



MEMORANDUM OF AGREEMENT

made this 19th day of December 1997

BETWEEN:

MANITOBA PUBLIC INSURANCE CORPORATION ("MPI")

AND

HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA

as represented by the Provincial Treasurer ("the Province of Alberta")

The Province of Manitoba has enacted a system of no-fault insurance that applies principally to residents of Manitoba who suffer bodily injuries in automobile accidents. MPI is authorized by statute to enter into agreements with governments of other provinces respecting compensation for bodily injury of (a) residents of other provinces who are involved in accidents in Manitoba, and (b) Manitoba residents who are involved in accidents outside Manitoba.

The Province of Alberta may by regulation require that automobile insurance policies issued in Alberta provide for payment of no-fault benefits to residents of Alberta who suffer bodily injuries in automobile accidents in Manitoba.

MPI and the Province of Alberta therefore enter into this agreement.

1. INTERPRETATION

1.1 Definitions - In this Agreement:

- - a. **"Accident"**
 - i. in respect of an accident that happens in Alberta, means an accident as defined in the Alberta Regulations; and
 - ii. in respect of an accident that happens in Manitoba, means an accident as defined in Part 2 of the Manitoba Statute;
 - b. **"Alberta Regulations"** means the *Alberta Accident Insurance Benefits Regulations*, Alberta Regulation 352/72, as amended or replaced from time to time;
 - c. **"Alberta Resident"** means a Resident of Alberta as defined in the Appendix, but does not include:
 - i. a "Manitoba Resident" or
 - ii. an Uninsured Alberta Resident;
 - d. **"bodily injury"** and **"personal injury"** include death;
 - e. **"Manitoba Statute"** means *Manitoba Public Insurance Corporation Act R.S.M 1987, c. P215* and Regulations made thereunder, as amended or replaced from time to time;
 - f. **"Manitoba Resident"** means a person who is a person resident in Manitoba within the meaning of the Manitoba Statute;
 - g. **"Uninsured Alberta Resident"** means an Alberta Resident other than an "insured person" as defined in the Appendix.

1.2 Interpretation - In this Agreement:

- a. references to claims and compensation, including subrogated claims, pertain to bodily injury only, and not to property damage;
- b. references to a person injured in an Accident include anyone claiming through that person; and
- c. references to:

- i. persons "involved" in Accidents;
- ii. Accidents "involving" persons;
- iii. persons "causing" Accidents; or
- iv. persons "responsible for causing" Accidents;

do not pertain to the vicarious liability of owners of automobiles.

1.3 Section References - References in this Agreement to Section numbers are to the corresponding numbered provisions of this Agreement.

1.4 Appendix - The attached Appendix is part of this Agreement.

2. PURPOSE

2.1 Intended Results - This Agreement is intended to produce the following results:

- a. where an insured Alberta Resident is injured in an Accident in Manitoba, he or she will be compensated on a no-fault basis by his or her own insurer, and will not be compensated by MPI;
- b. where an Uninsured Alberta Resident is injured in Accidents in Manitoba, he or she will receive compensation from MPI in accordance with the Manitoba Statute, but only to the extent that the Uninsured Alberta Resident is not responsible for causing the Accident;
- c. where an Alberta Resident causes an Accident in Manitoba, MPI will not pursue a subrogated claim against the Alberta Resident;
- d. where a Manitoba Resident is injured in an Accident in Alberta, MPI will pay no-fault benefits to the Manitoba Resident, and will not pursue any subrogated claim against an Alberta Resident responsible for the Accident.

2.2 Inapplicability of Agreement - This Agreement does not affect any rights or obligations where a person who is neither an Alberta Resident nor a Manitoba Resident is involved in an accident in Manitoba while operating an automobile owned by an Alberta Resident, if the automobile is insured under a motor vehicle liability policy issued pursuant to Part 7 of the Insurance Act.

3. CONDITION PRECEDENT

3.1 Amendment of Alberta Regulations - This Agreement becomes effective only upon the Alberta Regulations being amended so as to mandate inclusion in the standard form of motor vehicle liability policy of a provision that, in all respects material to this Agreement, has the same effect as the draft provision attached as the Appendix to this Agreement.

3.2 Application - This Agreement applies to all accidents occurring on or after the date when the condition precedent in section 3.1 is fulfilled.

3.3 Undertaking of the Province of Alberta - Following execution of this Agreement, the Province of Alberta will with due dispatch present for consideration by the Lieutenant Governor in Council of Alberta a proposal for amendment of the Alberta Regulations that, if enacted, would fulfill the condition precedent in section 3.1.

4. ACCIDENTS IN MANITOBA:

4.1 Compensation by MPI - MPI will not be obligated to compensate an Alberta Resident injured in an Accident in Manitoba, regardless of whether the Alberta Resident was responsible for causing the Accident.

4.2 Waiver of Subrogated Claim - MPI waives any right of subrogation it may have against an Alberta Resident involved in an Accident in Manitoba.

4.3 Owner's Vicarious Liability - The waiver in section 4.2 extends to a right of subrogation against an owner of an automobile vicariously liable for the negligence of the Alberta Resident where the owner is an Alberta Resident.

4.4 Other Subrogation Rights - Except as provided in sections 4.2 and 4.3, this Agreement does not affect any right of subrogation exercisable by MPI.

4.5 Uninsured Alberta Resident - MPI will pay compensation to an Uninsured Alberta Resident injured in an Accident in Manitoba, in accordance with the Manitoba Statute, to the extent that the Uninsured Alberta Resident was not responsible for causing the Accident. To the extent that the Uninsured Alberta Resident was responsible for causing the Accident, MPI may exercise any right of subrogation it may have against the Uninsured Alberta Resident, including any right arising from the vicarious liability of the owner of the automobile operated by the Uninsured Alberta Resident.

5. ACCIDENTS IN ALBERTA:

5.1 Subrogation - In any claim or action in Alberta arising out of an Accident in Alberta involving a Manitoba Resident, MPI will not exercise its subrogation rights against an Alberta Resident.

6. TERMINATION

6.1 Termination by MPI - MPI may by notice to the Province of Alberta immediately terminate this Agreement if, after the coming into effect of this Agreement, the Alberta Regulations are amended, superseded or repealed so as to materially alter the effect of the provisions set out in Appendix "A".

6.2 Termination Upon Notice - Either party may terminate this Agreement by giving at least 180 days notice in writing to the other.

6.3 Effect of Termination - In the event of termination of this Agreement, it will continue to apply to all Accidents occurring up to and including the effective date of termination.

7. COMMUNICATIONS

7.1 Notices - Any notice under this Agreement shall be in writing, and shall be effective when delivered by any means, including fax transmission, to the parties at the following addresses:

- a. in the case of MPI:
Manitoba Public Insurance Corporation
912 - 330 Graham Avenue
Winnipeg, Manitoba
R3C 4A4
Attention: General Manager
fax # (204) 942-1133
- b. in the case of the Province of Alberta:
402 Terrace Building
9515 107 Street
Edmonton, Alberta
T5K 2C3
Attention: Superintendent of Insurance
Fax # (780) 420-0752

7.2 Notification by the Province of Alberta - The Province of Alberta undertakes to give notice in a timely manner to MPI of:

- a. Deputy Provincial Treasurer, enactment of amendments to the Alberta Regulations that fulfill the condition precedent in section 3.1; and
- b. any subsequent amendments to the Alberta Regulations that are relevant to this Agreement.

The parties have therefore signed this Agreement, each by its duly authorized officers.

[Original Signed]

MANITOBA PUBLIC INSURANCE CORPORATION

By:

Date: _____ Per: _____

HER MAJESTY THE QUEEN IN RIGHT

OF ALBERTA, as represented by the

Provincial Treasurer

Date: _____ Per: _____ (Deputy Provincial Treasurer)

APPROVED by: ALBERTA INTERGOVERNMENTAL AND ABORIGINAL AFFAIRS

Date: _____ Per: _____ (Deputy Minister)

APPENDIX

to an Agreement between
Manitoba Public Insurance Corporation
and
Her Majesty the Queen in right of Alberta

SUPPLEMENTED BENEFITS RESPECTING ACCIDENTS OCCURRING OUTSIDE ALBERTA IN A NO-FAULT JURISDICTION

2A(1) In this Subsection:

- a. **"Accident"** means an event resulting in bodily injury caused by an automobile or by the use of an automobile or by the load of an automobile, including damage caused by a trailer;
- b. **"applicable laws"** means, with respect to a no-fault jurisdiction, the laws in force from time to time governing the system of no-fault automobile insurance in that jurisdiction
- c. **"insured person"** means an individual who is a resident of Alberta and who
 - i. is an occupant of the described automobile or of a newly acquired or temporary substitute automobile as defined in this policy;
 - ii. is an occupant of any automobile and is
 - A. the named insured, or a spouse of the named insured living in the same dwelling premises as the named insured, or
 - B. a dependent relative of an individual referred to in paragraph (A) living in the same dwelling premises as the named insured.
 - iii. while a pedestrian, is struck by the described automobile or a newly acquired or temporary substitute automobile as defined in this policy.
 - iv. while a pedestrian, is struck by the described automobile and is
 - A. the named insured, or a spouse of the named insured in the same dwelling premises as the named insured, or
 - B. a dependent relative of an individual referred to in paragraph (A) living in the same dwelling premises as the named insured,
 - v. is the occupant of an automobile or a pedestrian struck by an automobile and is
 - A. an employee or partner of the named insured, who is provided with the regular use of the described automobile, or a spouse of the employee living in the same dwelling premises as the employee or a spouse of the partner living in the same dwelling premises as the partner, or
 - B. a dependent relative of an individual referred to in paragraph (A) living in the same dwelling premises as that individual,

or,

 - vi. is
 - A. the occupant of an automobile, or
 - B. a pedestrian struck by an automobile

driven by a person described in any of subclauses (i) through (v), but does not include a person who is, at the time of an accident in Quebec, the owner or driver of, or a passenger in, an automobile registered in Quebec;

- d. **"no-fault jurisdiction"** means the Provinces of Quebec, Ontario, Manitoba or Saskatchewan;
- e. **"pedestrian"** means a person who is not the occupant of an automobile;
- f. **"Resident of Alberta"** means any person who:

- i. is authorized by law to be or to remain in Canada and is living and ordinarily present in Alberta, and
- ii. meets the criteria for non-residency in the no-fault jurisdiction established by the applicable laws of the no-fault jurisdiction.

(2) The definition of "insured person" under the heading Special Provisions, Definitions, and Exclusions of Section B does not apply to this Subsection.

(3) Where an insured person suffers personal injury as a result of an accident occurring in a no-fault jurisdiction, the insurer agrees to pay to the insured person the amount that would be payable under the applicable laws of the no-fault jurisdiction as if the insured person were a resident of the no-fault jurisdiction.

(4) For the purposes of calculating an amount payable under (3) in respect of an accident occurring in Quebec, references in the Automobile Insurance Act (Quebec) to other statutes or regulations of Quebec used to calculate an amount payable under (3) shall be read as references to corresponding Alberta statutes or regulations or federal statutes or regulations that apply in Alberta.

(5) In any claim or action in Alberta arising out of an accident in Alberta, no right of subrogation is exercisable against a resident of Manitoba or Saskatchewan in respect of Section B - Accident Benefits paid to an resident of Alberta under an automobile insurance policy issued in Alberta.

(6) No exclusion or limitation in this Section B or in the General Provisions, Definitions and Exclusions and the Statutory Conditions of this policy may be raised by the insurer in respect of a claim by an insured person under (3).