in a reduced settlement.
- 6.12 Penalty payments apply at all times for indemnity disputes.
- 6.13 If interim payments are made then penalty payments need to relate in some way to the extra effort by a CHO in obtaining any further payment. If a CHO is involved in any further work and an insurer subsequently pays 90% or more of the original invoice, the penalty payment should apply to the full payment made. Otherwise insurers should only incur penalty payments on any additional payment made by the insurer.
- 6.14 If payment has not been received after 3 months (subject to paragraph 2.7(j)) the CHO may choose to pursue the claim outside the scope of the GTA.
- 6.15 Where there is a non deliberate breach of the GTA that results in material cost increases, insurers agree to pay GTA claims reduced only by the savings that would have been achieved or the lower costs that would have resulted had the breach not occurred. For example, if a CHOs reporting and/or monitoring falls down in some way (e.g. an insurer is not notified of an increased hire due to garage delays in the repair as required in paragraph 4.11, CHOs should be paid in full but

less any amount the insurer would reasonably have saved if the monitoring had been complied with fully).

7 CREDIT REPAIR

- 7.1 A supplementary credit repair Agreement is attached (Appendix E).
- 7.2 All subscribers to the GTA who have elected to also apply the supplementary credit repair agreement are required to also abide by the dispute resolution mechanism as described in paragraph 2.7 of the GTA in relation to disputes between individual subscribers to the supplementary credit repair agreement that, in the opinion of either party, raise issues of principle or interpretation of operation or wording of the supplementary credit repair agreement (unless the two subscribers at issue have agreed alternative bilateral arrangements for the resolution of their disputes). The principles in paragraph 2.8 will also apply to any equivalent changes to the supplementary credit repair agreement.

Enclosures

GTA subscription administration arrangements

1. Subscribers will be required to pay any subscriptions set by the GTA Technical Committee. Failure to pay any subscription within three weeks of a reminder sent four or more weeks after the invoice date will be deemed to mean that the subscriber no longer wishes to subscribe to the protocol and their company name will be removed from the subscriber list.
2. Unless agreed to the contrary by the Technical Committee, the required income to cover the GTA administration arrangements will be collected from subscribers with insurers meeting half the costs and CHOs the other half.
3. Subscriptions will be collected for insurers by the ABI and for CHOs by The CHO Ltd. The arrangements will apply whether or not the subscriber is a member of the relevant trade association. The ABI and The CHO will each be entitled to recover, from the sums that they collect, their respective costs of administering the collection of subscriptions from relevant subscribers to the GTA, provided these do not exceed 10% of the sums collected.
4. The ABI and The CHO is able to set separately the basis for the allocation of subscriptions between insurer and CHO subscribers. This must be set following consultation with subscribers (ABI for insurers and The CHO Ltd for CHOs) and must command majority support, by number of subscribers and volume of business. In the absence of majority support for any proposed allocation method, all subscribers for either insurers or CHOs (as applicable) will be required to pay an equal share of the overall share to be collected.
5. The GTA Technical Committee is able to set a fee (at cost) for an independent audit to vet any applications from CHOs applying to subscribe to the protocol. Audits will be non-refundable and only carried out after payment is received. For successful applicants, the cost of the audit will be deducted from any subscriber subscription for the year of joining. New subscribers will be required to pay their audit fee and/or subscription for the year of joining up front.
6. Subscribers will be required to co-operate with any audit arrangements agreed by the Technical Committee and communicated to all subscribers. Failure to co-operate in an audit or engage in the process will be deemed to mean that the subscriber no longer wishes to subscribe to the protocol and their company name will be removed from the subscriber list.
7. If any disputes arise in the interpretation or operation of the subscription administration arrangements, these will be considered and resolved by the GTA Technical Committee. In the absence of an agreed view in the Technical Committee the GTA Chairman will be empowered to make a decision following representations from interested parties.

HIRE PERIOD VALIDATION FORM

To be supplied by CHO and included in Payment Pack

Date of notification
by policyholder to
1st party insurer (If available)

Date of inspection (If available)

Date repair authorised

In total loss/cash in
lieu case - Date of settlement offer

- Date offer accepted

- Date cheque received

If repair case - Date satisfaction
note signed

(Attached - copy estimate or agreed labour figure or, if not available,
telephone contact details for garage)

If applicable – explanation for delays

ABI GENERAL TERMS OF AGREEMENT
MITIGATION QUESTIONNAIRE/STATEMENT OF TRUTH

TO BE COMPLETED BY CHO

NAME	DATE
REF	
TEL	FAX NO
E-MAIL ADDRESS	

We attach a copy of the new claim advice form previously submitted, where it contains any additional information which was not available at that time.

TO BE COMPLETED BY CUSTOMER

Prior agreeing to enter into the hire agreement my duty to keep my losses to a minimum have been explained to me and
 I had not received an offer for a replacement vehicle from the at-fault insurer.
 OR
 I did receive an offer of a replacement vehicle but did not accept it
 because.....

I understand that if I choose to hire on credit I am personally liable for paying for the hire costs which I would not have incurred had I been offered and accepted a suitable courtesy vehicle from my own motor insurer or legal expenses insurer

I need to hire a vehicle because

I believe my own vehicle is unroadworthy and/or unusable and I understand temporary repairs are impractical or uneconomic.

I do not have another suitable vehicle available to me, either being my own or through my immediate family.

I understand I am classified as a non-standard driver for insurance purposed because (please tick as appropriate):

-of age (I am under 25 or older than 70)
-of occupation (I am in one of the following groups:
Professional – Sportsmen/Women, Actors, Entertainers, Gamblers and Musicians, Publicans, Journalists)
-I have held a full driving licence in the UK for less than 12 months

-of convictions/points (I have convictions resulting in an unspent ban or 7 or more outstanding points in the last 4 years)

I have read and understood the above and I believe that the answers I have given are true

Signed..... Name in Block Capitals.....
Address.....Date.....

ABI GENERAL TERMS OF AGREEMENT – SPECIMEN PAYMENT REQUEST LETTER

Specimen Payment Request Letter (applicable to ABI Repair and Hire Agreements)

This claim is made under the terms of the ABI Credit Repair Agreement and payment is required within one calendar month

We initially advised you of this claim on the

or

This is our first notification and New Claim Advice form is attached.

This claim was referred by an insurer? YES/NO

The claim consists of, net of VAT, if this tax is recoverable (complete as appropriate)

Administration fee (repair/hire only or combined)	£
<ul style="list-style-type: none">• Repair cost (Supported by engineer's report (if applicable) and repairer's invoice)• Total Loss Payment	£
NB Settlement of total losses will normally be made direct with the customer	
(Supported by engineer's report)	
<ul style="list-style-type: none">• Hire Cost (Supported (as appropriate) by invoice/engineer's date (total loss/satisfaction note)• Engineer's Fee (Supported by fee note)• Customer Excess (Supported by invoice/insurer confirmation)• Storage & Recovery (Supported by invoice)• Other as detailed	£ report/payment
TOTAL	£

All appropriate documents are enclosed in support together with the Mitigation Questionnaire/Statement of Truth signed by our customer and the Hire Period Validation Form, if applicable.

Please forward a cheque for the total cost payable to ourselves
or

Please forward cheques as follows.....

We should be promptly advised if payment will be delayed beyond one calendar month.

ABI GENERAL TERMS OF AGREEMENT - CREDIT REPAIR AGREEMENT

1 INTRODUCTION

- 1.1 This repair protocol is intended to operate where a customer does not have the benefit of comprehensive cover on their own vehicle or by agreement with the fault insurer.
- 1.2 If a request comes from a comprehensively insured claimant, he/she must be given the full facts and choices which are available.
- 1.3 The CHO must advise customers of their duty to mitigate their loss and their ultimate responsibility for payment of the repair account in accordance with the credit organisation's contract terms and conditions.
- 1.4 The customer may choose either:

OPTION 1

- 1.5 The "at-fault" insurer's approved repairer network and receive the benefit of the terms and conditions offered by that repairer as though they were an insured (ex courtesy vehicles) unless agreed otherwise.

or

OPTION 2

- 1.6 An *independent repairer* of their choice subject to an *independent engineer* – or, if elected by the insurer, an insurer nominated engineer - being
- (a) satisfied that the chosen repairer has the skill and equipment to undertake the work
- and
- (b) able to agree repair terms that satisfy the requirements of this credit repair Agreement

2 GLOSSARY OF TERMS

Independent Engineer

- 2.1 The inspecting engineer will be a corporate or associate member of the Institute of Automotive Engineer Assessors (IAEA) (or working towards

such membership) operating to agreed service standards, who was selected under Option 2.

The CHO will have no financial interest/connection with the *independent engineer*.

Independent Repairer

- 2.2 A bodyshop nominated by the CHO or the vehicle owner who will undertake the necessary vehicle repair on the terms specified by the *independent engineer*.

Repair Option

- 2.3 Option 1 or 2 as detailed above.

Payment Pack

- 2.4 Documentation submitted to the at fault driver's insurer in support of claim being submitted. Full details are contained in the payment procedure section of the GTA (section 6).

3 OPERATING PROCEDURES

- 3.1 Immediately a CHO identifies the at fault driver's insurer as a subscriber to this repair agreement they must notify them in accordance with the insurer's specified procedure (see Appendix A to the GTA for specimen New Claim Advice Form which covers hire, repair and personal injury). In the absence of a reasonable explanation for failure to notify the insurer immediately, the insurer will not be liable for storage/hire charges incurred before the notice was given. This notification will indicate which Repair Option is required.

(a) Option 1 Procedure (Insurer's Approved Repairer)

- (i) Insurer will respond within 5 working days of receipt of the New Claim Advice Form and ensure that an early decision will be given on liability. Subject to acceptance the insurer will nominate their chosen repairer(s) and vehicle inspection arrangements.
- (ii) CHO will promptly advise their customer and liaise with nominated repairer to arrange vehicle inspection and repair (Appendix E1 for specimen instruction letter)
- (iii) Vehicle inspection will be in accordance with insurer's requirement (ie in-house engineer or independent) and will be detailed by insurer when repairer is nominated,
- (iv) Repair authorisation will be deemed to be by the vehicle owner, with the repair account direct to at fault driver's insurer supported by a standard satisfaction note (a copy

of which will be provided to the CHO to support the hire period).

- (v) CHO will liaise with repairer to identify the anticipated repair completion date but the responsibility for minimising repair period remains with the at fault driver's insurer.
- (vi) On completion of repair appropriate account submitted to "at fault" insurer (see payment procedure)
- (vii) Any complaints relating to the repair will be handled by the insurer as though the complainant were a policyholder.

(b) Option 2 Procedure (*Independent Repairer*)

- (i) When reporting a claim to the "at fault" insurer, the CHO will also, depending on the insurer's elected preference, either:
 - instruct an *independent engineer* (within 24 hours of the customer electing option 2) to inspect the vehicle (Note: the insurer agrees to pay a contribution of up to £50 plus vat toward the engineers fee and associated expenses irrespective of policy liability), or
 - advise the insurer to arrange the vehicle inspection by a staff engineer (or insurer nominated engineer)

In circumstances when the insurer has elected the latter option, the insurer will not dispute an elongated hire claim which has resulted from its failure to arrange the inspection promptly. The insurer will be responsible for monitoring the repair process. The staff/insurer-nominated engineer inspection should be carried out within the same period as set out in 6.3 (i) below.

- (ii) The CHO will recover the damaged vehicle to a repairer in the vicinity of the damaged vehicle to minimise recovery charges. The repairer will not charge storage charges where the vehicle is ultimately repaired by them.
- (iii) The engineer will normally authorise the repair at the time of inspection.
- (iv) The CHO will monitor the repair period to ensure that repairs are completed within timescale finally agreed by the *independent engineer*. (Note: The initial authorisation to the *independent repairer* requires them to advise the *independent engineer* if the repair is likely to exceed the period initially agreed). The at fault driver's insurer will not accept liability for a hire period beyond the repair period agreed by the *independent engineer*

- (v) On completion of the repair, the *independent repairer* will submit the repair account, together with the customer satisfaction note either:
 - direct to the CHO, if the account tallies with the agreed estimate, or
 - to the engineer, if the account and the estimate do not tally.
- (vi) Any complaints regarding a repair are the sole responsibility of the CHO (who may involve an *independent engineer*) without recourse to at fault driver's insurer.
- (vii) The CHO will advise the at fault driver's insurer within one working day of receipt of the *independent engineer's* report when a vehicle is a total loss or repair costs exceed 66% of the pre-accident value or there is likely to be a significant delay in delivery of any required parts. The report must be faxed/e-mailed by the CHO to the at fault driver's insurer.

4 INDEPENDENT ENGINEERS AUDIT – (Option 2 claims only)

- 4.1 The initial claim advice submitted by the CHO will identify the *independent engineer* who has been instructed and the location of the damaged vehicle. At the discretion of the at fault driver's insurer they may arrange their own inspection of the damaged vehicle to validate the costs involved. Any adverse findings from such an inspection will be shared with the CHO but will not affect payments to be made to them unless they or their nominated repairer are shown to be implicated or are in breach of the terms of this protocol.
- 4.2 If an insurer is not happy with the performance of an *independent engineer* it can, on provision of evidence of the engineer's shortcomings, require the CHO to stop using the engineer in the future. In the event that an insurer discovers evidence of fraud all CHOs who are signatories to this Agreement should be instructed to stop using the engineer and the IAEA will be asked to investigate the matter and review the engineer's membership of the Institute.

5 PAYMENT PROCEDURE/ADMINISTRATION FEE (this section should be read in conjunction with the similar section in the GTA)

- 5.1 If Option 1 is chosen the insurer will pay an administration fee as appropriate. In respect of hires started before 1st July 2011 the at fault driver's insurer will pay the CHO an administration fee of £30, plus VAT. If the CHO has also arranged a credit hire then a combined fee of £50 plus VAT is payable. (These fees will only apply when the customer retains responsibility for payment of the repair/hire charges.)

In respect of hires on or after 1st July 2011 and before 15th June 2012 the at fault driver's insurer will pay the CHO an administration fee of £31, plus VAT. If the CHO has also arranged a credit hire then a combined fee of £51 plus VAT is payable. In respect of hires on or after 15th June 2012 the at fault driver's insurer will pay the CHO an administration fee of £37, plus VAT. If the CHO has also arranged a credit hire then a combined fee of £57 plus VAT is payable..

6 INDEPENDENT ENGINEER SERVICE STANDARDS

- 6.1 Engineers will operate to the following Service Standards and exercise impartial independent judgement as though operating as an independent expert responsible to the Court. They will receive instructions from the CHO but these should be considered to be jointly from the "at fault" insurer who in turn agrees to pay a contribution of up to £50 plus VAT toward the engineer's fee and associated expenses. The engineer's report will not normally be supplied to the insurer until the invoicing stage; however, individual insurers can request the report when it is first available.
- 6.2 The engineer should liaise with the at fault driver's insurer if the supply of parts is delayed as they may have facilities to assist.
- 6.3 **The Service Standards are:**
- (i) Vehicle to be inspected within 2 working days of instruction, except in exceptional circumstances, and report submitted by e-mail/fax to instructing CHO within 2 working days of inspection
 - (ii) Vehicle repair time to be based on "Thatcham" times or an agreed computer estimating program if available
 - (iii) Hourly labour rate to be "A reasonable and appropriate figure based on geographic location and bodyshop facilities". The repair figure should not be influenced by who gave the instructions on the basis that the engineer is independent and not a representative of one or other party. The engineer should negotiate appropriate market discounts to the retail rates charged by a garage including ensuring that all standard market discounts and commissions are passed on to the insurer, including labour, parts, paint and materials and engineer's fee. The rates should not be out of line with the rates available in the locality in question.
 - (iv) Engineer's report will record instruction date
 - (v) Repair period (including parts delivery if vehicle unroadworthy) to be agreed with bodyshop at time of vehicle inspection
Engineer's report to identify whether damaged vehicle roadworthy (including consideration of temporary repairs) plus
 - Number of repair hours agreed
 - Hourly rate agreed
 - Repair period agreed

- (vi) Total loss valuations to be based on appropriate vehicle guides and local knowledge
- (vii) Engineer's report to identify where repair cost exceeds 66% of vehicle value or significant delay likely for required parts
- (viii) Bodyshop to liaise with engineer in event of parts delay or additional work being required. Where required, any follow-up inspection and revised report issued within 3 working days of notification
- (ix) Repair account checked and submitted to CHO within 2 working days
- (x) Engineer agrees to and will co-operate with at fault driver's insurer audit programme

**ABI GENERAL TERMS OF AGREEMENT – SPECIMEN INSTRUCTION
LETTER FROM CHO TO REPAIRER (WHEN OPTION 1 CHOSEN)**

Our customer is an innocent third party. We have received confirmation from the at fault insurer that our customer may authorise you to complete repairs as described below and for you to invoice the insurer direct for the agreed full cost.

This letter authorises you to carry out the repair. Where necessary you should collect the vehicle (settling outstanding charges), subject to them being agreed by the insurer's engineer.

Please contact our customer to arrange for the repair to be carried out without delay. No replacement vehicle is required. Please advise us when the repair will commence and be completed as we need to arrange delivery/collection of the hire vehicle.

On completion of the repair our customer should be asked to sign a collection note. A copy of it and of the at-fault insurer's engineer-approved account must be sent to us for information. The original must be sent to the insurer's office set out below for payment.

If the insurer's engineer considers the vehicle to be beyond economical repair, he must telephone both ourselves and his own office (as detailed below) with the assessment of the pre-accident and salvage values. Our customer will arrange to remove the vehicle from your premises.

Regardless of repair or total loss the insurer's engineer must forward his report to his company's office.

Customer/Third Party Details:	Name	Telephone Day	
	Address	Evening	
	Postcode	TP to pay VAT? Yes/No	

Insurer Office Details	Office	Telephone	
	Claim No	Policyholder	

Incident Details:	Date
	Brief Details

Damaged Vehicle:	Make	Model	Reg No
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Areas of Damage

This letter was compiled by (name) on behalf of

Signed Date