

**ABI GENERAL TERMS OF AGREEMENT BETWEEN SUBSCRIBING INSURERS AND CREDIT ORGANISATIONS**

**1 INTRODUCTION**

- 1.1 This Agreement sets out the arrangements between subscribers for the provision of replacement vehicles to innocent third party motorists (referred to as customers throughout), and, where appropriate, the undertaking of repairs.
- 1.2 Subscribing insurers and first tier credit organisations (all credit hire organisations are referred to as CHOs) are listed on the ABI's website <http://www.abi.org.uk/tphire>. First tier CHOs charging details are also listed. First tier subscribers will be able to offer national coverage on the terms of the Agreement. They will have been inspected by ABI when their documentation, scripts and work processes will have been deemed to be acceptable.
- 1.3 The website also includes the names and contact details for second tier CHOs who have agreed to follow the terms of the Agreement and their charges will not exceed those of first tier CHOs. Second tier CHOs are not full subscribers to the Agreement – they are expected to enter protocols with individual insurers.
- 1.4 The CHO will be able to offer, from a range of vehicles, a hire vehicle to customers in circumstances where the CHO feels full recovery prospects exist.
- 1.5 The decision to offer vehicles to potential customers is entirely at the discretion of the CHO who will accept the commercial risks arising.
- 1.6 The 26 November 2001 version of this Agreement has been developed by the ABI in conjunction with AMA and NACHO to form a framework for a working agreement between subscribers. Whilst intended to provide comprehensive guidelines, these are entirely voluntary between the parties involved.

Neither the ABI nor those representing the CHO (or the individuals or the employers of those engaged in the development of this Agreement) are to be held accountable for the consequences of this Agreement. If any parties use this Agreement as a basis for a contractual agreement it remains the responsibility of the contracting parties to ensure it remains appropriate.

- 1.7 Changes will not be made to this Agreement without proper consultation between subscribers.

**2 DAILY RATES PAYABLE/ADMINISTRATION FEE**

- 2.1 The liable insurer will pay the CHO's daily rates for vehicles as set out in the website (or as mutually agreed in the case of second tier credit organisations). In certain cases, an additional amount will be paid by the insurers, see 4.4(b) below.
- 2.2 In addition to the daily rate charges, insurers will pay the CHO a flat rate

administration fee of £30 plus VAT per hire. All fees/hire rates quoted in this document/on the website are exclusive of VAT.

The £30 fee will only apply when the customer retains responsibility for payment of the hire charges.

- 2.3 The daily rate is the amount paid for each 24 hour period eg 15.00 Monday 1 July to 15.00 Tuesday 9 July is eight days.
- 2.4 The hire period commences when the customer both needs and takes delivery of the replacement vehicle.
- 2.5 The hire period ends not later than 24 hours after repairs to the customer's vehicle have been completed, or, in total loss situations, not later than 6 days after the settlement cheque has been received by the customer or his representative. 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.

### 3 **OBLIGATIONS OF INSURERS**

- 3.1 Insurers will settle CHOs' invoices within one calendar month from the date of dispatch of the full payment pack (defined in 5.2 below) to the correct handling centre (as advised in 3.4). 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). Failure to settle within this and subsequent one month periods will result in the following late payment premiums:

Period between despatch of invoice to insurer and receipt of payment	Late Payment Premiums (total additional %)	
	<u>Hire</u>	<u>Repair If Applicable</u>
Up to one calendar month	N/A	N/A
Between one and two calendar months	7 <sup>1</sup> / <sub>2</sub> %	2 <sup>1</sup> / <sub>2</sub> %
Between two and three calendar months	15%	5%

It is accepted that insurers will not always be able to settle quickly in cases where liability is at issue. A late payment premium will not be payable in cases where there is a genuine liability dispute which results in a reduced settlement. Insurers will respond within 21 days from the date of dispatch of the payment pack if they require any further information or any liability issues exist. In the absence of a response insurers will abide by the above late payment schedule. Where requested by a CHO insurers must supply information to confirm that a genuine liability dispute exists. Insurers will not, however, delay decisions on liability as a mechanism for delaying payment for protracted periods beyond 3 months.

Where an insurer does not meet its GTA obligations it must expect to pay the penalties set out above.

If payment has not been received after 3 months the CHO may choose to pursue the claim outside the scope of this Agreement.

- 3.2 Insurers wishing to terminate a hire period must give the CHO notice of at least 4 working hours (working hours are defined as hours between 9.00am and 5.00pm, Monday to Friday, excluding bank holidays).
- 3.3 The fault insurer will advise the CHO, at their request, as soon as possible of the date on which their total loss settlement cheque is issued (see also 4.6).
- 3.4 Insurers will respond to the CHO's New Claim Advice Form (Appendix A see 4.3 below) within 2 working days of receipt confirming the correct handling centre and, where known, the claims reference number. The insurer will also ensure that an early decision is given on liability.
- 3.5 All subscribers to this Agreement will not seek to transfer a customer who has been provided with a vehicle into an alternative replacement vehicle eg when a CHO notifies an insurer of a customer claim and the insurer had not already been in touch with the customer regarding the claim, then the insurer will allow the CHO to proceed with the hire. The only exception will be in the case when the vehicle provided fails to satisfy the customer's need and a suitable replacement cannot be provided.
- 3.6 Insurers will not seek to use the customer's contact details given in Appendix A (New Claim Advice Form) to intervene in a credit hire arrangement.

#### **4 CREDIT ORGANISATIONS' OBLIGATIONS, TERMS AND STANDARDS**

- 4.1 Hire vehicles will be provided from the CHO's own fleet or from standard suppliers from nationwide depots.
- 4.2 Hire vehicles will be delivered to the customer within 4 working hours under normal circumstances (exceptional circumstances could include non-standard vehicles or remote locations).
- 4.3 The CHO will advise the responsible insurer of a potential claim immediately their identity is known (using specimen New Claim Advice Form, Appendix A, or similar).
- 4.4 The daily rates (2.1 above) will be inclusive of
  - free delivery/collection of the vehicle
  - 24 hour breakdown cover
  - unlimited mileage
  - - full liability, theft and damage insurance subject to a maximum of a £50 excess, unless the customer's motor insurance policy excess exceeds this figure when the amount of the excess will be followed. In all other circumstances the £50 excess will apply.

The only extra charges which may be levied are:

- a. Payable by the customer – with a full explanation of how the

charges are applied and that these will be paid by him/her:

- 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 (see 4.7 below)
- failed delivery/collection for which the customer is responsible
- usual running costs as specified in the CHO's standard hire agreement
- CDW cover to protect the excess amount which will not exceed the CHO's direct costs or, in total, the amount of the excess.

b. Payable by the insurer:

- non-standard risk drivers:
  - 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. additional insurance premium if not covered by the credit organisation's standard insurance arrangements when the third party's own insurer originally provided the cover, but not exceeding the direct costs
- £5 per day for necessary extras (when available) such as estate cars, automatic vehicles, tow bars and baby seats (which reflect the customer's damaged vehicle type/fitments).
- £12 per day add-on to the agreed daily rate for dual control vehicles (£7 per day add-on if insurance cover not provided).

4.5 The CHO will advise its customers of their duty to mitigate losses and assist on issues of claims procedure.

4.6 The CHO will monitor the hire period and liaise with the repairer, customer and insurer, as appropriate, to ensure that the hire period is no longer than necessary. The CHO will advise the insurer immediately it is known that an unreasonable delay will occur during the repair. The hire period validation form (Appendix B) will be supplied to the insurer with the payment pack (5.2 below) unless the at-fault insurer has directly handled the customer's vehicle damage claim or a credit repair was undertaken.

4.7 The CHO will normally provide the customer with an appropriate class of replacement vehicle based upon the customer's need. The 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.

4.8 CHOs will abide by the spirit of this Agreement by mitigating ancillary

personal injury claims costs whenever possible. CHOs will not divert customers unnecessarily towards CFA arrangements/post-accident insurance policies when liability is not at issue or is admitted early.

In those cases when a customer would benefit from a CFA arrangement, the CHO should first make sure that a pre-funded insurance cover is not available before referring to the CFA solicitor.

- 4.9 The CHO will require that their customers complete a Mitigation Questionnaire/Statement of Truth Form (Appendix C). The detail contained in the attached specimen will be included. Insurers will be supplied with a copy of the completed document.
- 4.10 The CHO's accounting procedures will be flexible and enable split billing eg when a customer elects to hire a more expensive vehicle than can be justified.
- 4.11 If the CHO does not meet its GTA obligations it cannot expect a late payment premium.
- 4.12 The CHO will be prepared to liaise with individual insurers and meet their reasonable requirements which may differ from those set out in this Agreement.
- 4.13 CHOs will, on request, provide individual insurers with management statistics relating to their own cases.
- 4.14 Insurers will have a right to audit CHOs' files involving their own cases provided that such right of audit will only extend to matters concerning hire and repair. Periodic (usually annual) audits will be carried out on each credit organisation. Additional audits may be carried out in exceptional circumstances. ABI will act as the focal point for the organisation of such audits.

## 5 **PAYMENT PROCEDURE**

- 5.1 The CHO will submit a *payment pack* in support of a single payment request to the "at fault" insurer as soon as full documentation is available. The payment pack will consist of all required invoices and supporting evidence under an agreed covering letter (Appendix D for specimen) providing payment details.
- 5.2 The *payment pack* will consist of
  - i. Covering letter detailing cheque(s) required and documents submitted (Appendix D)
  - ii. Mitigation Questionnaire/Statement of Truth signed by hirer (Appendix C)
  - iii. New Claims Advice form (unless previously submitted) (Appendix A).
  - iv. Hire Period Validation Form (Appendix B) if necessary (4.6 above).
- 5.3 5.3 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 **CREDIT REPAIR**

- 6.1 A supplementary credit repair Agreement is attached (Appendix E).

## 7 **ALTERATION OF TERMS**

- 7.1 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.

## 8 **ARBITRATION**

- 8.1 ABI will use its good offices to endeavour to settle any disputes on issues of principle between subscribers.