

TRANSLATION

MEMORANDUM OF AN AGREEMENT (BASIC AGREEMENT)

made by and concluded between

THE REPUBLIC OF CYPRUS

through the Minister of Finance (hereinafter called "the Minister") of the one part,

and

THE MOTOR INSURERS' FUND

a Company duly incorporated according to the Companies Laws of Cyprus, Cap 113 (as amended), represented herein by the Chairman and the Secretary of the Company, being duly authorised hereto by a Resolution of an Extraordinary General Meeting dated the 6th day of July 2007,

(hereinafter called "the Fund") on the other part.

WHEREAS the Minister and the Insurers entered into an Agreement dated the First Day of July 1968, as a result of which the Fund has been incorporated under the Companies Laws, Cap 113 (as amended) and as a result of which the parties have agreed to enter into an Agreement dated 22nd April 1969 which was later amended by the Agreement dated 24th December 1991, and

WHEREAS the Minister and the Fund agreed to replace the Agreement of the 24th December 1991 with a new Agreement which came into force retroactively from the 7th July 2000, and

WHEREAS the Minister and the Fund agreed further to replace the Agreement of the 7th July 2000 with this Agreement which shall be published in the official gazette of the Republic and which shall be known as "the Basic Agreement", and

WHEREAS the Fund happens to be the Bureau designated by the Minister, in its capacity as the Cyprus International Insurance Bureau, for the signing and implementation of the "Uniform Agreement" as well as the "Multilateral Guarantee Agreement", and

WHEREAS the Fund has signed the Uniform Agreement which was renamed to "Internal Regulations" with Bureaux of countries, members of the Council of Bureaux, on the basis of which a duty shall be created to drivers and/or owners of motor vehicles to have in force an adequate insurance cover against third party risks when they enter into countries where the insurance against third party risks is compulsory, and

WHEREAS the Fund signed the Multilateral Guarantee Agreement which was later renamed as Multilateral Agreement and is bound to all signatories of the above Agreement for its strict adherence from the 1st January 2001, date on which the accession of Cyprus to the Agreement has been ratified by the European Commission, on the basis of which a liability is created for the Fund to satisfy claims arising as a result of the use of motor vehicles normally based in the Republic, in any country member of the Multilateral Guarantee Agreement, whether such vehicles have in force insurance cover or not, and

WHEREAS the Fund operates also as Compensation Body and as Guarantee Fund as envisaged under the relative Community Directives and the Law and is bound for this purpose by the relative provisions of the "Internal Regulations" or other Regulations which are likely to amend or replace them, and

WHEREAS the Fund signed as from the 27th May 2004 the "Freedom of Services Agreement", as amended by the Agreement of the 1st June 2006, and

WHEREAS the Fund is generally bound by the Directives and Regulations issued from time to time by the European Union as from the date of accession of the Republic of Cyprus to the European Union,

IT IS AGREED AS FOLLOWS:-

1. CONTENTS OF THE BASIC AGREEMENT

The Basic Agreement shall comprise the following two Parts,

- **PART A**, which shall be known as "**AGREEMENT IN RELATION TO UNINSURED DRIVERS' LIABILITY**"
- **PART B**, which shall be known as "**AGREEMENT IN RELATION TO LIABILITY OF UNKNOWN DRIVERS**".

2. NOTES

Following each Part of the Basic Agreement, there shall be appended Notes regarding each of the Parts A and B separately, which shall be of an advisory nature.

3. FUNDING OF THE FUND

In order to provide the necessary finance to respond to its liabilities arising from the Basic Agreement, the Fund shall be financed by means of a policy surcharge or by any other means, to be collected from policyholders, through the Insurers, which shall be fixed in accordance with the directions of the Minister of Finance issued from time to time after his consultation with the Fund and which shall be based on the Fund's needs.

4. IMPLEMENTATION OF THE BASIC AGREEMENT AND TRANSITIONAL PROVISIONS

The Agreements concluded between the Minister and the Fund dated 22nd April 1969 (as amended on 18 July 1972, 24th December 1991 and 26th March 2001), shall remain in force in respect of any liability that the above agreements were respectively intending to cover and which has arisen before the date of implementation of the Basic Agreement, but which, for any other purpose, are considered as revoked and replaced by the Basic Agreement.

5. TERMINATION OF THE BASIC AGREEMENT

The Basic Agreement may be terminated by the Minister at any time or by the Fund after two years notice, but without prejudice to the continuation of the enforcement of the Basic Agreement in relation to accidents which have occurred and/or liabilities which have arisen before the date of its termination.

6. OBSERVANCE OF EUROPEAN DIRECTIVES, REGULATIONS, AS WELL AS MULTILATERAL AND BILATERAL AGREEMENTS

The Fund in its capacity as the Cyprus International Insurance Bureau, as Guarantee Fund and as Compensation Body, undertakes to abide by and observe its liabilities emanating from the various European Directives, Regulations, as well as the Agreements signed from time to time.

Signed by the Minister of Finance of the Republic of Cyprus at Nicosia, on the 29th October 2007.

Seal of the
Republic

Michael Sarris
Minister of Finance

Signed on behalf of the Motor Insurers' Fund

Seal of the
Motor Insurers' Fund

Constantinos P. Dekatris
Chairman

Andreas Th. Charalambides
General Manager / Secretary

PART A – “AGREEMENT IN RELATION TO UNINSURED DRIVERS’ LIABILITY”

A1. DEFINITIONS

In this Part of the Basic Agreement:-

“Insurer” means Insurance business or Insurer, as defined by the Insurance Business and Other Relevant Subjects Law of 2002 to 2005 or any other Law amending or substituting the same, who transacts Motor Insurance business against third party liability.

“Internal Agreement” means the Agreement from time to time in force between the Motor Insurers’ Fund and its members on the one part and between the Fund’s members on the other part.

“Judgment” means only a judgment issued in favour of the person who suffered any injury, loss or damage covered by the provisions of the Law (subject always to the provisions of this Part of the Basic Agreement) and in the case of a judgment obtained by the consent of the parties, a judgment in relation to which a prior written approval of the Fund was obtained;

“Law” means the Motor Vehicles (Insurance Against Third Party Risks) Law of 2000 or any law amending or substituting the same and includes any Regulation issued by virtue of this Law;

“Minister” means the Minister of Finance of the Republic.

“relevant insurer” means the insurer who had in force, at the time of the accident, a policy of insurance purporting to cover the use of the vehicle the existence of which is known to the claimant;

“relevant liability” means the liability of any person, known or unknown, which should be covered by Insurance, so as to satisfy the provisions of the Law;

“Republic” means the Republic of Cyprus;

A2. SATISFACTION OF CLAIMS BY THE FUND

- (a) Subject to the provisions of this Part of the Basic Agreement, in case a judgment is issued in respect of relevant liability arising on or after the date of enforcement of this Part of the Basic Agreement against any person or persons by a competent Court of the Republic, and at the time of the accident as a result of which the relevant liability has arisen, no policy of insurance in relation to such liability is in force and consequently such judgment is not satisfied either at all or in full, then the Fund shall, subject to the provisions of this Part of the Basic Agreement, pay or cause to be paid to the person or persons in favour of which such judgment was issued
- (i) within forty five days upon which the person or persons in whose favour such judgment was given became entitled to enforce it, or
 - (ii) in case an appeal was filed, within seven days after service to the Fund of a written notice in relation to the judgment of the Appeal Court,
- any amount payable or remaining unpaid by virtue of such judgment in relation to the relevant liability, including taxed costs (or such part thereof relating to such liability) or satisfy or cause to be satisfied such judgment.
- (b) Without prejudice to the terms of this Part of the Basic Agreement, in the event that the relative liability is created as a result of driving by an unknown driver of a known vehicle which is not covered by an Insurance policy in relation to such liability, the Fund pays the relative compensation. In such cases the Fund submits to the claimant a reasoned offer in writing for settlement in accordance with the provisions of this Part of the Agreement. In the event that this offer is not accepted by the claimant, then the dispute is submitted to arbitration in accordance with the relative provisions of Part B' of this Agreement, which shall apply mutatis mutandis.
- (c) If judgment in respect of relevant liability arising on or after the date of enforcement of this Part of the Basic Agreement is issued against any person or persons by a competent Court of the Republic and such judgment has not been satisfied either at all or in full owing to the issue of a final order of liquidation of the Insurer who would have been liable to satisfy such judgment, or part thereof by virtue of a policy of Insurance in force at the date of the accident which resulted to such judgment, then, notwithstanding the provisions of this Part of the Basic Agreement, but subject to the provisions of the Law, the Fund shall pay or cause to be paid to the person or

persons in favour of whom such judgment was issued

- (i) within forty five days upon which the person or persons in whose favour such judgment was given became entitled to enforce it, or
- (ii) in case an appeal has been filed, within seven days after the service to the Fund of a written notice in relation to the Judgment of the Appeal Court,

any amount payable or remaining unpaid by virtue of such judgment in relation to the relevant liability, including taxed costs (or such part thereof relating to such liability) or satisfy or cause to be satisfied such judgment.

- (d) If liability arises, on the basis of the provisions of the Multilateral Agreement, to a driver of a motor vehicle, which is normally based in the Republic, to pay compensation in relation to an event occurring in a country which has signed the above Agreement, the Fund, in its capacity as the International Insurance Bureau of Cyprus, shall pay such damages in accordance with the provisions of this Part of the Basic Agreement.
- (e) In case any other liability arises for the Fund to pay compensation to any person, Bureau or Body resulting from its capacity as the International Insurance Bureau of Cyprus, the Fund shall pay such compensation.
- (f) In case any liability arises for the Fund for the payment of compensation to any person, Bureau or Body as a result of the Fund's capacity as Cyprus Compensation Body by virtue of section 16E of the Motor Vehicles (Insurance against Third Party Liability) Law of 2000 (Law 26(I)/2000) or any Law amending or substituting the same, the Fund shall pay such compensation.
- (g) In case any liability arises for the Fund for the payment of compensation to any person, Bureau or Body as a result of the Fund's capacity as Guarantee Fund by virtue of section 16F(3) of the Motor Vehicles (Insurance against Third Party Liability) Law of 2000 (Law 26(I)/2000) or any Law amending or substituting the same, the Fund shall pay such compensation.
- (h) In case any liability arises for the Fund for the payment of compensation to any person, Bureau or Body, as a result of the Fund's undertakings emanating from the signature of the Agreement known as "Freedom of Services Agreement, the Fund shall pay such compensation.

Provided that, if the Fund makes any payment on the basis of the above

paragraphs, it shall have the right to claim the same either from the insurer who:-

- (i) was providing cover by means of a policy of insurance issued in accordance with the Law, or
- (ii) is liable to cover in accordance with the provisions of the Law, or
- (iii) is liable to cover in accordance with the provisions of any agreement between the Fund and its insurers-members or from any foreign Insurer of Body or Guarantee Fund or International Insurance Bureau.

A3. EXEMPTIONS

This Part of the Basic Agreement shall not apply:-

- (a) if the accident giving rise to the liability occurred before the date of enforcement of this Basic Agreement, or
- (b) if the use in relation to which the accident giving rise to the liability was caused, is not required to be covered by a policy of insurance in accordance to the provisions of the Law, or
- (c) if the claim arises as a result of the use of a motor vehicle owned by or being under the possession or control of the Republic, with the exemption of the case where any other person has assumed liability in view of the existence of a policy of Insurance for the purposes of the Law (whether the person or persons liable are covered or not by such policy) or where the liability is in fact covered by a policy of Insurance, or
- (d) if the claim concerns damage to a motor vehicle or a consequential loss in relation to such vehicle and at the time the accident was caused no policy of insurance in relation to its use as required by the Law was in force and the person or persons making the claim knew or ought to have known that there was no such cover in force, or
- (e) if at the time of the use of the motor vehicle giving rise to the relative liability, the person who has sustained death or personal injury or damage to property is carried voluntarily in or on the motor vehicle and either before the commencement of his trip on the vehicle or after the commencement of such trip, provided however that it could be expected from him to get out

- (i) knew or ought to have known that the vehicle was stolen or illegally removed, or
- (ii) knew or ought to have known that the vehicle was used without a cover, in relation to its use, being in force as required by the Law.

Such exemption shall be valid only in case where the judgment in relation to which the claim against the Fund has been submitted, was secured against the owner of or the person using the vehicle in which the person who suffered death or personal injury or damage to property was carried, in relation to the relative liability of such person, or

- (f) if the claim has been submitted in relation to a Court judgment or any part thereof, which has been secured as a result of the exercise of a right of subrogation by any person and the procedure envisaged in the Internal Agreement or any other binding agreement between the Fund and its member companies, has not been observed, which would assure among other things:-
 - (i) that the same procedure for submission of a claim shall be followed as if the insured, through whom his insurer is claiming by subrogation, has not been paid;
 - (ii) that the right of the Fund to recover from the uninsured person the sum that the Fund shall have to pay, shall be safeguarded;
 - (iii) that the Fund shall be under no liability to pay any higher amount than that which it would have been liable to pay under other circumstances;
 - (iv) that the right of the Fund to plead any defences, exemptions or prerequisites, which would have existed under other circumstances, shall be safeguarded;
 - (v) that the insurer claiming by subrogation of right shall be treated in the same way with any other person claiming on the basis of this Part of the Agreement.
- (g) in relation to judgments made in legal actions instituted after the period of two years has elapsed from the date of the event out of which the cause of action arose.

For the purposes of this paragraph:-

- (a) vehicle which has been unlawfully removed from the possession of the Republic shall be deemed to continue to be under such possession in spite of the fact that it has been removed;
- (b) reference to a person being carried, includes cases where such person is being carried in or upon a motor vehicle or gets into or alights therefrom;
- (c) "owner" in relation to a vehicle which is subject to a hiring or hire purchase or leasing agreement, means the person having such vehicle in his possession by virtue of such agreement.

A4. PREREQUISITES FOR THE CREATION OF THE FUND'S LIABILITY

The Fund shall not incur any liability under this Part of the Basic Agreement, unless:-

- (a) notice by a registered letter is given by or on behalf of the person bringing the proceedings (hereinafter referred to as "the plaintiff") within seven days from the commencement of such proceedings -
 - (i) to the relevant insurer, if any, or
 - (ii) to the Fund, in any other case.
- (b) in case of a claim for damage to property within six months from the date on which the cause of action for which the judgment was issued has arisen, the plaintiff:-
 - (i) had given written notice to the Fund or the relevant insurer, of his intention to submit a claim, and
 - (ii) had given written notice to the Fund or the relevant insurer so as to allow them reasonable time to inspect the relevant damage before its repair or the removal or replacement of any spare parts or components which have sustained damage.
- (c) the proper claim form has been completed and submitted to the Fund, signed by or on behalf of the claimant. Together with the claim form, any other

document, which the Fund considers necessary or useful for the investigation or settlement of the case, shall be sent to the Fund. Such document may include correspondence between any persons in connection with the case.

- (d) a copy of any writ, summons, statement of claim, order or any other pleading issued shall be sent to the relevant insurer or the Fund, as the case may be and the plaintiff shall not seek to obtain judgment before thirty days have elapsed from the date on which a copy of such pleading was delivered to the relevant insurer or the Fund, unless within the period of thirty days the defendant has issued any process which is likely to lead to the dismissal of the above legal proceedings for want of prosecution.
- (e) the plaintiff, if he is so required by the Fund and provided that the Fund shall fully cover his reasonable expenses, shall take all reasonable steps to secure a court judgment against any person from whom the plaintiff could have a remedy or in relation to or arising from any relevant liability (subject always to the provisions of this Part of the Agreement) including the employer or principal of such person in case he was an employee or agent.

In such a case the plaintiff shall do whatever is possible for the successful outcome of the action against such person, his employer or his principal.

- (f) the plaintiff complies with all the requirements of the Fund in relation to any matter, which is likely to give rise to any claim against the Fund in accordance with the prerequisites of this Part of the Agreement, provided that the Fund's requirements are under all circumstances reasonable. In case of a dispute as to the reasonableness of any requirement, the Minister's decision shall be final and binding on all parties concerned.
- (g) the judgment or judgments (including such judgment as may be obtained under paragraph (e) of this Clause) shall be assigned to the Fund or its nominee and the plaintiff as judgment creditor shall assign all his rights and take all the necessary measures to facilitate the Fund to recover from the judgment debtor the amount he has paid to the plaintiff.

A5. OFFER OF AMOUNT FOR THE OUT OF COURT SETTLEMENT OF A LIABILITY OF THE FUND

When notice of proceedings has been given under Clause A4 for the taking of legal proceedings, the Fund shall be entitled at any time before the date set down for the

hearing of the action, to offer to the plaintiff in full satisfaction of the obligations of the Fund such sum as may be considered sufficient in respect of any claim made, together with an amount equivalent to the taxed costs to the date of such offer. If such offer is not accepted and in any ensuing action the plaintiff is awarded in respect of his claim for any liability required to be covered by the provisions of the Law (subject always to the provisions of this Part of the Basic Agreement) not more than the sum offered under this Clause (exclusive of the sum of such costs) then the Fund shall not be required to pay in satisfaction of its liability under this Part of the Basic Agreement, an amount higher than the total amount awarded together with the amount awarded in respect of costs and it shall be entitled to set off any costs incurred by them after the date of the offer against any amount awarded to the plaintiff.

When a claim is submitted to the Fund, the Fund is under an obligation within three months from the notification of such claim for compensation by the claimant, to submit a written reasoned offer for settlement to such claimant.

A6. RIGHT OF RECOVERY BY INSURERS

No provision of this Part of the Basic Agreement shall be interpreted in a way so as to prohibit Insurers (or any of them) to introduce conditions in their policies that all sums paid by Insurers on behalf of the Fund or by the Fund by virtue of this Part of the Basic Agreement in discharge of the judgment debit of the insured shall be recovered by them or by the Fund from the Insured or from any other person.

NOTES
IN RELATION TO PART A OF THE BASIC AGREEMENT

The following Notes are for the guidance of those who may wish to claim against the Motor Insurers' Fund for payment under Part A of the Basic Agreement and for the guidance of their legal advisers, but they must not be taken as substituting the Agreement itself. Communications for any matter in connection with the Agreement must be addressed to the Fund, whose address is -

MOTOR INSURERS' FUND
23, Zenon Sozos Street,
P.O.Box 22025, 1516 Nicosia.
e-mail: mif@cytanet.com.cy
tel.: 22 763913 fax: 22 761007

By virtue of the Legislation and as a result of the Motor Insurance European Directives, the Fund shall operate also as Cyprus International Insurance Bureau, as Compensation Body and as Guarantee Fund. Such capacities of the Fund shall be governed by the relevant specific Agreements applying to the particular case.

1. If damages are awarded by a Court in respect of death, or personal injury or property damage as provided by the Law arising out of the use of a motor vehicle on a road in circumstances where the liability is required to be covered by insurance under the Motor Vehicles (Third Party Insurance) Law or any law amending or substituting the same and such damage or any part thereof remain unpaid 45 days after the judgment becomes enforceable or seven days after the delivery of the Judgment of the Appeal Court and subject to the provisions of this Part of the Agreement, the Fund shall pay the unrecovered amount (including taxed costs) to the person in whose favour the judgment has been given upon assignment of the judgment debt.
2. Nothing in the agreement shall affect the position at law of the parties to an action for damages arising out of the driving of a motor vehicle. The Fund's liability under the agreement can only arise when the plaintiff has successfully established his case against the tortfeasor or tortfeasors in the usual manner and judgment has been given in his favour. There shall be, of course, nothing to exclude the acceptance of compensation by the plaintiff under a settlement negotiated between the plaintiff and the alleged tortfeasor with the written consent of the Fund or the plaintiff and the Fund. (see paragraph 9)

3. WHERE THERE IS A POLICY – In the cases where it is ascertained by the victim or those acting on his behalf that the liability under the Law is covered by a policy of insurance, it will not be necessary for the victim to take any special steps to secure to himself the benefits of the scheme, even though the insurers concerned may be in a position to repudiate liability under their policy for the reason that its conditions have been breached or it was obtained by improper methods, or that due notice of claim has not been given. Insurers will regard their policies as effective so far as motor accidents covered by the provisions of the Law as qualified by this Part of the Agreement are concerned although this is, of course, without prejudice to any rights they may have against their policyholders. In case, therefore, where it is ascertained that there is a policy the Insurers should be notified and will proceed to handle the claim in the usual way. In view of the recent amendment of the Legislation by virtue of which any claimant is entitled to institute a direct action against an Insurance Company, the claimants are strongly advised, in case the Insurance Company disputes its obligation to cover under its policy, to join the driver or/and any other liable person as co-defendant, in order to secure the Fund's involvement in the case. Otherwise, a possible rejection of the action against the Insurance Company might possibly affect the claimants' interests.
4. Claims arising out of the use of uninsured Vehicles owned by or in the possession of the Government of the Republic of Cyprus which are exempted from complying with the compulsory insurance requirements of the Law will be outside the scope of the Fund's liability. In such cases the approach shall be made to the office of the Accountant General of the Republic. The same benefits in respect of compensation will be afforded by the Government or Police authorities or other exempted authorities or persons to the victims in such cases as they would receive were the accident caused by a Vehicle to which the Law applies.
5. It is made clear that the Fund is not liable to satisfy any judgment obtained by consent of the parties, unless the written consent of the Fund to such judgment has previously been obtained. In case the judgment is obtained in the absence of the defendant, the Fund shall only be liable to satisfy such judgment if notified in writing at least thirty days prior to the date fixed for proof of the case.
6. It is made also clear that the prerequisites mentioned in the Agreement are effective irrespective of whether or not the interests of the Fund have been affected. In all cases where these prerequisites have not been observed, the Fund is bound to reject the claim.
7. In this Part of the Basic Agreement provision is being made for the payment of compensation in the cases that an identified but uninsured vehicle driven by an

unknown person is involved. It is being understood that the compensation to be payable by the Fund shall be commensurate to the unknown driver's percentage of liability, provided that the vehicle he was driving was uninsured. In case of a dispute as regards the quantum of damages or the liability of the unknown driver, then the dispute shall be submitted to arbitration and the provisions, terms and conditions referred to in Part B' of this Basic Agreement shall be observed.

8. In Part A' of the Agreement are being specifically mentioned the Funds' liabilities as Guarantee Fund, as Cyprus Compensation Body, as Cyprus International Insurance Bureau and as a result of the Fund's liabilities emanating from the signature of the Agreement known as "Freedom of Services Agreement". The Fund's liabilities in these cases derive from the Bilateral and Multilateral Agreements that the Fund has signed or shall sign in future, as the case may be, with the other member states belonging to the Green Card System.
9. In Part A' of the Agreement the liability is created for the Fund to submit a written reasoned offer to any claimant in the cases where a claim for compensation is being submitted, provided that such claim is fully documented for the amounts claimed. The offer shall be submitted to the claimant within 3 months from the date of submission of such documented claim.
10. The attention of all persons interested is drawn to the provisions relating to the claim becoming statute barred after two years have elapsed from the date of the accident, as well as to the time limits provided in relation to the notice of inspection of damage to property for which there is intention to submit a claim.
11. For the avoidance of unnecessary delays in the settlement of claims and for the assistance of the Fund's task, persons submitting claims on the basis of this Agreement shall, in accordance with Clause A4(c) of this Part of the Agreement, submit their claim by using the proper form, giving full particulars of the claim and enclosing all necessary documents which would assist the Fund to investigate the case.

PART B – AGREEMENT IN RELATION TO THE LIABILITY OF UNIDENTIFIED VEHICLES

B1. DEFINITIONS

In this Part of the Basic Agreement:-

“applicant” means the person submitting the application to the Fund for the payment of compensation and includes also the authorised representative of such person;

“Law” means the Motor Vehicle (Third Party Insurance) Law of 2000 or any other law amending or substituting the same and includes any Regulations issued thereunder;

“relevant death or personal injury or damage to property” means the death or the personal injury or the damage to property under certain circumstances specified in this Part of the Basic Agreement for which an application for payment was submitted against the Fund in accordance with this Part of the Basic Agreement.

“relevant liability” means liability against any person which should be covered by a policy of insurance, in accordance with the provisions of the Law;

“Republic” means the Republic of Cyprus;

“substantial personal injury” means personal injury which caused to the victim considerable pain and suffering in relation to apparent injuries which could be perceived by applying objective and not merely subjective criteria, which have been certified by a qualified doctor registered under the Doctors’ Registration Law and which necessitated the victim’s treatment in any Hospital or Clinic. This term includes also fatal injuries.

B2. PREREQUISITES FOR IMPLEMENTATION OF THIS PART OF THE AGREEMENT - EXEMPTIONS

- (1) Subject to paragraph (2) of this Clause, this Part of the Basic Agreement applies to any case in which an Application is made to the Motor Insurers’ Fund for a payment in respect of the death of or personal injury or damage to

property to any person caused by or arising out of the use of a motor vehicle on a road in the Republic and the case is one in which the following conditions are fulfilled, that is to say:-

- (a) the applicant
 - (i) is unable to trace the vehicle responsible for the death or injury or the damage to property;
 - or
 - (ii) is unable to trace one of the vehicles responsible, in a case to which Clause B6 applies, where more than one vehicles are responsible for the death, personal injury or damage to property;

and as a result the vehicle or one of those vehicles responsible for the accident remains untraced (hereinafter referred to as "the unidentified vehicle");

- (b) the death or injury or damage to property was caused under such circumstances that on the balance of probabilities the driver of the unidentified vehicle would be liable to pay damages to the applicant in respect of the death or injury or damage to property;
- (c) the liability of the untraced person to pay damages to the applicant is one which is required to be covered by insurance according to the Law. For this purpose, in the absence of evidence to the contrary, it is assumed that the vehicle was being used in circumstances in which the user was required by the Law to be insured against third party risks;
- (d) the application is made in writing within three (3) years from the date of the event giving rise to the death or injury or damage to property;
- (e) the incident was reported to the police within forty-eight (48) hours from its occurrence or as soon as the applicant reasonably could and the applicant co-operated with the police.

(2) This Part of the Basic Agreement does not apply to a case in which -

- (a) the event giving rise to the death or personal injury occurred before the date of implementation of this Part of the Basic Agreement;

- (b) at the time of the use of the motor vehicle in respect of which the relevant responsibility occurred, the person suffering death or personal injury was allowing himself to be carried in or upon a vehicle and either before or after the commencement of his journey in the vehicle, if he could reasonably be expected to have alighted from the vehicle, he knew or had reason to believe that the vehicle:-
 - (i) had been stolen or unlawfully taken; or
 - (ii) was being used without a policy being in force in relation to its use by virtue of the Law; or
 - (iii) was being used in relation to the commitment of a crime; or
 - (iv) was being used as a means of escape from or avoidance of lawful apprehension.
- (c) the claim concerns damage to property caused by an unidentified vehicle: Provided that this exemption does not apply in cases where the Fund has paid compensation for substantial personal injury to a victim of the same accident at which the damage was caused.

(3) For the purpose of paragraph (2) of this Clause -

- (a) a vehicle, which has been unlawfully removed from the possession of the Republic, shall be taken to continue in that possession whilst it is kept so removed;
- (b) references to a person being carried in a vehicle include references to his being carried in or upon, or entering or getting on to or alighting from the vehicle;
- (c) "owner" in relation to a vehicle, which is the subject of hiring agreement or a hire purchase agreement or leasing, means the person in possession of the vehicle under that agreement.

B3. EXAMINATION OF AN APPLICATION IN SPITE OF THE CAPACITY OF THE APPLICANT

Any decision made, or award or payment given or made or other act done according

to the provisions of this Part of the Basic Agreement to or by a person acting on behalf of the applicant, or in relation to an application made by such a person, shall, whatever may be the age, or the circumstances affecting the capacity of the applicant, be treated as having the same effect as if it had been done to or by, or in relation to an application made by an applicant of full age and capacity.

B4. PAYMENT OF AMOUNTS MADE BY THE FUND AND WAY OF THEIR ASSESSMENT

Subject to the provisions of this Part of the Basic Agreement, the Fund shall, on any application submitted to it regarding an event to which this Part of the Basic Agreement applies, award to the applicant in respect of the death or personal injury or damage to property for which the application is made a payment of an amount which shall be assessed in a manner similar to the one a court, applying the law of the Republic, would assess the damages which the applicant would have been entitled to recover from the driver of the unidentified vehicle as in respect of that death or personal injury or damage to property if the applicant had brought successful proceedings to enforce a claim for such damages against the driver of the unidentified vehicle. As regards damage to property the Fund where it may be liable to pay such damages, shall not be liable for the first 500 euros: Provided that, for the purposes of this paragraph, "application" means the application submitted by every person claiming the ownership of the property being damaged under the same event.

B5. LOSS OF EARNINGS

In assessing the level of an award in accordance with Clause B4, the Fund shall be under no obligation to include in such award any sum in respect of loss of earnings suffered by the applicant where and in so far as the applicant has in fact been paid wages or salary or any sum in lieu of the same.

B6. JOINT LIABILITY OF IDENTIFIED AND UNIDENTIFIED VEHICLES

(1) This Clause applies to any case:-

(a) to which this Part of the Basic Agreement applies; and

(b) the relevant death or personal injury or damage to property was caused:-

- (i) partly by an unidentified vehicle and partly by an identified ~~person~~ vehicle or vehicles; or
 - (ii) partly by an unidentified vehicle and partly by some other unidentified vehicle or vehicles whose owner or keeper may be identified;
- and
- (c) under circumstances making the identified person or persons or any master or principal ("the identified person") liable to the applicant in respect of the relevant death or personal injury.
- (2) If in a case to which this Clause applies, one or other of the conditions in paragraph (3) of this Clause is satisfied, the amount of the award to be paid by the Fund to the applicant in respect of the relevant death or injury or damage to property shall be determined in accordance to paragraph (4) of this Clause and its liability to the applicant shall be subject to paragraph (7) of this Clause and Clause B7 of this Part of the Basic Agreement.
- (3) The conditions referred to in paragraph (2) of this Clause are:-
- (a) that the applicant has obtained a judgment in respect of the relevant death or personal injury or damage to property against the identified person ("the original judgment") which has not been satisfied in full within three months from the date on which the applicant became entitled to enforce it ("the three month period"); or
 - (b) that the applicant -
 - (i) has not obtained and has not been required by the Fund to obtain a judgment in respect of the relevant death or injury against the identified person; and
 - (ii) has not received any payment by way of compensation from the identified person or persons.
- (4) The amount to be awarded by the Fund to the applicant in a case to which this Clause applies shall be determined as follows:-
- (a) if the condition in paragraph (3)(a) of the Clause is satisfied and the original judgment is wholly unsatisfied within the three month period,

the amount to be awarded shall be an amount equal to that proportion of a full award attributable to the driver of the unidentified vehicle;

- (b) if the condition in paragraph (3)(a) of this Clause is satisfied, but the original judgment is satisfied in part only within the three month period, the amount to be awarded -
 - (i) if the unsatisfied part of the original judgment is less than the proportion of a full award attributable to the driver of the unidentified vehicle, shall be an amount equal to that unsatisfied part; or
 - (ii) if the unsatisfied part of the original judgment is equal to or greater than the proportion of a full award attributable to the driver of the unidentified vehicle, shall be an amount equal to the driver of the unidentified vehicle's proportion;
 - (c) if the condition in paragraph (3)(b) of this Clause is satisfied, the amount to be awarded shall be an amount equal to the proportion of a full award attributable to the driver of the unidentified vehicle.
- (5) The following provisions of this paragraph shall have effect in any case in which an appeal from or any proceedings to set aside the original judgment is commenced within a period of three months beginning from the date on which the applicant became entitled to enforce the original judgment -
- (a) until the said appeal or proceeding is disposed of the provisions of this Clause shall have effect as if for the three month period there were substituted a period expiring on the date when the said appeal or proceedings is disposed of;
 - (b) if as a result of the appeal or proceeding the applicant ceases to be entitled to receive any payment in respect of the relevant death or injury from any person or persons against whom he has obtained the original judgment the provisions of this Clause shall have effect as if he had neither obtained nor been required by the Fund to obtain a judgment against any person or persons;
 - (c) if as a result of the appeal or proceeding, the applicant becomes entitled to recover an amount which differs from that which he was entitled to recover under the original judgment, the provisions of this Clause shall

have effect as if for the reference in paragraph (3)(a) to the original judgment there were substituted a reference to the judgment under which the applicant became entitled to the said different amount;

(d) if as a result of the said appeal or proceeding the applicant remains entitled to enforce the original judgment the provisions of this Clause shall have effect as if for the three month period there were substituted a period of three months beginning on the date on which the appeal or other proceeding was disposed of.

(6) In this Clause -

(a) "full compensation" means the amount which would have fallen to be awarded to the applicant under Clause B4 in respect of the relevant death or injury or damage to property if the driver of the unidentified vehicle had been adjudged by a court to be wholly responsible for that death or injury or damage to property; and

(b) "the proportion of a full compensation attributable to the driver of the unidentified vehicle" means that proportion of a full compensation which on the balance of probabilities would have been apportioned by a court in proceedings between the driver of the unidentified vehicle and any other person liable in respect of the same event as the share to be borne by the driver of the unidentified vehicle in the responsibility for the event giving rise to the relevant death or injury or damage to property.

(7) The Fund shall not be under any liability in respect of the relevant death or personal injury or damage to property if the applicant is entitled to receive compensation from the Fund in respect of that death or injury or damage to property under the Part A of this Basic Agreement.

B7. CONDITIONS AND PREREQUISITES FOR PAYMENT OF ANY AMOUNT TO THE APPLICANT

(1) Any liability falling upon the Fund upon an application submitted to it under this Part of the Basic Agreement in respect of any death or personal injury or damage to property, shall be subject to the following conditions:

(a) the applicant shall give all such assistance as may reasonably be required by or on behalf of the Fund to enable any investigation to be carried out under this Part of the Basic Agreement, including, in

particular, the provision of statement and information either in writing, or, if so required, orally at an interview or interviews between the applicant and any person acting on behalf of the Fund;

- (b) at any time before the Fund has communicated its decision upon the application to the applicant, the applicant shall, subject to the following provisions of this Clause, take all such steps as in the circumstances it is reasonable for the Fund to require him to take to obtain judgment against any person or persons in respect of their liability to the applicant for the death or injury or damage to property as having caused or contributed to that death or injury or as being the master or principal of any person who has caused or contributed to that death or injury or damage to property; and
 - (c) if required by the Fund the applicant shall assign to the Fund any judgment obtained by him (whether or not obtained in accordance with a requirement under sub-paragraph (b) of this paragraph) in respect of the death or injury or damage to property to which his application to the Fund relates upon such terms as will secure that the Fund shall be accountable to the applicant for any amount by which the aggregate of all sums recovered by the Fund under the judgment (after deducting all reasonable expenses incurred in effecting such recovery) exceeds the amount payable by the Fund to the applicant under this Part of the Basic Agreement.
- (2) If the Fund requires the applicant to bring proceedings against any specified person or persons -
- (a) the Fund shall indemnify the applicant against all costs reasonably incurred by him in complying with that requirement unless the result of those proceedings materially contributes to establishing that the driver of the unidentified vehicle did not cause nor contribute to the relevant death or injury or damage to property; and
 - (b) the applicant shall, if required by the Fund and at its expense, provide the Fund with a copy of any minutes kept in those proceedings, of any evidence given or judgment delivered therein.
- (3) In the event of a dispute arising between the applicant and the Fund as to the reasonableness of any requirement by the Fund under paragraph (1)(b) of this Clause or as to whether any such costs as are referred to in paragraph (2)(a)

of this Clause were reasonably incurred, that dispute shall be referred to the Minister of Finance whose decision shall be final:

Provided that any dispute arising between the applicant and the Fund as to whether the Fund is required to indemnify him under paragraph (2)(a) of this Clause shall, in so far as it depends on the question whether the result of any proceedings which the Fund has required the applicant to bring against any specified person or persons has or has not materially contributed to establish that the driver of the unidentified vehicle did not cause or contribute to the relevant death or injury or damage to property, be referred to an arbitrator in accordance with the following provisions of this Part of the Basic Agreement, whose decision on that question shall be final.

- (4) In the event that the application relates also to damage to property, within 6 months from the date on which the cause of action arose, the applicant:
 - (i) had given written notice to the Fund or the relevant insurer of his intention to submit a claim, and
 - (ii) had given notice to the Fund or the relevant insurer so as to allow them reasonable time to inspect the relevant damage before its repair or the removal or replacement of any spare parts and/or components which have sustained damage.

B8. INVESTIGATION OF APPLICATION AND PREPARATION OF REPORT BY THE FUND

The Fund shall cause any application submitted to it for a payment under this Part of the Basic Agreement to be investigated and, unless it decides that the application should be rejected because a preliminary investigation has disclosed that the case is not one to which this Part of the Basic Agreement applies, it shall cause a report to be made on the application and on the basis of that report, it shall decide whether to make an award and, if so, the amount of the award which shall be calculated in accordance with the provisions of this Part of the Basic Agreement.

B9. DECLARATION OF APPLICANT CONCERNING THE CIRCUMSTANCES OF THE ACCIDENT

The Fund may, before coming to a decision on any application submitted to it under this Part of the Basic Agreement, request the applicant to provide it with a declaration to be made by the applicant, setting out to the best of his knowledge,

information and belief the facts and circumstances upon which his claim to an award under this Part of the Basic Agreement are based, or facts and circumstances as may be specified by it:

Provided that the Fund may demand that the declaration is made under oath.

B10. NOTIFICATION OF THE DECISION OF THE FUND TO THE APPLICANT

- (1) The Fund shall notify its decision to the applicant in writing at his last known address and when so doing it shall -
 - (a) if the application is rejected because a preliminary investigation has disclosed that it is not one made in a case to which this Part of the Basic Agreement applies, give its reasons for the rejection; or
 - (b) if the application has been fully investigated, provide him with a statement setting out:-
 - (i) the circumstances under which the death or injury or damage to property occurred and the relevant evidence;
 - (ii) the circumstances relevant to the assessment of the amount to be awarded to the applicant under this Part of the Basic Agreement and the relevant evidence; and
 - (iii) if it refuses to make an award, its reasons for that refusal; and
 - (c) in a case to which Clause B6 of this Part of the Basic Agreement applies specify the way in which the amount of that award has been computed and its relation to those provisions of Clause B6 which are relevant to its computation.
- (2) Where the Fund has decided that it will not indemnify the applicant against the costs of any proceedings which it has, under Clause B7(1)(b), required him to bring against any specified person or persons on the ground that those proceedings have materially contributed to establish that the driver of the unidentified vehicle did not cause or contribute to the relevant death or injury or damage to property, it shall give notice to the applicant of that decision together with its reasons for it and shall provide the applicant with a copy of any written evidence given or judgment delivered in those proceedings as it is

mentioned in Clause B7(2) of this Part of the Basic Agreement which it regards as relevant to that decision.

B11. PAYMENT OF ANY AMOUNT TO THE APPLICANT

- (1) Subject to the provisions of this Part of the Basic Agreement, where the Fund had decided to make an award to the applicant, it shall pay the applicant the amount of that award if -
 - (a) it has been notified by the applicant that the award is accepted; or
 - (b) at the expiration of the period during which the applicant may give notice of an appeal under Clause B12 the applicant has not given the Fund either any such notification of the acceptance of its award or a notice of an appeal under Clause B12.
- (2) A payment made under paragraph (1) of this Clause shall discharge the Fund from all liability under this Part of the Basic Agreement in respect of the death or injury or damage to property for which that award has been made.

B12. PREREQUISITES AND GROUNDS OF APPEAL

- (1) The applicant shall have the right to appeal to an arbitrator against any decision notified to him by the Fund under Clause B10, if -
 - (a) he gives notice to the Fund that he wishes to appeal against its decision ("the notice of appeal");
 - (b) he gives the Fund the notice of appeal within four (4) weeks from the date he was given notice of the decision against which he wishes to appeal; and
 - (c) he has not previously notified the Fund that he has accepted its decision.
- (2) the grounds of appeal are as follows:-
 - (a) where the application has not been the subject of a full investigation:-
 - (i) that the case is one to which this Part of the Basic Agreement

- applies; and
 - (ii) that the applicant's application should be fully investigated by the Fund with a view to its deciding whether or not to make an award to him and, if so, the amount of that award; or
- (b) where the application has been fully investigated -
- (i) that the Fund was wrong in refusing to make an award; or
 - (ii) that the amount it has awarded to the applicant is insufficient; or
- (c) in a case where a decision not to indemnify the applicant against the costs of any proceedings has been notified to the applicant by the Fund under Clause B10(2), that that decision was wrong.

B13. TERMS OF APPEAL

A notice of appeal under Clause B12 shall state the grounds of the appeal and shall be accompanied by a written undertaking given by the applicant that –

- (a) the applicant will accept the decision of the arbitrator; and
- (b) the arbitrator's fee shall be paid to the Fund by the applicant or by the person who has given the written undertaking in any case where the Fund is entitled to reimbursement of that fee under the provisions of Clause B23.

B14. PROCEDURE BEFORE SUBMISSION OF APPEAL

- (1) When giving notice of his appeal or at any time before doing so, the applicant may -
 - (a) make comments to the Fund on its decision; and
 - (b) supply the Fund with such particulars as he thinks fit of any further evidence not contained in the written statement supplied to him by the Fund which he considers is relevant to the application.
- (2) The Fund may, before submitting the applicant's appeal to the arbitrator -

- (a) cause an investigation to be made into the further evidence supplied by the applicant under paragraph (1)(b) of this Clause; and
 - (b) report to the applicant the result of that investigation and of any change in its decision, which may result from it.
- (3) The applicant may, within four weeks from the date on which the report referred to in paragraph (2)(b) of this Clause was sent to him, unless he withdraws his appeal, make such comments on the report as he may desire to have submitted to the arbitrator.

B15. APPEAL AGAINST THE INSUFFICIENCY OF AN AWARD

- (1) Where the Fund receives from the applicant a notice of appeal in which the only ground of appeal stated is that the amount awarded to the applicant is insufficient and provided that the Fund did not accept any liability regarding this Part of the Basic Agreement, the Fund may, before submitting that appeal to the arbitrator:-
- (a) give notice to the applicant that, if the appeal proceeds, it will request the arbitrator to decide whether the case is one in which the Fund should make an award at all; and
 - (b) at the same time as complying with paragraph (1)(a) of this Clause, provide the applicant with a written statement setting out such comments as it may consider relevant to the decision which the arbitrator should come to on the subject of a possible responsibility of the Fund.
- (2) Where the Fund gives the applicant notice under paragraph (1)(a) of this Clause, the applicant may, within four weeks from the date on which that notice was given -
- (a) make such comments to the Fund and supply it with particulars of other evidence not contained in any written statement provided to him by the Fund as he may consider relevant to the question which the arbitrator is, by that notice, requested to decide; and
 - (b) Clause B16 shall apply in relation to any comments made or particulars

supplied by the applicant under paragraph (2)(a) of this Clause.

B16. PROCEDURE FOR SUBMISSION OF APPEAL TO THE ARBITRATOR

- (1) Subject to paragraph (2) of this Clause, where the Fund receives a notice of appeal from the applicant under the provisions of this Part of the Basic Agreement, it shall -
 - (a) submit that appeal to an arbitrator for a decision; and
 - (b) send to the arbitrator for the purpose of obtaining his decision:-
 - (i) the application made by the applicant;
 - (ii) a copy of its decision as notified to the applicant; and
 - (iii) copies of all statements, declarations, notices, comments, documents, transcripts, particulars of reports provided, given or sent to the Fund under this Part of the Basic Agreement either by the applicant or by the Fund.
- (2) In case where the Fund causes an investigation to be made under Clause B14, the Fund shall not comply with paragraph (1) of this Clause until:-
 - (a) the expiration of four weeks from the date on which it sent the applicant a report as to the result of that investigation; or
 - (b) the expiration of four weeks from the date on which it gave the applicant notice under Clause 14(1); or
 - (c) the expiration of four weeks from the date on which it sent the applicant a report as to the result of that investigation, if it has caused an investigation to be made into any evidence supplied under Clause B15(2).

B17. DECISION OF THE ARBITRATOR

In relation to an appeal made by the applicant in accordance with this Basic Agreement:-

- (a) if the appeal is against a decision by the Fund rejecting an application because a preliminary investigation has disclosed that the case is not one to which this Part of the Basic Agreement applies, the arbitrator shall decide whether the case is or is not one to which this Part of the Basic Agreement applies and, if he decides that it is such a case, he shall remit the application to the Fund for full investigation and a decision in accordance with the provisions of this Part of the Basic Agreement;
- (b) if the appeal is against a decision by the Fund given after an application has been fully investigated by it (whether before the appeal or in consequence of its being remitted for such investigation under paragraph (a) of this Clause), the arbitrator shall decide, as may be appropriate, having regard to the grounds stated in the notice of appeal and to any notice given by the Fund to the applicant under Clause B15, whether the Fund should make an award under this Part of the Agreement to the applicant and, if so, the amount which it should award to the applicant under the provisions of this Part of the Agreement;
- (c) if the appeal relates to a dispute which has arisen between the applicant and the Fund which is required by the proviso to Clause B7(3) to be referred to the arbitrator, the arbitrator shall also give his decision on that dispute:

Provided that, where the arbitrator has allowed an appeal under paragraph (a) of this Clause, all the provisions of this Part of the Basic Agreement shall apply as if the case were an application to which this Part of the Basic Agreement applies upon which the Fund has not communicated a decision.

B18. FACTS AND DOCUMENTS ON WHICH THE ARBITRATOR WILL BASE HIS DECISION

- (1) Subject to paragraph (2) of this Clause, the arbitrator shall decide the appeal on the documents submitted to him under Clause B16(1)(b) and no further evidence shall be produced to him;
- (2) The following shall apply where documents have been submitted to the arbitrator under Clause B16(1)(b):
 - (a) the arbitrator shall be entitled to ask the Fund to make any further investigation which he considers desirable and to submit a written report of its findings to him for his consideration; and

- (b) the Fund shall send a copy of that report to the applicant who shall be entitled to submit written comments on it to the Fund within four weeks of the date on which that copy is sent to him; and
- (c) the Fund shall transmit those comments to the arbitrator for his consideration.

B19. SELECTION OF ARBITRATOR

The arbitrator by whom an appeal made by an applicant in accordance with the provisions of this Part of the Basic Agreement shall be considered, shall be an arbitrator to be selected by the Minister or another person on his behalf from a panel of Members of the Legal Profession or other expert persons appointed by the Attorney-General for the purpose of determining appeals under this Part of the Basic Agreement.

B20. NOTIFICATION OF THE ARBITRATOR'S DECISION

The arbitrator shall notify his decision on any appeal under this part of the Basic Agreement to the Fund and the Fund shall forward a copy of the Arbitrator's decision to the applicant.

B21. PAYMENT BY THE FUND TO THE APPLICANT

Subject to the provisions of this Part of the Basic Agreement, the Fund shall pay the applicant any amount which the arbitrator has decided to be awarded to him, and that payment shall discharge the Fund from all liability under this Part of the Basic Agreement in respect of the death or injury or damage to property for which that decision has been given.

B22. COSTS OF THE APPEAL

Each party to the appeal will bear its own costs, unless otherwise decided by the arbitrator.

B23 ARBITRATOR'S FEE

The Fund shall pay the arbitrator a fee that will be decided in advance between the Fund and the Arbitrator.

Provided that, in any case where it appears to the arbitrator that there were no reasonable grounds for the appeal, the arbitrator may at his discretion decide:

- (a) that his fee must be paid by the applicant; and
- (b) that the person giving the undertaking required by Clause B13, shall be liable to reimburse the Fund the amount of the fee paid by it to the arbitrator, except in so far as that amount is deducted by the Fund from any amount which it is liable to pay to the applicant in consequence of the decision of the arbitrator.

B24. METHOD OF PAYMENT OF AMOUNT FOR THE BENEFIT OF UNDER-AGED OR INCOMPETENT APPLICANT

Where the applicant is under-aged or incompetent to manage his affairs, the amount which would be payable to him by the Fund, should be deposited in a bank account in the name of the under-aged or incompetent, provided that the Bank will certify the opening of the account and will be informed that it concerns an under-aged or incompetent person.

B25. SUMMARY PROCEDURE OF SETTLEMENT

In any case in which an application has been made to the Fund and in which a preliminary investigation under Clause B8 has disclosed that the case is one to which this Part of the Basic Agreement, save for Clause B6, applies, the Fund may, instead of causing a report to be made on the application as provided by Clause B8, make, or cause to be made, to the applicant an offer to settle his application in a specified sum, assessed in accordance with Clause B4.

B26. PARTICULARS TO ACCOMPANY THE OFFER FOR SETTLEMENT

Where an offer is made under Clause B25, there shall be provided to the applicant

(at the same time) in writing particulars of:

- (a) the circumstances in which the death or injury or damage to property was caused and the relevant evidence; and
- (b) the circumstances relevant to the assessment of the amount to be awarded to the applicant and the relevant evidence.

B27. ACCEPTANCE OF OFFER AND PAYMENT

- (1) On receipt by the Fund of an acceptance of the offer referred to in Clause B25 the Fund will pay to the applicant the amount specified in the offer.
- (2) The payment made by the Fund under paragraph (1)(b) of this Clause shall discharge it from all liability under this Part of the Basic Agreement in respect of the death or injury or damage to property for which the payment has been made.

B28. PROCEDURE FOR PAYMENT

Any payment made under this Part of the Basic Agreement will be made by cheque issued for the benefit of the applicant personally and will be delivered to him or his agent upon signature of the relevant release

Provided that, in case where, due to the physical incompetence of the applicant, or his absence abroad, his personal presence is impossible, the Fund may issue the cheque in the name of his representative following a written strict authorisation by the applicant, which is submitted according to the specified form.

NOTES
IN RELATION TO PART B OF THE BASIC AGREEMENT

The following Notes are for the guidance of those who may wish to claim against the Motor Insurers' Fund for payment under Part B of the Basic Agreement and for the guidance of their legal advisers, but they must not be taken as substituting the Agreement itself. Communications in connection with the Agreement should be addressed to the Fund, whose address is -

MOTOR INSURERS' FUND
23, Zenon Sozos Street,
P.O.Box 22025, 1516 Nicosia.
e-mail: mif@cytanet.com.cy
tel.: 22 763913 fax: 22 761007

1. This Agreement replaces the previous Agreement, dated 7th July 2000, under which the Fund was liable to make payments in respect of death or serious and permanent personal injuries resulting from the use on the road of a motor vehicle, the owner or driver of which could not be traced.
2. This Agreement shall come into force in relation to death or personal injury or damage to property arising out of an accident, as stated in Part B of the Basic Agreement, occurring on or after the 22nd June 2007.
3. Subject to the terms of Part B of the Basic Agreement, the Fund will accept applications for a payment in respect of the death of, or personal injury to or under certain circumstances damage to property of any person resulting from the use of a motor vehicle on a road in the Republic in cases in which –
 - (a) the applicant cannot trace any vehicle responsible for the death or injury or damage to property (or, in certain circumstances, a vehicle partly so responsible) (Clause B2(1)(a)); and
 - (b) the death or injury or damage to property was caused in such circumstances that the driver of the unidentified vehicle would be held liable to pay damages to the applicant in respect of the death or injury (Clause B2)(1)(b)); and
 - (c) the liability of the driver of the unidentified vehicle towards the applicant is one which at the time the accident occurred, was required to be covered by

insurance (Clause B2(1)(c)).

The Fund is not obliged to investigate the following cases:

- (a) cases concerning deliberate or premeditated attempt to cause the death, personal injury or damage to the property of the applicant;
 - (b) certain categories of "volunteer" passengers (Clause B2(2)(b)).
4. Applications for a payment under Part B of the Basic Agreement must be made in writing to the Fund within three (3) years from the date of the accident giving rise to the death or injury or damage to property (Clause B2(1)(d)).
5. Under Clause B4, the amount which the Fund will award will (except for the exclusion of those elements of damages mentioned in Clause B5) be assessed in the same way as a Court would have assessed the amount of damages payable by the driver of the unidentified vehicle had the applicant been able to bring a successful claim for damages against him.

Furthermore, in this paragraph provision is made for the acceptance by the Fund of applications and for the making of payment in relation to damage to property caused as a result of the use of a motor vehicle on a road in the Republic, provided that one of the parties involved has sustained "substantial personal injury".

As a result of the additional liability of the Fund which is mentioned above, the claimants are also under the additional liability to give written notice for the inspection of the damage of their vehicles before their repair or the removal or replacement of any components and/or spare parts which sustained damage. Furthermore, such notice should be given to the Fund within 6 months from the date of the accident to which the claim relates.

The term "substantial personal injury" is defined in the definitions included under B1 of this Part of the present Basic Agreement.

In the cases which fall under the Fund's liability for payment of compensation for damage to property as described above, the Fund shall not be liable for the first 500 euros of the damage for each and every claimant separately.

6. Clause B6 relates to cases where an unidentified vehicle and an identified vehicle are each partly responsible for a death or injury or damage to property, and defines the conditions under which the Fund will in such cases make a contribution in respect of the responsibility of the driver of the unidentified vehicle.

7. Under Clause B7(1)(b), the Fund may require the applicant to bring proceedings against any identified person who may be responsible for the death or injury or damage to property, subject to indemnifying the applicant as to its costs as provided in Clause B7(2) and (3).
8. On receipt of an application, the Fund will, if satisfied that the application comes within the terms of the Agreement, investigate the circumstances and, when this has been done, decide whether to make a payment and, if so, how much (Clause B8).
9. The Fund may request the applicant to make a declaration setting out all, or some of the facts on which his application is based (Clause B9).
10. The Fund may notify the applicant of its decision, setting out the circumstances of the case and the evidence on which it bases its decision and, if it refuses to make a payment, the reasons for the refusal (Clause B10(1)).
11. In case the applicant wishes to appeal against the decision of the Fund on the grounds specified in Clause B12, he must notify the Fund within four (4) weeks of being notified of the decision, and he or any person acting on his behalf shall give the assurances set out in Clause B13.
12. The Fund may, as a result of the comments made and further evidence submitted by the applicant on its decision, investigate the further evidence, and if so, it will communicate again with the applicant.

In such a case the applicant will have four (4) weeks from the date of that further communication in which to decide whether or not to go on with the appeal (Clause B14).
13. Where the applicant appeals only on the grounds that the amount awarded to him is too low and provided that the Fund did not accept liability for payment, the Fund may give him notice that if the matter proceeds to appeal, it will ask the arbitrator to decide also the issue of the Motor Insurers' Fund liability to make any payment. The applicant will have four (4) weeks from the date of any such notice to comment to the Fund on its intention (Clause B15).
14. Appeals will be decided by an arbitrator who will be a Jurist or other expert person selected by the Minister of Finance from a relevant panel prepared by the Attorney-General (Clause B19).

15. All appeals will be decided by the arbitrator on the basis of the relevant documents, sent to him by the Fund (Clause B16(1)(b)).

If the arbitrator asks the Fund to make a further investigation, the applicant will have an opportunity to comment on the result of that investigation (Clause B18(2)).

16. The arbitrator may, at his discretion, award the cost of this fee against the applicant if he considers the appeal unreasonable; otherwise, each party to the appeal will bear their own costs and the Fund shall pay the arbitrator's fee (Clause B22 and B23).
17. Clauses B25 to B27 provide for the use of a shorter form or procedure than that stipulated in Clause B8 with the object of securing speedier disposal of certain applications to the Fund.

The Fund may, at its discretion, offer a specified sum, providing the applicant at the same time with particulars of the circumstances of the case and of the evidence on which the offer is based. If the applicant is prepared to accept the offer, thus undertaking, on payment by the Fund, to forego any right of appeal to an arbitrator, the Fund will pay the sum offered forthwith. If the offer is not acceptable the application will thereafter be dealt with in accordance with the full procedure set out in this Part of the Agreement.

This summary form of procedure does not apply in a case where both a driver of an unidentified vehicle and an identified vehicle may each partly be responsible for payment of damages that may give rise to an application to the Fund.