



## Michigan Automobile Insurance Placement Facility

September 2, 2020

NAIC:

RE: BULLETIN NO. 179 TO ALL MEMBER COMPANIES

### CHANGES TO PLAN OF OPERATION

The Michigan Automobile Insurance Placement Facility is proposing to amend its Plan of Operation by virtue of revising Sections 3 through 5, 10, 13, 15, 17, 19, and creating new sections, Sections 20 through 24. The most significant changes are as follows:

- Section 5 – Inclusion of all MAIPF standing committees, including brief descriptions of each committee.
- Section 10 – Revisions to the process by which the Facility appoints Servicing Carriers to act on behalf of the Facility in servicing MAIPF policies.
- Section 19 and beyond – Section 19 is revised, and sections 20-24 are added, to better align the Plan with Section 3355 of the Insurance Code. (Note: These revisions were previously reviewed and voted on by membership but are now being included with the other Plan revisions to be filed with the Department of Insurance and Financial Services, if approved by Membership.)

A markup version and a clean copy of the proposed changes are available to view electronically via the Facility's website (<https://www.maipf.org/bulletins-to-member-companies>) or the electronic ballot webpage listed below.

The MAIPF Board of Governors has approved this amendment. In accordance with state law, all revisions to the Plan of Operation must be ratified by a majority vote of the membership. Therefore, we are requesting that you, as a member company, cast your ballot regarding the proposed amendment outlined above.

**Companies may cast their weighted vote at <https://www.maipf.org/web/guest/ballot> or you may return your ballot to my attention by mail or fax.**

Sincerely,

**Bret Scott**

MAIPF Operations Manager

**SECURITY KEY FOR VOTING ONLINE: plan2020**

**MAIPF Bulletin 179**

**Plan of Operation Revisions – Marked Version**

PLAN OF OPERATION

**Sec. 1. PURPOSES**

The purposes of the Michigan Automobile Insurance Placement Facility (hereinafter referred to as “the Facility”) are

- A. to provide the guarantee that automobile insurance coverage will be available to any person who is unable to procure that insurance through ordinary methods,
- B. to preserve to the public the benefits of price competition by encouraging maximum use of the normal private insurance system, and
- C. to establish procedures for the equitable distribution of Facility placed risks and Facility produced profit or loss among members.

**Sec. 2. EFFECTIVE DATE**

The Facility became a joint underwriting association effective January 1, 1981.

**Sec. 3. ADMINISTRATION**

The Facility shall be administered by a Board of Governors (hereinafter referred to as “the Board”).

The Board shall consist of eleven governors:

- A. Seven salaried employee representatives from participating members, at least three of which shall represent domestic insurers. Not more than one representative from a group of companies under the same management shall serve on the Board at the same time.

Annually, on a date fixed by the Board, participating members shall elect the representatives to serve for a period of one year or until successors have been elected. Such election shall take place at an annual meeting to be held after the annual

determination of participation ratios for the current year and to be called by the Board upon at least 20 days’ notice in writing to all members, which notice shall include a list of at least seven nominees proposed by the Board. Additional nominations, duly seconded, may be made at the annual meeting by the representatives of participating members in attendance. Each participating member shall be entitled to one vote on the weighted basis. [As set forth in Section 3303\(e\)\(iii\) of the Michigan Insurance Code,](#) such membership vote shall be weighted, based on the total Michigan automobile insurance gross direct premiums written, including policy and membership fees, less return premiums, and premiums on policies not taken, without including reinsurance assumed and without deducting reinsurance ceded for the calendar year ending December 31 of the second prior year.

[Members will be notified of a vote through the sending of a ballot to the contact person on file with the Facility. Such notification shall be by electronic mail if a valid email address is on file. If no email address is on file, the member shall be mailed a copy of the ballot. Votes can be made through electronic submission on the Facility’s website, through returning the ballot by mail, or by attendance at any meeting held in connection with the vote.](#)

Vacancies on the Board [for an insurer representative](#) shall be filled by vote of the remaining members of the Board.

- B. Two representatives of insurance agents who shall be appointed by the Director of the Department of Insurance and Financial Services (hereinafter the officer and office are referred to as the “Director” and “DIFS”, respectively).
- C. Two representatives of the general public who shall be appointed by the Director.

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- D. Governors appointed by the Director shall serve until the next annual meeting of the members and until a successor is appointed or until a resignation. Vacancies shall be filled by the Director.
- E. Reimbursement for expenses: Public and producer members appointed to the Board may be reimbursed, to the extent and in a manner approved by the Board, for their actual and necessary expenses incurred in participating in Board meetings and assigned committee meetings. As of the year 2020 ~~These~~ expenses would be reimbursed by a per diem allowance of \$150.00 per meeting attended by phone, and \$300.00 per meeting attended in person. This amount shall be adjusted each year based on the change in the consumer price index, provided that the amount of the year-over-year or cumulative change is at least ten dollars in an amount approved by the Board.
- F. Members of the Board, or any committee designated by the Board, may participate in a meeting of the Board or committee by means of conference telephone or other means of remote communication by virtue of which all persons participating in the meeting may hear or read the comments of each other, if all participants are advised of the means of remote communication in use and if the names of the participants in the meeting are divulged to all participants. Participation in a meeting pursuant to this Section shall constitute presence in person at such meeting.
- G. Any action required or permitted at any meeting of the Board of Directors may be taken without a meeting, without prior notice and without a vote if all the members of the Board of Directors entitled to vote on the action consent to it in writing either before or after the action is taken. Such action shall be as valid a corporate action as though it had been authorized at a meeting of the Board of Directors and the written consent shall be filed with the minutes of the proceedings of the Board of Directors.

**Sec. 4. COST OF OPERATION AND ADMINISTRATION**

★ Anticipated expenses for operation and administration of the Facility shall be assessed on all members who were members in the year when incurred, in the same proportions as for membership voting as set forth in Section 3303(e)(iii) of the Michigan Insurance Code. ❖

**Sec. 5. DUTIES OF THE BOARD OF GOVERNORS**

A.        The Board shall meet as often as may be required to perform the general duties of administration of the Facility. A majority of the Board present in person or by remote communication ~~Four members of the Board~~ shall constitute a quorum.

The Board shall be empowered to appoint a manager, hire legal counsel, budget expenses, levy assessments, disburse funds, develop Manuals, and exercise all powers relating to the operation of the Facility which are not in this Plan of Operation delegated to others or reserved to the members.

Annually, the manager shall prepare an operating budget in the prescribed manner for submission to the Board. Such budget shall be approved by the Board and furnished to members on request. Any expenditure in excess of, or not included in, the annual budget shall be subject to approval by the Board. The Board shall furnish to the Director and all members a written report of operations annually in such form and detail as the Board may determine.

B.        Standing Committees. The Board shall appoint standing committees whose members shall be Governors or other members of the Facility as follows:

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1. An Operations Committee, which shall review all aspects of the Facility's operations, processes and documentation.

2. An Operations Committee of the Assigned Claims Plan, which shall provide oversight, guidance, and recommendations regarding the Assigned Claims Plan operations, processes and documentation.

3. A Servicing Carrier Allowance Committee, which shall perform the duties set forth in Section 10.G. of this Plan.

4. An Investment Committee, which shall provide oversight regarding the investments held by the Facility;

5. An Executive Committee, which shall provide oversight regarding the day-to-day issues arising at the Facility that may require Board input, including personnel matters.

6. A Governance Committee, which shall provide oversight of the governance aspects of the activities of the Board and its Committees.

7. An Audit and Finance Committee, which provides oversight of the quality and integrity of the accounting, auditing and financial reporting practices of the Facility, and oversight regarding the financial results of operations of the Facility, including review and approval of the annual Facility assessment to member companies.

C. Other Committees. The Chair of the Board may appoint other standing committees or special committees as may be deemed necessary for the conduct of the Facility's affairs.

**Sec. 6. INDEMNIFICATION**

The Facility shall indemnify each individual, insurer, or servicing carrier against any and all losses, damages, judgments, interest, settlements, fines, court costs, and other reasonable costs and expenses, including attorney's fees, and any other liabilities (hereinafter, "liability") incurred by, imposed upon, or suffered by such individual, insurer or servicing carrier in connection with or resulting from any claim, action, suit, or proceeding, actual or threatened (hereinafter, "claim") arising out of and in connection with the performance of duties on any committee or on the Board of the Facility or predecessor organization or arising out of and in connection with the performance of duties as an officer or employee of the Facility or predecessor organization, or performance of its duties as a servicing carrier provided such individual, insurer, or servicing carrier:

- A. acted in good faith;
- B. reasonably believed the performance of duties was in accordance with the objectives of the Facility;
- C. had no reasonable cause to believe the performance of duties was improper or illegal;
- D. shall have promptly notified the Facility of any claim in writing at its main office;
- E. in the case of a servicing carrier, acted in accordance with the standards and requirements of its Servicing Carrier Agreement with the Facility.

Indemnification as described in this Section shall be provided whether or not the individual, insurer, or servicing carrier is still serving on the Board or on any committee of the Facility or is still an officer or employee of the Facility or is still acting as a servicing carrier at the time of the commencement of any claim, and whether or not any possible liability is incurred through the performance of duties prior to the adoption of this Section.

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Any settlement of any claim must be made with the prior approval of the Board in order for indemnification under this Section to be available.

Whenever an individual, insurer, or servicing carrier seeks indemnification under this Section, entitlement to indemnification shall be determined by the Board which shall also determine the time and manner of indemnification including reimbursement with interest.

The Facility may elect to defend, pay, or otherwise dispose of any claim, at its own cost, and will promptly advise the individual, insurer or servicing carrier seeking indemnification whether it so elects.

The cost of fulfilling the Facility's obligations under this Section shall be a cost of administration as provided in [Section 4](#).

**Sec. 7. APPLICATION FOR PLACEMENT**

Except as provided below, each licensed producer authorized to transact automobile insurance business in the state shall have access to placement of business through the Facility.

A producer whose license is suspended, revoked, or who is disqualified as in accordance with [Section 19](#) is not authorized to place business through the Facility.

- A. Applications for private passenger nonfleet automobile risks shall be submitted
  1. electronically using the Facility electronic application and rating system, or
  2. in accordance with the provisions in the [Availability](#), Policy Administration, and Service Standards Chapter of the Facility manual.

Applications for private passenger nonfleet automobiles shall be placed in accordance with [Section 8](#).

- B. All other applications shall be submitted in accordance with [Section 9](#) and the provisions in the

[Availability](#), Policy Administration, and Service Standards Chapter of the Facility manual.

“Private passenger nonfleet automobile” means a motor vehicle of the following type with at least four wheels, used in whole or in part for personal, family, or household purposes, not owned or registered by a corporation, partnership, or unincorporated association (unless leased long term to an individual or a married couple), provided it is registered for highway use and not used as a public or livery conveyance or rented to others: 2-door, 4-door, motor home, pickup, van, or station wagon (a vehicle which has one or more seats behind the driver and two or more windows on each side: e.g., minivans, SUV's etc.).

“Fleet” means five or more vehicles insured under one policy. “All other” means a motor vehicle registered for highway use and not described as a private passenger nonfleet automobile. However, fleets of five or more vehicles owned by a family with no business use are classified as “private passenger nonfleet automobile”.

**Sec. 8. PLACEMENT OF PRIVATE PASSENGER  
NONFLEET RISKS**

- A. Any qualified applicant for private passenger nonfleet insurance shall have the right to request assignment, reject assignment, or request reassignment to any designated participating member (hereinafter referred to as “servicing carrier”), that is active, as defined in [Section 10.A.5](#), subject to any limitations established to conform with contractual arrangements made by the Facility with its servicing carriers. The opportunity to request assignment and reject assignment shall be provided on the application. The opportunity to request reassignment shall be stated on the policy at the time of issuance and shall be offered in writing to the insured at the time of renewal.
- B. Limitation of Assignments: The Board shall complete a contractual arrangement with each active

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servicing carrier specifying the maximum volume of assignments which is acceptable to that servicing carrier and the period of time for which the contract is in force. Applications for private passenger nonfleet automobile insurance on which the qualified applicant has not requested assignment to a specific active servicing carrier, as defined in [Section 10.A.5](#), shall be assigned to active servicing carriers in an equitable manner recognizing the established maximum volumes of the servicing carriers. The foregoing distribution method may be modified by the Business Continuity Plan as provided in the Servicing Carrier Agreement. Applicants with outstanding premium due to a servicing carrier for a prior Facility policy will be assigned to that carrier and may not request reassignment until the outstanding obligation has been satisfied.

- C. The Board shall take such steps as may be necessary to assure the preservation of the applicant's right of free choice as specified in Section 3365 of the Michigan Insurance Code and shall report to DIFS any information indicating that the applicant's free choice of servicing carriers has been frustrated.

**Sec. 9. PLACEMENT OF ALL OTHER AUTOMOBILE RISKS**

- A. The Facility shall distribute those risks which are eligible for coverage in accordance with agreements between the Facility and members which are to service all other applicants. The foregoing distribution method may be modified by the Business Continuity Plan as provided in the Servicing Carrier Agreement.
- B. The Facility shall provide additional contractual provisions outlining the responsibilities of each servicing carrier providing coverage pursuant to this Section.

**Sec. 10. SERVICING CARRIERS**

**A. Designation—Private Passenger Nonfleet Automobile**

1. The Board shall designate participating members to act on behalf of the Facility for the servicing of insureds as necessary to do all of the following:
  - a. Assure convenient access to the Facility for all citizens of this state.
  - b. Assure a reasonable quality of service for persons insured through the Facility.
  - c. Assure a reasonable representation of the various insurance marketing systems.
  - d. Assure reasonable claims handling.
  - e. Assure a reasonable range of choice of insurers for persons insured through the Facility.
2. The members having the five highest participation ratios, as defined in Section 3303(e)(i) of the Michigan Insurance Code ([the "Top 5"](#)), shall be ~~designated~~ appointed to act on behalf of the Facility and, ~~except as provided in subsection A.5,~~ shall be required to maintain the ability to meet the qualifications set forth in this Section and [Section 18](#). For purposes of this Section, participation ratios shall be based upon the combined premium data for all affiliated insurers within a holding company system.
3. The Board shall designate up to a maximum of five other members who have volunteered to so act and who meet the standards for servicing carriers specified in this Plan of Operation and in the various manuals established by the Board. The Board may limit the total number to less than 10 carriers, if fewer than

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five volunteer and meet the standards, and provided the assurances above are satisfied.

4. The Board may designate additional members, if necessary, to satisfy the assurances above.
5. The Board may designate as few as three active private passenger nonfleet automobile servicing carriers during a low volume period. The remaining servicing carriers would be designated as "inactive." Whether designated as an "active" or "inactive" servicing carrier, ~~each servicing carrier is a servicing carrier that~~ shall be required to maintain the ability to meet the qualifications set forth in this Section and Section 18. "Low volume period" refers to a calendar year immediately following any calendar year in which the private passenger application count in the Facility is less than or equal to 1020,000.
6. On or before December 31<sup>st</sup> ~~March 1~~ of each year, the Board shall determine the Top 5 roster of servicing carriers for the following calendar year that is at least one year prior to the start date for the Top 5's service. The Board shall provide written notice to those participating members the Board designates as servicing carriers, and which shall delineate active servicing carriers and inactive servicing carriers. ~~Notice shall be provided at least nine months prior to the effective date of the Board's determination and delineation.~~
- ~~6.7.~~ An inactive servicing carrier shall be required to demonstrate its ability to meet the qualifications of Section 10 and Section 18 as of December 31<sup>st</sup> of the year before the appointment commences by providing an officer certification that it has systems in place to commence writing Facility business upon request through its own systems or through the use of a third party, such as a third-party administrator, who is acceptable to the Board. The

inactive servicing carrier shall provide documentation or other information to the Facility as it may reasonably request to confirm the servicing carrier's level of readiness.

**B. Exemption Request for Private Passenger Non-fleet Automobile Active Servicing Carriers**

A designated active servicing carrier may petition the Facility for a one-year exemption from active status prior to the first Board meeting of the year if it is determined that the Facility is in a low-volume period. An exemption shall not be granted if the active servicing carrier is one of the Top 5 unless an inactive servicing carrier is willing to take over the full responsibilities of the departing carrier, including the departing carrier's percentage share of Facility business. The petition must affirm that if the proposed departing carrier is allowed to discontinue as an active servicing carrier, it will continue to provide service on all existing policies it has been assigned and those policies written in the period prior to termination until the first renewal following the effective date of termination, unless the parties shall have mutually agreed to other arrangements for the servicing of such policies. The departing servicing carrier must also affirm it will continue to meet the qualifications of a servicing carrier while it remains one of the Top 5. The proposed agreement between the two active servicing carriers shall be submitted with the petition. The disposition of petition shall be decided at least nine months prior to the effective date of the Board's determination and delineation, and notice provided to all of the Top 5.

- C. If a servicing carrier uses a third-party administrator for servicing Facility business, the servicing carrier shall remain responsible for the actions of its designated third-party administrator and the fulfillment of the obligations of this Plan.
- D. In the event of an emergency or other situation in which the Facility finds it necessary to activate

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[another servicing carrier, the newly designated active servicing carrier must use its best efforts to receive new applications as soon as possible.](#)

**B.E. Appointment—All Other**

1. The Board shall appoint members to act on behalf of the Facility for the servicing of insureds.
2. Such members may, but shall not be required to, serve as carriers in accordance with subsection A.
3. Initial appointments shall be from those members who volunteer. Additional appointments may be made as necessary to provide full service to all types, classes, and size of applicants.

**C.F. Eligibility**

To be eligible to serve as a servicing carrier pursuant to subsection A.3 or 4 and/or subsection B, a member

1. must be in sound financial condition;
2. must be licensed and have been writing automobile personal protection, property protection, residual liability, and physical damage insurance for a minimum period of five years in the state of Michigan;
3. must have the necessary facilities to provide risks with the same level of service rendered to their voluntary market. This will include both policy and statewide claims service. If a servicing carrier normally services its voluntary market from a policy service facility not physically located in Michigan, it is acceptable to service its Facility business from this same policy service facility provided that the same level of service is maintained. If a servicing carrier does not have claim facilities in Michigan, it will be necessary to designate either another insurance company, an independent

claims adjusting firm or some other means, subject to the approval of the Board, for the purpose of statewide claims settlement and service. It must be able to service insurance claims in every state and Canada.

**D.G. Performance Standards**

In addition to the performance standards for companies in [Section 18](#), servicing carriers shall

1. not assign, transfer, or otherwise dispose of any of its rights under this Plan of Operation or the Servicing Carrier Agreement to any person; provided, however, that the servicing carrier may subcontract portions of its Facility services so long as it provides written notification thereof to the Facility, the Facility consents to the subcontract, and the servicing carrier agrees to remain primary liable to the Facility for the performance of such subcontracted portions;
2. carry out all subsequent policy transactions on a timely basis;
3. carry out all necessary accounting procedures as outlined by the manuals. These accounting procedures will include but not be limited to
  - a. billing and collection of premiums;
  - b. commission payments and statements to producers;
  - c. operation of a deferred payment system as specified in the manuals.
4. collect the necessary data to disburse commission payments monthly to producers as specified in the manuals and have the ability to store this data and deliver same to the Internal Revenue Service annually;
5. generate the statistical and accounting information in report format required by the Facility. The content and format of these reports

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will be in accordance with the rules and specifications established by the Accounting and Statistical Requirements Manual;

6. generate on a policy level and overall level the amount(s) of claim reserves in order that the Facility will be in a position to evaluate the proper reserving practices and detect possible over/under reserving. The content and format of these reports will be in accordance with the rules and specifications established by the Accounting and Statistical Requirements Manual.
7. establish an equity cancellation date for non-payment of premium on a pro rata basis;
8. at initial issue and each renewal thereafter, accomplish confirmation of driving record of each insured driver through motor vehicle reports. Servicing carriers must properly price all policies and verify classification and territory through appropriate techniques. The cost of motor vehicle records and claims exchange reports must be identified as a separate item, not included in the servicing fee, but assessed back to the members;
9. for the servicing of all other risks, in addition to the above, as appropriate:
  - a. Provide engineering and loss control service equivalent to voluntary market practice including follow-up for compliance with all reasonable safety requirements.
  - b. Attempt to secure and verify account loss history from the previous carrier/carriers to insure proper application of any applicable premium surcharge or rating plans.
  - c. Audit following account expiration or cancellation.
  - d. Make maintain, and cancel all certificates and filings in accordance with any municipal, state, or federal requirements.

E.H. Allowances

Servicing carriers shall be compensated for Facility business on a reasonable basis, as determined by the Board from time to time, to fairly compensate for all operating costs as incurred, and the reasonable expense incurred in settling claims. A standing committee, including at least two members that are not servicing carriers, shall recommend the reimbursement method and monitor the results of the method adopted. Incentives may be utilized to secure and maintain high standards of policyholder service and efficient claims administration. The method of compensating servicing carriers approved by the Board shall be stated in the Accounting and Statistical Requirements Manual.

F.I. Terminations

1. [A Top 5 servicing carrier may only terminate its status as an active servicing carrier in the manner specified in Section 10.B.](#) Any other servicing carrier voluntarily terminating its association as a contracting servicing carrier for the Facility shall be required to provide advance notice in writing to the Board of the Facility, [and its termination shall be governed by this Section 10.I.](#) Such notice shall be directed to the ~~General Manager~~[Executive Director](#) of the Facility at its office. The ~~General Manager~~[Executive Director](#) shall confirm in writing to the sender the receipt of the notice of termination as a contracting servicing carrier.

The advance notice of termination shall specify a period of time, no less than six months hence or such earlier time as the parties shall mutually agree when the terminating servicing carrier will cease accepting new applications. The effective date shall be based on the date of receipt in the Facility ~~o~~Office of the notice.

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The terminating servicing carrier will in its letter of termination as a servicing carrier to the Facility affirm its commitment to continue to provide service on all existing policies and those policies written in the notice period until their first renewal following the effective date of termination, unless the parties shall have mutually agreed to other arrangements for the servicing of such policies.

2. In the event that it becomes necessary for the Board to terminate the association of a servicing carrier with the Facility such notice shall be given in writing by the chairman of the board to the chief executive officer of the servicing carrier. Such notice shall specify a future date, which shall be not less than six months hence or such earlier time as the parties shall mutually agree at which time the servicing carrier will no longer be authorized to accept new business on behalf of the Facility.

The notice to the terminated servicing carrier will further stipulate that the servicing carrier will be expected, in good faith, to the best of its ability to continue to provide service on existing policies until the first policy renewal date following the effective date of the termination notice unless the parties shall have mutually agreed to other arrangements for the service of such policies.

3. Upon receipt of the notice of termination by a servicing carrier to the Facility or upon notice by the Board of the termination of association with a servicing carrier, the chairman of the board will within 10 days notify all the servicing carriers of the action and solicit from them such information as is needed to make a determination of the remaining servicing carriers' capacity to serve the insuring public. All servicing carriers are required to

respond within 30 days from the date of the request.

Upon receipt of the response from the remaining servicing carriers, the Board of the Facility shall determine if the remaining carriers have adequate capacity to serve the departing servicing carriers' business in accordance with the performance standards for a servicing carrier.

Should the Board find that the remaining servicing carriers are unable to service the departing carriers' customers and agents then the Board shall appoint an additional carrier or carriers it deems can best serve the consumer and producers on behalf of the Facility.

4. In the event any servicing carrier experiences unanticipated or unusual operational difficulties that would impair its ability to continue to meet the established servicing carrier performance standards, the Board, at its discretion, may take such action as it may deem appropriate to alleviate the difficulties.
5. Claims—Contingency Procedures
  - a. Any carrier voluntarily withdrawing from business as a servicing carrier of the Facility shall, unless otherwise agreed, service to a conclusion all claims (including pendings, late reporteds, and reopens) that occurred prior to the renewal, transfer, or termination of the particular policy involved subsequent to the effective date of the withdrawal. Such claims will be subject to periodic reviews by an auditor designated by the Facility.
  - b. Upon receipt of advance notice of termination or insolvency, or if the Board finds it necessary to terminate the association

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of a servicing carrier, the Board may request a special claim file review of a representative sample of open claim files. The review will enable the Board to determine

- (1) the appropriate action for further handling of Facility claim files;
- (2) the level of work completed on the files; and
- (3) estimate future adjustment expense needed for completion of claim file work.
- (4) if the terminating carrier is meeting and will continue to meet industry claim handling standards, it shall continue the handling of its Facility files to a conclusion;
- (5) if the terminating carrier has not met industry claim standards, is insolvent, or refuses or is unable to further handle the claims, the Board should consider the following options:
  - (a) Allow the carrier to handle to a conclusion all outstanding claims reported to the carrier prior to its withdrawal. All subsequently reported claims are to be reassigned by the Facility.
  - (b) The carrier will retain only suit files where competent counsel is handling and the carrier is meeting industry standards. All other claims are to be reassigned by the Facility.
  - (c) Place settlement authority limitations on all claims until reassignment by the Facility. Final settlement authority, until reassign-

ment, is to be vested in the Facility ~~General Manager~~Executive Director.

- (d) Return of all claim files and notices to the Facility for reassignment.
- (6) reassignment of claims should be made to one carrier, if practical, or to as limited a number of carriers as possible. If more than one succeeding carrier is required, the distribution will be under the direction of the Facility ~~General Manager~~Executive Director.
- c. The succeeding carrier shall be reimbursed for servicing expenses on reassigned claims. The Board may consider payment of
  - (1) a flat servicing fee; or
  - (2) a flat fee per file; or
  - (3) actual expenses based on the succeeding carrier utilizing
    - (a) independent adjusters (with added increment for supervision); or
    - (b) its own staff.
  - (4) such other arrangement as is fair and equitable to all parties.All previously incurred allocated adjustment expenses not paid by the withdrawing carrier are subject to reimbursement to the succeeding carrier by the Facility.
- d. The terminating carrier has received a claim service fee which contemplated its bringing the claims to a proper conclusion.

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The Board shall consider negotiation of reimbursement to the Facility from Claim service fees previously paid the withdrawing carrier, based on added expenses to the Facility for services not completed. The amount negotiated should be based on the estimated incomplete claim work still to be performed on reported claims and on actuarially determined IBNR claims.

- e. The records of all reassigned claims indemnity payments expenses incurred must, among other required information, be kept statistically separated. It is the duty of the Facility ~~General Manager~~Executive Director to notify the statistical and any other interested agency of the withdrawals and reassignments.

**G.J. Audits**

- 1. The books of account, records, reports, and other documents of the Facility shall be open and free for examination to the Director at all reasonable hours.

The books of account, records, reports, and other documents of the Facility shall be open to inspection by members at such times and under such conditions and regulations as the Board shall determine.

The Facility shall provide for the making of detailed reports of liability assumed or cancelled, and for the rendering of accounts to each member at least every 12 months during the continuance of membership.

The books of account of the Facility shall be audited at least every 12 months by a firm of independent public accountants designated by the Board.

The books of account of servicing carriers relating to their administration of the Facility

business shall be audited in the manner designated by the Board.

The Facility financial controls, processing, and claim records shall be reviewed annually in accordance with the guidelines established by the Board, such as the following:

Self-Audit Guidelines

MAIPF Manual

Performance Standards for Companies

- 2. The Facility may audit the records of any member relating to the subject matter of the Plan of Operation and may, by rule, establish what policies, records, books of account, documents, and related material it deems necessary to carry out its functions. Such material shall be provided by the members of the form and with the frequency reasonably required by the Facility.

**Sec. 11. PARTICIPATION RATIOS—ASSESSMENT—RECOUPMENT**

- A. Facility losses, expenses, and gains shall be determined on the basis of generally accepted insurance accounting principles as incorporated in the Annual Statement blank.
- B. For purposes of establishing a basis for allocation of Facility expenses plus losses or minus profits, each company licensed to write automobile insurance in Michigan shall permit its statistical agencies to report the statistical information to the Facility.
- C. Each member company will be liable for that proportion of the (1) private passenger nonfleet automobile liability experience that its respective voluntary private passenger liability net direct written car years bear to the statewide total of

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voluntary private passenger liability net direct written car years of all member companies in the state (except as otherwise provided in Section 11.D), and (2) private passenger nonfleet automobile physical damage experience that its respective voluntary private passenger physical damage net direct written car years bear to the statewide total of voluntary private passenger physical damage net direct written car years of all member companies in the state (except as otherwise provided in Section 11.D), and (3) all other automobile liability experience that its respective voluntary all other automobile liability premiums bear to the statewide total of all other automobile liability premiums of all member insurers in the state, and (4) all other automobile physical damage experience that its respective voluntary all other automobile physical damage direct written premiums bear to the statewide total of voluntary all other automobile physical damage direct written premiums of all member insurers in the state.

For purposes of such allocation as described above (1) voluntary private passenger liability net direct written car years, and (2) voluntary private passenger physical damage net direct written car years, and (3) voluntary all other automobile liability direct written premiums, and (4) voluntary all other automobile physical damage direct written premiums shall be as defined below:

1. “Voluntary private passenger liability net direct written car years” shall be the number of private passenger automobile bodily injury liability car years written by the company in the state for the calendar year ending December 31 of the second prior year of the experience being distributed, regardless of the type of private passenger automobile liability policy under which such car years are written, excluding private passenger Facility car years, which are coded as private passenger nonfleet automobile under the Automobile Liability Statistical Plan in use by the statistical agent designated by the member company.
2. “Voluntary private passenger physical damage net direct written car years” shall be the total of one quarter of the total private passenger nonfleet automobile physical damage excluding collision net direct written car years and three quarters of the number of private passenger nonfleet automobile collision net direct written car years written by the company in the state for the calendar year ending December 31 of the second prior year of the experience being distributed, regardless of the type of private passenger physical damage policy under which such car years are written, excluding private passenger Facility car years, which are coded as private passenger nonfleet automobile under the Automobile Physical Damage Statistical Plan in use by the statistical agent designated by the member company.
3. “Voluntary all other automobile liability premiums” shall be the automobile bodily injury and property damage liability, personal protection insurance, and property protection insurance premiums shown on page 15 of each member insurer’s Annual Statement, minus the total private passenger nonfleet automobile bodily injury and property damage liability, personal protection insurance, property protection insurance voluntary premiums written by the insurer in the state during the calendar year ending December 31 of the second prior year of the experience being distributed, and minus the total Facility liability written premiums allocated to the insurer for the fiscal year ending September 30 of the corresponding calendar year. Such voluntary all other premiums shall exclude the total premiums for death and disability coverage written by the insurer. Such premium shall be

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- gross direct premiums, including policy membership fees, less return premium and premium on policies not taken, without including reinsurance assumed and without deducting reinsurance ceded, but including premiums for other than private passenger excess of loss policies, except in the case of an insurer which writes no basic limits automobile liability insurance.
4. "Voluntary all other automobile physical damage premiums" shall be the automobile physical damage premium shown on page 15 of each member insurer's Annual Statement, minus the total of private passenger nonfleet automobile physical damage premium written by the insurer in the state during the calendar year ending December 31 of the second prior year of the experience being distributed and minus the total Facility physical damage written premiums allocated to the insurer for the fiscal year ending September 30 of the corresponding calendar year. Such premium shall be gross direct premiums, including policy and membership fees, less return premium and premium on policies not taken, without including reinsurance assumed and without deducting reinsurance ceded.
- D. Each member company shall be liable for all costs or expenses not chargeable to the allocated experience of any class of business in the proportion of that member company's Michigan automobile insurance gross direct premiums written, including policy and membership fees, less return premiums and premiums on policies not taken, without including reinsurance assumed and without deducting reinsurance ceded for the calendar year ending December 31 of the second prior year of the experience being distributed, to the comparable statewide totals for all members.
- E. All of the data necessary to comply with the foregoing distribution procedures shall be reported to AIPSO by each member company or by the statistical agencies designated by such companies and each company agrees to permit its statistical agent to release such data to AIPSO and agrees that its statistical agent shall be permitted to furnish AIPSO with statements of its experience.
- F. Effective with 2004 base data, for companies that do not report data necessary to comply with the foregoing distribution procedures, AIPSO shall increase the premiums reported by the company on its annual statement to the NAIC by 25% for assessment purposes. In addition, a charge will be made for reporting services. If the assessment results in a distribution of Facility funds to the company, the distribution shall not be made. Data corrections made after October 15<sup>th</sup> will not be accepted.
- G. The Board may periodically, but not less than annually, assess members if necessary to defray operating losses of the Facility arising from the placement of Facility risks. Such assessment shall be filed with the Commissioner and shall be allocated among the members in accordance with this Section.
- H. Any assessments paid by participating members under this Section or [Section 4](#) may be recouped through a surcharge included in the insurance rates filed with the Director for automobile policies issued by the member and/or on behalf of the Facility.
- I. In the event a member company discontinues writing automobile liability or physical damage insurance in this state, it shall continue to pay assessments until its proportionate share established by its writings prior to discontinuance of business has been determined and paid; provided, however that if the automobile liability or physical damage insurance in this state has been

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purchased by, transferred to, or reinsured by another company, the latter shall receive the assessments of the former until the proportionate share of the former as established by its writings prior to such transfer has been determined and paid, unless another company has agreed, in manner satisfactory to the Board, to assume such obligation.

No assessments shall be levied nor shall any be made to a member company which has written no automobile liability or physical damage insurance during the period for which the proportionate shares are based. Groups of companies under the same ownership and management must be treated as a single company under these provisions. Groups of companies under either the same ownership or management, but not both, may elect to be treated either separately or as a single company.

**J. Negotiation of Settlement of Balances with Companies in Rehabilitation**

On behalf of the Facility, AIPSO shall negotiate the best offer or settlement of balances due for Facility assessments and participation and shall protect the financial interest of the Facility. It is understood that all settlement offers are subject to the approval of the Board of Governors.

- K. Assessments levied under this Section shall be paid in full by members within such period of time as the Board may establish, after the assessment charge is billed by the Facility. Payment shall be made in cash.

**Sec. 12. COVERAGE**

Servicing carriers shall make available uniform coverage to persons who are qualified under the [Availability](#), Policy Administration, and Service Standards Chapter of the MAIPF Manual. Coverage afforded shall be equivalent to that afforded by policy forms as specified in the MAIPF Manual.

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**Sec. 13. RATES**

- A. All risks placed through the Facility shall be subject to the rules, rates, surcharges, minimum premiums, and classifications filed by the Facility. [Rates for private passenger nonfleet automobiles shall be determined in the manner set forth in MCL 500.3340\(4\). Rates for all other lines shall be determined using losses, expenses, and sound actuarial principles for that line of business.](#)
- B. All of the statistical data required to develop the appropriate rates shall be furnished to AIPSO by each servicing carrier or by a statistical agency designated by such servicing carrier. Each servicing carrier agrees to permit its statistical agent to release such data to AIPSO and agrees that its statistical agent shall be permitted to furnish AIPSO with statements of its Facility experience. All statistical data shall be provided in accordance with the annual AISPO statistical program. It is the responsibility of each servicing carrier to ensure that the above statistical reporting requirements are met if they furnish the data directly or if they utilize a designated statistical agency.

**Sec. 14. COMMISSION**

Each licensed producer authorized to transact automobile insurance business in the state shall be entitled to place business with the Facility and is entitled to receive commissions. However, a producer who has been disqualified or whose license is suspended or revoked is not entitled to place business with the Facility or receive commissions.

The determination of whether a producer is entitled to receive a commission (i.e., the agent is authorized) is made at the time the entitlement to receive the commissions occurs. A producer who is unauthorized at the time of the renewal or endorsement of a policy placed through the Facility may not be paid a commission.

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- A. Commission to authorized producers shall be as follows:
1. For long haul trucking risks and public passenger carrying vehicles other than school buses, 5% of the policy premium for commission to a licensed producer designated by the insured;
  2. For other risks, 10% of the policy premium for commission to a licensed producer designated by the insured.

**Note:** For policies that include vehicles described under both A.1 and 2 above, commission will be based on whichever class in A.1 or 2 generates 80% of the policy premium. For those policies that include vehicles described under both A.1 and 2 above and neither class generates 80% of the policy premium, 5% commission will be paid.

- B. Commission may not be retained by the producer of record under any circumstances.

1. Commission will be based on premiums collected.
2. New and Renewal Policies

Commissions will be paid by the servicing carrier not less frequently than monthly and will be made within 30 days after the close of the month in which the commission was credited to the producer's account.

3. Endorsements—Additional Premium

Commission may be paid by the servicing carrier at the time the endorsement is issued or in accordance with procedures for new and renewal policies.

- C. Unearned commission shall be returned by the producer of record to the insurer under the following circumstances:
1. Cancellation of the policy
  2. Downward adjustment of premium because of change in classification, cancellation, or reduction in coverage or substitution of automobile

**Sec. 15. DEFERRED PREMIUM PAYMENT**

Except for risks requiring ~~noncancellable~~[noncancellable](#), 100% prepaid policies to comply with the registration requirements of Section 22a of the Michigan Vehicle Code, the deferred payments plan shall be available to applications of the Facility.

**Sec. 16. AMENDMENT TO PLAN OF OPERATION**

Amendment of this Plan of Operation may be made by a majority vote of the Board subject to the ratification of a majority vote of the membership and subject to the approval of the Commissioner. Such membership vote shall be in accordance with [Section 3](#) of this Plan.

**Sec. 17. RIGHT OF APPEAL**

- A. Any participating member, applicant, or person insured under a policy placed through the Facility may request a formal hearing and ruling by the Board of the Facility [or its designee](#) for any of the following:
1. An alleged violation of the Plan of Operation
  2. Any alleged improper act or ruling of the Facility directly affecting an assessment, premium, or coverage furnished
  3. A participating member's application to service risks

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- B. A request for hearing must be filed within 30 days after the date of the alleged act or decision. Such hearing shall be held within 30 days after the request is received by the Facility [unless the parties otherwise agree to another date](#).
- C. A right to a hearing under subsection A shall not apply to any claim arising out of insurance provided by any participating member.
- D. Any formal ruling by the Board may be appealed to the Director by filing notice of appeal with the Facility and Director within 30 days after issuance of the ruling.
- E. The Director shall issue an order approving the action or decision, disapproving the action or decision, or directing the Board to reconsider the ruling.

**Sec. 18. PERFORMANCE STANDARDS FOR SERVICING CARRIERS**

- A. Servicing carriers must meet the following time standards for servicing Facility risks:
  - 1. Issuance of Policy  
The servicing carrier must mail an appropriate policy to the insured within 30 calendar days of receipt of the completed application.
  - 2. Acknowledgment  
The servicing carrier will act on all requests within 30 days or acknowledge the receipt of such a request.
  - 3. Renewal Policies or Certification  
Renewal policies or certification will be issued and mailed within 30 days of receipt of renewal premium.
  - 4. Endorsement  
Within 30 days of receipt of request for endorsement, the servicing carrier will issue

such endorsement or acknowledge receipt of the request.

- 5. Cancellation  
Any request for cancellation of the policy shall be processed and notice mailed within 30 calendar days of the servicing carrier's receipt of such request.
- 6. Return Premium  
The servicing carrier must mail the return premium check, credit the renewal billing, or apply to any outstanding balance due, within 30 days of a request for cancellation or endorsement resulting in return premium.
- 7. Commission  
Commission must be paid in accordance with [Section 14](#).

- 8. Underwriting  
Servicing carriers will underwrite new business and renewal policies according to the Servicing Carrier Agreement.

- B. The following standards apply to performance concerning:
  - 1. Producer Information  
The servicing carrier must supply producers with
    - a. copy of renewal billing broken down by price per coverage;
    - b. notice of policy changes affecting coverage or premium;
    - c. notice of change of address;
    - d. notice of change in vehicles.
  - 2. Internal Review Procedures

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The servicing carrier must comply with Section 2113 of Chapter 21 Michigan Insurance Code.

3. Compliance

All servicing carriers shall comply with all rules and procedures as outlined in the manuals of the Facility.

4. Claim Handling

- a. The servicing carrier shall provide policyholders with information on how and where to report claims.
- b. The servicing carrier is responsible for handling all claims properly and promptly in accordance with the terms of the contract of insurance subject to limits of coverage provided. Claim adjustment practices and procedures of each servicing carrier shall correspond with those followed for the voluntary business. The servicing carrier must comply with any fair claim practices legislation.

a bill, and make any required financial responsibility or motor carrier filings. This includes, but is not limited to:

(1) Valid vehicle ownership documentation;

(2) Valid driver's licenses for all vehicle operators;

(1)(3) Valid documentation related to coverage selection, rejection, or discounts; when required under the laws of the State of Michigan and/or MAIPF Producer Performance Guidelines.

a-b. Name, address, and system identification number of producer; and

b-c. Original Signature of applicant and producer and the name of the producer legibly printed or typed

2. Deposit premiums shall be submitted concurrently and in accordance with Producer Performance with the application in accordance with the Facility rules. Guidelines

3. For all applications where applicants are seeking immediate coverage, Producers must complete the "Immediate Coverage" section of the application. The application must be mailed with adequate postage, include the appropriate deposit and/or premium amount, and must be submitted Applications requiring immediate coverage shall have the immediate coverage section of the application completed and mailed with adequate postage within the required time frame in accordance with Producer Performance Guidelines the Facility rules.

**Sec.19. PERFORMANCE STANDARDS FOR PRODUCERS OF RECORD**

Producers must ~~meet~~ adhere to the performance standards listed below and as further delineated within the MAIPF Manual, Producer Guide, and Producer Violation Guidelines (which are incorporated herein by reference and collectively constitute the "Producer Performance Guidelines") ~~for~~ when placing and servicing Facility risks: \_\_\_\_\_

**A. Original Applications**

- 1. Applications shall be fully completed and must include the following:
  - a. Necessary information, in accordance with the Producer Performance Guidelines, to rate and issue the policy, prepare

**B. Return Commissions**

Return commissions shall be paid within fifteen (15) days from the date of notice to the producer.

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**C. Policy Change Request**

When an insured requests a policy change, the producer must report it to the servicing carrier with the required deposit, if necessary, and the necessary information to complete the requested change, in accordance with Producer Performance Guidelines, within the required time frame using the required form.

**D. Claims**

When an insured reports an accident or claim to the producer, the producer shall report it to the carrier within one working day in accordance with the instructions of the insurer. If requested by the carrier, the producer shall provide the best known contact information for the insured for the purposes of conducting the claims process.

**E. Payments**

Producers shall remit all payments received from insureds within one working day.

**F. Electronic Application and Rating System**

1. Producers of record who are authorized to transact automobile insurance business in the state shall use have the option to use the MAIPF electronic application and rating system ("ERS") to complete applications unless the system is unavailable. Applications completed in the ERS by using the electronic application and rating system must be submitted with required documentation and deposit premiums as set forth under the rules for original applications outlined in under Sec. tion119.A. Coverage will be effective only when the electronic submission is transmitted in accordance with Producer Performance Guidelines under the procedures established and authorized by the Facility and the completed application is delivered to the Facility Office.
2. Retraction Procedure  
Following assignment of a confirmation number and prior to the mailing of a completed signed application to the Facility, the producer of record may retract the application in accordance with Producer Performance Guidelines, Facility procedures.
3. ~~If violations pertaining to the use of the ERS electronic application and rating system have~~

occurred, the MAIPF Director of Operations or his/her functional equivalent General Manager may recommend limit edation access, suspension of access for a period of time, and/or immediate termination of access producer access to the System ERS. The determination regarding Producer access may be based on the egregious nature of the conduct, the repetitive nature of the conduct, and the gravity of the circumstances (i.e. access and conduct which constitutes unlawful or prohibited conduct under the laws of the State of Michigan will result in immediate termination of access to the ERS). The Facility shall notify the producer in writing of the limitation or suspension and will provide a written statement of the alleged violations against the producer. A producer may appeal the Facility's decision in accordance with Secs. 22 and 23 of the Plan. request a hearing before the Board of Governors, or its designee, to appeal suspension of his or her access to the electronic application and rating system. Appeals must be made in writing to the General Manager, who will then schedule a hearing to take place within 20 business days of the request. Within seven days of the hearing, the Facility shall notify the producer, in writing, of the Board of Governors' decision. Any final decision of the Board of Governors under this Section shall be subject to the right of appeal to the Director.

4. ~~Procedures for Compliance with the Performance Standards for Producers~~
5. ~~The Facility shall maintain a record of infractions of performance standards and shall bring repeated violations to the producer's attention via telephone and/or a letter to the producer. This contact will include a warning that if violations continue to occur, the producer may be disqualified.~~
6. ~~If repeated violations have occurred, the Facility shall determine if a hearing is warranted, and shall so notify the producer. If repeated violations continue after the hearing, the Facility will refer the producer to the Board of Governors, or its designee, with a~~

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- history of the producer's violations. Serious and flagrant violations of Facility performance standards, including but not limited to falsified applications and/or certificates, may result in a hearing and the possibility of immediate disqualification.
7. The Board of Governors, or its designee, shall determine if the Facility should continue to monitor the producer, or if the producer should be disqualified.
8. Disqualification
9. If the Board of Governors, or its designee, disqualifies the producer, the following action shall be taken:
10. The Facility shall send a notice to the producer via certified mail, with a copy to DIFS, indicating that disqualification will go into effect 15 days from the date of the letter. The notice shall include information required by Section 3355(7C).
11. If the producer does not respond to the above notice from the Facility, the disqualification shall go into effect, and the Facility shall notify DIFS.
12. The producer may appeal the decision to the Facility, in writing, within 15 days from the date of the notice of disqualification. The producer may, upon written request and payment of a reasonable copying charge, receive any information pertinent to the disqualification.
13. Appeal to the Board of Governors
14. If the producer appeals the decision in writing, a hearing will be held within 10 business days of the written request.
15. The Board, or its designee, will rule within five business days after the hearing.
16. During the Board of Governors appeal process, disqualification is suspended until the final ruling by the Board, or its designee.
17. If the Board, or its designee, determines that the producer should not be disqualified, the disqualification shall be lifted, and the Facility shall continue to monitor violations.
18. If the Board, or its designee, determines that the producer should be disqualified, the Facility shall send a notice to the producer advising
19. the disqualification shall take effect five days from the date of the notice;
20. the date when the producer would be eligible to request that the disqualification be removed and the procedures for such a request;
21. procedures and instructions for the producer to appeal the decision to the Director, including that the request must be made in writing and within 30 days from the date of the Board's ruling.
22. Appeal to Director
23. **Disqualification shall be in effect during the appeal process to the Director.**
24. If the producer appeals the decision by the Board of Governors, or its designee, in writing to the Director, the Director will conduct a hearing.
25. If the Director disapproves the disqualification, the Facility will continue to monitor violations.
26. The Director may request the Board of Governors to reconsider the disqualification. If requested, the Board, or its designee, shall meet within 10 business days of receipt of the request, and shall issue its decision within five business days after meeting.
27. If the producer does not make an appeal to the Board of Governors or the Director in writing, no further action by the Facility is necessary.
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**Sec. 20. COMPLIANCE WITH PERFORMANCE  
STANDARDS**

Producers are expected to comply with the Producer Performance Guidelines, as defined within Sec. 19.

**A. Assessment of Violations**

The Facility shall maintain a record of a producer's violations of the Producer Performance Guidelines, either due to action or inaction, and shall notify the producer of repeated violations in writing. This notification will include a warning that if violations continue to occur, the producer may be disqualified. In addition to written notification, the Facility may also contact the producer via telephone.

If repeated violations of the Producer Performance Guidelines continue to occur after the first notification, the Facility shall notify the producer of the repeated violations in writing. Within thirty (30) calendar days of the second notification letter, the producer must participate in a training session provided by Facility staff. If the required training is not completed, the producer may be subject to disqualification. If repeated infractions of performance standards contained in this section continue after the training session, notice will be sent to the producer advising him/her of his/her right to a hearing before the Facility.

**B. Serious & Flagrant Violations/Immediate Disqualification**

Serious and flagrant violations of the Producer Performance Guidelines may result in referral for a hearing before the Facility and/or potential immediate disqualification.

Actions which may result in immediate disqualification include, but are not limited to:

1. Material and willful misrepresentation or falsified information on the part of the producer;
2. Failure to forward all monies collected from the insured in a timely manner;

~~**Assessment of Violations**~~

3. Manipulation of the MAIPF ERS to generate a lower rate; and/or
4. Conduct which constitutes unlawful or prohibited conduct under the laws of the State of Michigan.

**C. Hearing Before the Facility**

In the event the producer is referred for a hearing before the Facility, the producer shall be notified in writing. The notice of hearing with Facility staff shall include:

1. Reasons for the hearing and identifying specific violations and/or deficiencies to be addressed at the hearing;
2. A brief description of the hearing process, including notification that the hearing will take place with a court reporter for the purpose of taking sworn testimony;
3. A statement that should the producer choose not to appear for the hearing, this may serve as an additional basis for disqualification; and
4. A statement that a written response to the notice, via email or mail, must be provided within ten (10) calendar days of the date of notice.

During the hearing, the Facility shall present its findings and the producer will be afforded an opportunity to respond to the findings. Based on the information obtained during the hearing, the Facility shall determine if the producer's conduct warrants escalation to the Board of Governors, or its designee, for immediate consideration of disqualification. If the Facility determines escalation is unwarranted at the time, and if violations persist, the Facility may then refer the producer to the Board of Governors, or its designee, for consideration of disqualification.

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**Sec. 21. DISQUALIFICATION**

The Facility may disqualify a producer who persistently violates Producer Performance Guidelines, acts in contravention of Michigan civil, criminal and/or administrative laws including laws governing producers and the Insurance Code, or is assessed serious/flagrant violations warranting immediate disqualification as set forth herein.

In the event of disqualification by the Board of Governors, or its designee, the Facility shall send written notification, which conforms with MCL 500.3355(7)(c), to the producer via certified mail with a copy to the Department of Insurance and Financial Services, or its equivalent.

Said disqualification shall become effective fifteen (15) calendar days from the date of the notification letter.

On or after the effective date of the disqualification, the disqualified producer shall not do any of the following during the period of disqualification:

- A. Solicit, negotiate, or effect automobile insurance on behalf of any participating member through the facility.
- B. Submit new applications to the facility.
- C. Service any existing facility policies except as permitted by the Facility's Producer Performance Guidelines.
- D. Be entitled to compensation for either new business applications or renewals.
- E. Obtain any binders, certificates or other supplies from the facility. Existing binders or other supplies shall be surrendered to the facility upon request.

Disqualification under this section does not affect the disqualified producer's authority to place automobile insurance through an authorized insurer in the voluntary market.

**Sec. 22. APPEAL OF FACILITY DECISIONS TO THE BOARD OF GOVERNORS, OR ITS DESIGNEE**

A producer may submit a written request for appeal hearing before the Facility's Board of Governors, or its designee, no later than ten (10) business days of the date of a letter notifying the producer of a Facility decision. If a written request for appeal hearing is received by the Facility, the Facility shall suspend its decision pending a ruling by the Board of Governors, or its designee. Upon written request and payment of a reasonable copying charge, the producer shall receive any information pertinent to the disqualification.

The Board of Governors, or its designee, shall hold a hearing no later than ten (10) business days after receipt of the written request for appeal hearing.

During the hearing, the Facility shall present its findings and the producer will be afforded an opportunity to respond to the findings. The Board of Governors, or its designee, shall determine if there were sufficient grounds for the Facility's decision based on the information presented during the appeal hearing. If additional information is necessary, the Board of Governors, or its designees, shall request such information in writing from the relevant party.

The Board of Governors, or its designee, shall issue a ruling no later than five (5) days after the hearing (or no later than five (5) days after the request for additional information is dated) and shall so notify the producer, the Facility and the Department of Insurance and Financial Services, or its equivalent. A ruling of disqualification by the Board of Governors, or its designee, shall become effective five (5) calendar days after the date of ruling.

**Sec. 23. APPEAL OF FACILITY DECISIONS TO THE DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES OR ITS EQUIVALENT**

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A ruling of disqualification by the Facility's Board, or its designee, or other Facility decisions may be appealed to the Department of Insurance and Financial Services or its equivalent by filing a written notice of appeal with the Facility and the Department within thirty (30) calendar days after the date of the ruling or date of notification of the Facility decision.

The disqualification ruling shall remain in effect during the appeal process with the Department of Insurance and Financial Services. The appeal process with the Department of Insurance and Financial Services shall be in accordance with the standards, rules and guidelines as set forth by the Department, and not by the Facility.

**Sec. 24. REINSTATEMENT AFTER  
DISQUALIFICATION**

A producer who has been disqualified may petition the Facility for reinstatement after the disqualification period has run in accordance with MCL 500.3355(7)(b). The petition must be in writing and shall contain, at a minimum, the following:

- A. Documented corrective action plan(s) developed to prevent future violations of Producer Performance Guidelines; and
- B. Written verification and/or acknowledgment by the producer that the documented corrective plan(s) have been implemented and shared with any and all agency employees involved with submitting business to the Facility and/or servicing of existing Facility customers.

The producer may provide additional information in his/her petition to be considered by the Facility.

Upon receipt of a petition to remove a disqualification, the Facility shall consider the information provided by the producer and notify the producer, in writing, of its

decision within ten (10) business days of receipt of the written request. The Facility may, at its discretion, seek input from the Board of Governors, or its designee, prior to rendering a decision regarding reinstatement. If the Facility determines reinstatement is not appropriate, it shall provide the reason(s) for the determination.

The producer may appeal the Facility's unfavorable decision in accordance with Secs. 22 and 23, if necessary.

Future conduct and violations will be assessed in accordance with the Plan of Operations and the Producer Performance Guidelines.

Producers and any and all agency employees involved with submitting business to the Facility and/or servicing of existing Facility customers will also be required to attend a training session, the terms of which will be determined by the Facility, within thirty (30) calendar days of the effective date of the reinstatement/removal of the disqualification.

If the producer, and any other employee who is involved in the submission of applications to the Facility or the servicing of existing Facility customers, fails to attend the training session within thirty (30) calendar days, access to the ERS will be suspended until the required training session has been completed.

A producer whose license is suspended or revoked by the Department of Insurance and Financial Services at the time of petition is ineligible for reinstatement with the Facility. Upon re-activation or reinstatement of the producer's license by the Department of Insurance and Financial Services, the producer may petition the Facility for removal of disqualification in accordance with this section and subject to the Producer Performance Guidelines.

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**Plan of Operation Revisions – Unmarked Version**

**PLAN OF OPERATION**

**Sec. 1. PURPOSES**

The purposes of the Michigan Automobile Insurance Placement Facility (hereinafter referred to as “the Facility”) are

- A. to provide the guarantee that automobile insurance coverage will be available to any person who is unable to procure that insurance through ordinary methods,
- B. to preserve to the public the benefits of price competition by encouraging maximum use of the normal private insurance system, and
- C. to establish procedures for the equitable distribution of Facility placed risks and Facility produced profit or loss among members.

**Sec. 2. EFFECTIVE DATE**

The Facility became a joint underwriting association effective January 1, 1981.

**Sec. 3. ADMINISTRATION**

The Facility shall be administered by a Board of Governors (hereinafter referred to as “the Board”).

The Board shall consist of eleven governors:

- A. Seven salaried employee representatives from participating members, at least three of which shall represent domestic insurers. Not more than one representative from a group of companies under the same management shall serve on the Board at the same time.

Annually, on a date fixed by the Board, participating members shall elect the representatives to serve for a period of one year or until successors have been elected. Such election shall take place at an annual meeting to be held after the annual determination of participation ratios for the current year and to be called by the Board upon at least 20 days’ notice in writing to all members, which notice shall include a list of at least seven nominees proposed by the Board. Additional nominations, duly seconded, may be made at the annual meeting by the representatives of participating members in attendance. Each participating member shall be entitled to one vote on the weighted basis. As set forth in Section 3303(e)(iii) of the Michigan Insurance Code, such membership vote shall be weighted, based on the total Michigan automobile insurance gross direct premiums written, including policy and membership fees, less return premiums, and premiums on policies not taken, without including reinsurance assumed and without deducting reinsurance ceded for the calendar year ending December 31 of the second prior year.

Members will be notified of a vote through the sending of a ballot to the contact person on file with the Facility. Such notification shall be by electronic mail if a valid email address is on file. If no email address is on file, the member shall be mailed a copy of the ballot. Votes can be made through electronic submission on

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the Facility's website, through returning the ballot by mail, or by attendance at any meeting held in connection with the vote.

Vacancies on the Board for an insurer representative shall be filled by vote of the remaining members of the Board.

- B. Two representatives of insurance agents who shall be appointed by the Director of the Department of Insurance and Financial Services (hereinafter the officer and office are referred to as the "Director" and "DIFS", respectively).
- C. Two representatives of the general public who shall be appointed by the Director.
- D. Governors appointed by the Director shall serve until the next annual meeting of the members and until a successor is appointed or until a resignation. Vacancies shall be filled by the Director.
- E. Reimbursement for expenses: Public and producer members appointed to the Board may be reimbursed, to the extent and in a manner approved by the Board, for their actual and necessary expenses incurred in participating in Board meetings and assigned committee meetings. As of the year 2020 these expenses would be reimbursed by a per diem allowance of \$150.00 per meeting attended by phone, and \$300.00 per meeting attended in person. This amount shall be adjusted each year based on the change in the consumer price index, provided that the amount of the year-over-year or cumulative change is at least ten dollars.
- F. Members of the Board, or any committee designated by the Board, may participate in a meeting of the Board or committee by means of conference telephone or other means of remote communication by virtue of which all persons participating in the meeting may hear or read the comments of each other, if all participants are advised of the means of remote communication in use and if the names of the participants in the meeting are divulged to all participants. Participation in a meeting pursuant to this Section shall constitute presence in person at such meeting.
- G. Any action required or permitted at any meeting of the Board of Directors may be taken without a meeting, without prior notice and without a vote if all the members of the Board of Directors entitled to vote on the action consent to it in writing either before or after the action is taken. Such action shall be as valid a corporate action as though it had been authorized at a meeting of the Board of Directors and the written consent shall be filed with the minutes of the proceedings of the Board of Directors.

### **Sec. 4. COST OF OPERATION AND ADMINISTRATION**

★Anticipated expenses for operation and administration of the Facility shall be assessed on all members who were members in the year when incurred, in the same proportions as for membership voting as set forth in Section 3303(e)(iii) of the Michigan Insurance Code.❖

### **Sec. 5. DUTIES OF THE BOARD OF GOVERNORS**

A. The Board shall meet as often as may be required to perform the general duties of administration of the Facility. A majority of the Board present in person or by remote communication shall constitute a quorum.

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The Board shall be empowered to appoint a manager, hire legal counsel, budget expenses, levy assessments, disburse funds, develop Manuals, and exercise all powers relating to the operation of the Facility which are not in this Plan of Operation delegated to others or reserved to the members.

Annually, the manager shall prepare an operating budget in the prescribed manner for submission to the Board. Such budget shall be approved by the Board and furnished to members on request. Any expenditure in excess of, or not included in, the annual budget shall be subject to approval by the Board. The Board shall furnish to the Director and all members a written report of operations annually in such form and detail as the Board may determine.

B. Standing Committees. The Board shall appoint standing committees whose members shall be Governors or other members of the Facility as follows:

1. An Operations Committee, which shall review all aspects of the Facility's operations, processes and documentation.
2. An Operations Committee of the Assigned Claims Plan, which shall provide oversight, guidance, and recommendations regarding the Assigned Claims Plan operations, processes and documentation.
3. A Servicing Carrier Allowance Committee, which shall perform the duties set forth in Section 10.G. of this Plan.
4. An Investment Committee, which shall provide oversight regarding the investments held by the Facility;
5. An Executive Committee, which shall provide oversight regarding the day-to-day issues arising at the Facility that may require Board input, including personnel matters.
6. A Governance Committee, which shall provide oversight of the governance aspects of the activities of the Board and its Committees.
7. An Audit and Finance Committee, which provides oversight of the quality and integrity of the accounting, auditing and financial reporting practices of the Facility, and oversight regarding the financial results of operations of the Facility, including review and approval of the annual Facility assessment to member companies.

C. Other Committees. The Chair of the Board may appoint other standing committees or special committees as may be deemed necessary for the conduct of the Facility's affairs.

## **Sec. 6. INDEMNIFICATION**

The Facility shall indemnify each individual, insurer, or servicing carrier against any and all losses, damages, judgments, interest, settlements, fines, court costs, and other reasonable costs and expenses, including attorney's

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fees, and any other liabilities (hereinafter, “liability”) incurred by, imposed upon, or suffered by such individual, insurer or servicing carrier in connection with or resulting from any claim, action, suit, or proceeding, actual or threatened (hereinafter, “claim”) arising out of and in connection with the performance of duties on any committee or on the Board of the Facility or predecessor organization or arising out of and in connection with the performance of duties as an officer or employee of the Facility or predecessor organization, or performance of its duties as a servicing carrier provided such individual, insurer, or servicing carrier:

- A. acted in good faith;
- B. reasonably believed the performance of duties was in accordance with the objectives of the Facility;
- C. had no reasonable cause to believe the performance of duties was improper or illegal;
- D. shall have promptly notified the Facility of any claim in writing at its main office;
- E. in the case of a servicing carrier, acted in accordance with the standards and requirements of its Servicing Carrier Agreement with the Facility.

Indemnification as described in this Section shall be provided whether or not the individual, insurer, or servicing carrier is still serving on the Board or on any committee of the Facility or is still an officer or employee of the Facility or is still acting as a servicing carrier at the time of the commencement of any claim, and whether or not any possible liability is incurred through the performance of duties prior to the adoption of this Section.

Any settlement of any claim must be made with the prior approval of the Board in order for indemnification under this Section to be available.

Whenever an individual, insurer, or servicing carrier seeks indemnification under this Section, entitlement to indemnification shall be determined by the Board which shall also determine the time and manner of indemnification including reimbursement with interest.

The Facility may elect to defend, pay, or otherwise dispose of any claim, at its own cost, and will promptly advise the individual, insurer or servicing carrier seeking indemnification whether it so elects.

The cost of fulfilling the Facility’s obligations under this Section shall be a cost of administration as provided in [Section 4](#).

### **Sec. 7. APPLICATION FOR PLACEMENT**

Except as provided below, each licensed producer authorized to transact automobile insurance business in the state shall have access to placement of business through the Facility.

A producer whose license is suspended, revoked, or who is disqualified as in accordance with [Section 19](#) is not authorized to place business through the Facility.

- A. Applications for private passenger nonfleet automobile risks shall be submitted
  - 1. electronically using the Facility electronic application and rating system, or

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2. in accordance with the provisions in the [Availability](#), Policy Administration, and Service Standards Chapter of the Facility manual.

Applications for private passenger nonfleet automobiles shall be placed in accordance with [Section 8](#).

- B. All other applications shall be submitted in accordance with [Section 9](#) and the provisions in the [Availability](#), Policy Administration, and Service Standards Chapter of the Facility manual.

“Private passenger nonfleet automobile” means a motor vehicle of the following type with at least four wheels, used in whole or in part for personal, family, or household purposes, not owned or registered by a corporation, partnership, or unincorporated association (unless leased long term to an individual or a married couple), provided it is registered for highway use and not used as a public or livery conveyance or rented to others: 2-door, 4-door, motor home, pickup, van, or station wagon (a vehicle which has one or more seats behind the driver and two or more windows on each side: e.g., minivans, SUV’s etc.).

“Fleet” means five or more vehicles insured under one policy. “All other” means a motor vehicle registered for highway use and not described as a private passenger nonfleet automobile. However, fleets of five or more vehicles owned by a family with no business use are classified as “private passenger nonfleet automobile”.

### **Sec. 8. PLACEMENT OF PRIVATE PASSENGER NONFLEET RISKS**

- A. Any qualified applicant for private passenger nonfleet insurance shall have the right to request assignment, reject assignment, or request reassignment to any designated participating member (hereinafter referred to as “servicing carrier”), that is active, as defined in [Section 10.A.5](#), subject to any limitations established to conform with contractual arrangements made by the Facility with its servicing carriers. The opportunity to request assignment and reject assignment shall be provided on the application. The opportunity to request reassignment shall be stated on the policy at the time of issuance and shall be offered in writing to the insured at the time of renewal.
- B. Limitation of Assignments: The Board shall complete a contractual arrangement with each active servicing carrier specifying the maximum volume of assignments which is acceptable to that servicing carrier and the period of time for which the contract is in force. Applications for private passenger nonfleet automobile insurance on which the qualified applicant has not requested assignment to a specific active servicing carrier, as defined in [Section 10.A.5](#), shall be assigned to active servicing carriers in an equitable manner recognizing the established maximum volumes of the servicing carriers. The foregoing distribution method may be modified by the Business Continuity Plan as provided in the Servicing Carrier Agreement. Applicants with outstanding premium due to a servicing carrier for a prior Facility policy will be assigned to that carrier and may not request reassignment until the outstanding obligation has been satisfied.
- C. The Board shall take such steps as may be necessary to assure the preservation of the applicant’s right of free choice as specified in Section 3365 of the Michigan Insurance Code and shall report to DIFS any information indicating that the applicant’s free choice of servicing carriers has been frustrated.

**Sec. 9. PLACEMENT OF ALL OTHER AUTOMOBILE RISKS**

- A. The Facility shall distribute those risks which are eligible for coverage in accordance with agreements between the Facility and members which are to service all other applicants. The foregoing distribution method may be modified by the Business Continuity Plan as provided in the Servicing Carrier Agreement.
- B. The Facility shall provide additional contractual provisions outlining the responsibilities of each servicing carrier providing coverage pursuant to this Section.

**Sec. 10. SERVICING CARRIERS**

**A. Designation—Private Passenger Nonfleet Automobile**

- 1. The Board shall designate participating members to act on behalf of the Facility for the servicing of insureds as necessary to do all of the following:
  - a. Assure convenient access to the Facility for all citizens of this state.
  - b. Assure a reasonable quality of service for persons insured through the Facility.
  - c. Assure a reasonable representation of the various insurance marketing systems.
  - d. Assure reasonable claims handling.
  - e. Assure a reasonable range of choice of insurers for persons insured through the Facility.
- 2. The members having the five highest participation ratios, as defined in Section 3303(e)(i) of the Michigan Insurance Code (the “Top 5”), shall be appointed to act on behalf of the Facility and shall be required to maintain the ability to meet the qualifications set forth in this Section and [Section 18](#). For purposes of this Section, participation ratios shall be based upon the combined premium data for all affiliated insurers within a holding company system.
- 3. The Board shall designate up to a maximum of five other members who have volunteered to so act and who meet the standards for servicing carriers specified in this Plan of Operation and in the various manuals established by the Board. The Board may limit the total number to less than 10 carriers, if fewer than five volunteer and meet the standards, and provided the assurances above are satisfied.
- 4. The Board may designate additional members, if necessary, to satisfy the assurances above.
- 5. The Board may designate as few as three active private passenger nonfleet automobile servicing carriers during a low volume period. The remaining servicing carriers would be designated as “inactive.” Whether designated as an “active” or “inactive” servicing carrier, each servicing carrier shall be required to maintain the ability to meet the qualifications set forth in this Section and Section 18. “Low volume period” refers to a calendar year immediately following any calendar year in which the private passenger application count in the Facility is less than or equal to 20,000.
- 6. On or before December 31<sup>st</sup> of each year, the Board shall determine the Top 5 for the calendar year that is at least one year prior to the start date for the Top 5’s service. The Board shall provide written notice

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to those participating members the Board designates as servicing carriers, and which shall delineate active servicing carriers and inactive servicing carriers.

7. An inactive servicing carrier shall be required to demonstrate its ability to meet the qualifications of Section 10 and Section 18 as of December 31st of the year before the appointment commences by providing an officer certification that it has systems in place to commence writing Facility business upon request through its own systems or through the use of a third party, such as a third-party administrator, who is acceptable to the Board. The inactive servicing carrier shall provide documentation or other information to the Facility as it may reasonably request to confirm the servicing carrier's level of readiness.

### **B. Exemption Request for Private Passenger Nonfleet Automobile Active Servicing Carriers**

A designated active servicing carrier may petition the Facility for a one-year exemption from active status prior to the first Board meeting of the year if it is determined that the Facility is in a low-volume period. An exemption shall not be granted if the active servicing carrier is one of the Top 5 unless an inactive servicing carrier is willing to take over the full responsibilities of the departing carrier, including the departing carrier's percentage share of Facility business. The petition must affirm that if the proposed departing carrier is allowed to discontinue as an active servicing carrier, it will continue to provide service on all existing policies it has been assigned and those policies written in the period prior to termination until the first renewal following the effective date of termination, unless the parties shall have mutually agreed to other arrangements for the servicing of such policies. The departing servicing carrier must also affirm it will continue to meet the qualifications of a servicing carrier while it remains one of the Top 5. The proposed agreement between the two active servicing carriers shall be submitted with the petition. The disposition of petition shall be decided at least nine months prior to the effective date of the Board's determination and delineation, and notice provided to all of the Top 5.

- C. If a servicing carrier uses a third-party administrator for servicing Facility business, the servicing carrier shall remain responsible for the actions of its designated third-party administrator and the fulfillment of the obligations of this Plan.
- D. In the event of an emergency or other situation in which the Facility finds it necessary to activate another servicing carrier, the newly designated active servicing carrier must use its best efforts to receive new applications as soon as possible.

### **E. Appointment—All Other**

1. The Board shall appoint members to act on behalf of the Facility for the servicing of insureds.
2. Such members may, but shall not be required to, serve as carriers in accordance with subsection A.
3. Initial appointments shall be from those members who volunteer. Additional appointments may be made as necessary to provide full service to all types, classes, and size of applicants.

### **F. Eligibility**

To be eligible to serve as a servicing carrier pursuant to subsection A.3 or 4 and/or subsection B, a member

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1. must be in sound financial condition;
2. must be licensed and have been writing automobile personal protection, property protection, residual liability, and physical damage insurance for a minimum period of five years in the state of Michigan;
3. must have the necessary facilities to provide risks with the same level of service rendered to their voluntary market. This will include both policy and statewide claims service. If a servicing carrier normally services its voluntary market from a policy service facility not physically located in Michigan, it is acceptable to service its Facility business from this same policy service facility provided that the same level of service is maintained. If a servicing carrier does not have claim facilities in Michigan, it will be necessary to designate either another insurance company, an independent claims adjusting firm or some other means, subject to the approval of the Board, for the purpose of statewide claims settlement and service. It must be able to service insurance claims in every state and Canada.

#### G. Performance Standards

In addition to the performance standards for companies in [Section 18](#), servicing carriers shall

1. not assign, transfer, or otherwise dispose of any of its rights under this Plan of Operation or the Servicing Carrier Agreement to any person; provided, however, that the servicing carrier may subcontract portions of its Facility services so long as it provides written notification thereof to the Facility, the Facility consents to the subcontract, and the servicing carrier agrees to remain primary liable to the Facility for the performance of such subcontracted portions;
2. carry out all subsequent policy transactions on a timely basis;
3. carry out all necessary accounting procedures as outlined by the manuals. These accounting procedures will include but not be limited to
  - a. billing and collection of premiums;
  - b. commission payments and statements to producers;
  - c. operation of a deferred payment system as specified in the manuals.
4. collect the necessary data to disburse commission payments monthly to producers as specified in the manuals and have the ability to store this data and deliver same to the Internal Revenue Service annually;
5. generate the statistical and accounting information in report format required by the Facility. The content and format of these reports will be in accordance with the rules and specifications established by the Accounting and Statistical Requirements Manual;
6. generate on a policy level and overall level the amount(s) of claim reserves in order that the Facility will be in a position to evaluate the proper reserving practices and detect possible over/under reserving. The content and format of these reports will be in accordance with the rules and specifications established by the Accounting and Statistical Requirements Manual.
7. establish an equity cancellation date for nonpayment of premium on a pro rata basis;

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8. at initial issue and each renewal thereafter, accomplish confirmation of driving record of each insured driver through motor vehicle reports. Servicing carriers must properly price all policies and verify classification and territory through appropriate techniques. The cost of motor vehicle records and claims exchange reports must be identified as a separate item, not included in the servicing fee, but assessed back to the members;
9. for the servicing of all other risks, in addition to the above, as appropriate:
  - a. Provide engineering and loss control service equivalent to voluntary market practice including follow-up for compliance with all reasonable safety requirements.
  - b. Attempt to secure and verify account loss history from the previous carrier/carriers to insure proper application of any applicable premium surcharge or rating plans.
  - c. Audit following account expiration or cancellation.
  - d. Make maintain, and cancel all certificates and filings in accordance with any municipal, state, or federal requirements.

**H. Allowances**

Servicing carriers shall be compensated for Facility business on a reasonable basis, as determined by the Board from time to time, to fairly compensate for all operating costs as incurred, and the reasonable expense incurred in settling claims. A standing committee, including at least two members that are not servicing carriers, shall recommend the reimbursement method and monitor the results of the method adopted. Incentives may be utilized to secure and maintain high standards of policyholder service and efficient claims administration. The method of compensating servicing carriers approved by the Board shall be stated in the Accounting and Statistical Requirements Manual.

**I. Terminations**

1. A Top 5 servicing carrier may only terminate its status as an active servicing carrier in the manner specified in Section 10.B. Any other servicing carrier voluntarily terminating its association as a contracting servicing carrier for the Facility shall be required to provide advance notice in writing to the Board of the Facility, and its termination shall be governed by this Section 10.I Such notice shall be directed to the Executive Director of the Facility at its office. The Executive Director shall confirm in writing to the sender the receipt of the notice of termination as a contracting servicing carrier.

The advance notice of termination shall specify a period of time, no less than six months hence or such earlier time as the parties shall mutually agree when the terminating servicing carrier will cease accepting new applications. The effective date shall be based on the date of receipt in the Facility office of the notice.

The terminating servicing carrier will in its letter of termination as a servicing carrier to the Facility affirm its commitment to continue to provide service on all existing policies and those policies written in the notice period until their first renewal following the effective date of termination, unless the parties shall have mutually agreed to other arrangements for the servicing of such policies.

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2. In the event that it becomes necessary for the Board to terminate the association of a servicing carrier with the Facility such notice shall be given in writing by the chairman of the board to the chief executive officer of the servicing carrier. Such notice shall specify a future date, which shall be not less than six months hence or such earlier time as the parties shall mutually agree at which time the servicing carrier will no longer be authorized to accept new business on behalf of the Facility.

The notice to the terminated servicing carrier will further stipulate that the servicing carrier will be expected, in good faith, to the best of its ability to continue to provide service on existing policies until the first policy renewal date following the effective date of the termination notice unless the parties shall have mutually agreed to other arrangements for the service of such policies.

3. Upon receipt of the notice of termination by a servicing carrier to the Facility or upon notice by the Board of the termination of association with a servicing carrier, the chairman of the board will within 10 days notify all the servicing carriers of the action and solicit from them such information as is needed to make a determination of the remaining servicing carriers' capacity to serve the insuring public. All servicing carriers are required to respond within 30 days from the date of the request.

Upon receipt of the response from the remaining servicing carriers, the Board of the Facility shall determine if the remaining carriers have adequate capacity to serve the departing servicing carriers' business in accordance with the performance standards for a servicing carrier.

Should the Board find that the remaining servicing carriers are unable to service the departing carriers' customers and agents then the Board shall appoint an additional carrier or carriers it deems can best serve the consumer and producers on behalf of the Facility.

4. In the event any servicing carrier experiences unanticipated or unusual operational difficulties that would impair its ability to continue to meet the established servicing carrier performance standards, the Board, at its discretion, may take such action as it may deem appropriate to alleviate the difficulties.

#### 5. Claims—Contingency Procedures

- a. Any carrier voluntarily withdrawing from business as a servicing carrier of the Facility shall, unless otherwise agreed, service to a conclusion all claims (including pendings, late reporteds, and reopens) that occurred prior to the renewal, transfer, or termination of the particular policy involved subsequent to the effective date of the withdrawal. Such claims will be subject to periodic reviews by an auditor designated by the Facility.
- b. Upon receipt of advance notice of termination or insolvency, or if the Board finds it necessary to terminate the association of a servicing carrier, the Board may request a special claim file review of a representative sample of open claim files. The review will enable the Board to determine
  - (1) the appropriate action for further handling of Facility claim files;
  - (2) the level of work completed on the files; and
  - (3) estimate future adjustment expense needed for completion of claim file work.

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- (4) if the terminating carrier is meeting and will continue to meet industry claim handling standards, it shall continue the handling of its Facility files to a conclusion;
  - (5) if the terminating carrier has not met industry claim standards, is insolvent, or refuses or is unable to further handle the claims, the Board should consider the following options:
    - (a) Allow the carrier to handle to a conclusion all outstanding claims reported to the carrier prior to its withdrawal. All subsequently reported claims are to be reassigned by the Facility.
    - (b) The carrier will retain only suit files where competent counsel is handling and the carrier is meeting industry standards. All other claims are to be reassigned by the Facility.
    - (c) Place settlement authority limitations on all claims until reassignment by the Facility. Final settlement authority, until reassignment, is to be vested in the Facility Executive Director.
    - (d) Return of all claim files and notices to the Facility for reassignment.
  - (6) reassignment of claims should be made to one carrier, if practical, or to as limited a number of carriers as possible. If more than one succeeding carrier is required, the distribution will be under the direction of the Facility Executive Director.
- c. The succeeding carrier shall be reimbursed for servicing expenses on reassigned claims. The Board may consider payment of
- (1) a flat servicing fee; or
  - (2) a flat fee per file; or
  - (3) actual expenses based on the succeeding carrier utilizing
    - (a) independent adjusters (with added increment for supervision); or
    - (b) its own staff.
  - (4) such other arrangement as is fair and equitable to all parties.

All previously incurred allocated adjustment expenses not paid by the withdrawing carrier are subject to reimbursement to the succeeding carrier by the Facility.

- d. The terminating carrier has received a claim service fee which contemplated its bringing the claims to a proper conclusion.

The Board shall consider negotiation of reimbursement to the Facility from Claim service fees previously paid the withdrawing carrier, based on added expenses to the Facility for services not completed. The amount negotiated should be based on the estimated incomplete claim work still to be performed on reported claims and on actuarially determined IBNR claims.

- e. The records of all reassigned claims indemnity payments expenses incurred must, among other required information, be kept statistically separated. It is the duty of the Facility Executive Director to notify the statistical and any other interested agency of the withdrawals and reassignments.

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J. **Audits**

1. The books of account, records, reports, and other documents of the Facility shall be open and free for examination to the Director at all reasonable hours.

The books of account, records, reports, and other documents of the Facility shall be open to inspection by members at such times and under such conditions and regulations as the Board shall determine.

The Facility shall provide for the making of detailed reports of liability assumed or cancelled, and for the rendering of accounts to each member at least every 12 months during the continuance of membership.

The books of account of the Facility shall be audited at least every 12 months by a firm of independent public accountants designated by the Board.

The books of account of servicing carriers relating to their administration of the Facility business shall be audited in the manner designated by the Board.

The Facility financial controls, processing, and claim records shall be reviewed annually in accordance with the guidelines established by the Board, such as the following:

Self-Audit Guidelines

MAIPF Manual

Performance Standards for Companies

2. The Facility may audit the records of any member relating to the subject matter of the Plan of Operation and may, by rule, establish what policies, records, books of account, documents, and related material it deems necessary to carry out its functions. Such material shall be provided by the members of the form and with the frequency reasonably required by the Facility.

**Sec. 11. PARTICIPATION RATIOS—ASSESSMENT—RECOUPMENT**

- A. Facility losses, expenses, and gains shall be determined on the basis of generally accepted insurance accounting principles as incorporated in the Annual Statement blank.
- B. For purposes of establishing a basis for allocation of Facility expenses plus losses or minus profits, each company licensed to write automobile insurance in Michigan shall permit its statistical agencies to report the statistical information to the Facility.
- C. Each member company will be liable for that proportion of the (1) private passenger nonfleet automobile liability experience that its respective voluntary private passenger liability net direct written car years bear to the statewide total of voluntary private passenger liability net direct written car years of all member companies in the state (except as otherwise provided in Section 11.D), and (2) private passenger nonfleet automobile physical damage experience that its respective voluntary private passenger physical damage net direct written car years bear to the statewide total of voluntary private passenger physical damage net direct written car years of all member companies in the state (except as otherwise provided in Section 11.D), and

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(3) all other automobile liability experience that its respective voluntary all other automobile liability premiums bear to the statewide total of all other automobile liability premiums of all member insurers in the state, and (4) all other automobile physical damage experience that its respective voluntary all other automobile physical damage direct written premiums bear to the statewide total of voluntary all other automobile physical damage direct written premiums of all member insurers in the state.

For purposes of such allocation as described above (1) voluntary private passenger liability net direct written car years, and (2) voluntary private passenger physical damage net direct written car years, and (3) voluntary all other automobile liability direct written premiums, and (4) voluntary all other automobile physical damage direct written premiums shall be as defined below:

1. "Voluntary private passenger liability net direct written car years" shall be the number of private passenger automobile bodily injury liability car years written by the company in the state for the calendar year ending December 31 of the second prior year of the experience being distributed, regardless of the type of private passenger automobile liability policy under which such car years are written, excluding private passenger Facility car years, which are coded as private passenger nonfleet automobile under the Automobile Liability Statistical Plan in use by the statistical agent designated by the member company.
2. "Voluntary private passenger physical damage net direct written car years" shall be the total of one quarter of the total private passenger nonfleet automobile physical damage excluding collision net direct written car years and three quarters of the number of private passenger nonfleet automobile collision net direct written car years written by the company in the state for the calendar year ending December 31 of the second prior year of the experience being distributed, regardless of the type of private passenger physical damage policy under which such car years are written, excluding private passenger Facility car years, which are coded as private passenger nonfleet automobile under the Automobile Physical Damage Statistical Plan in use by the statistical agent designated by the member company.
3. "Voluntary all other automobile liability premiums" shall be the automobile bodily injury and property damage liability, personal protection insurance, and property protection insurance premiums shown on page 15 of each member insurer's Annual Statement, minus the total private passenger nonfleet automobile bodily injury and property damage liability, personal protection insurance, property protection insurance voluntary premiums written by the insurer in the state during the calendar year ending December 31 of the second prior year of the experience being distributed, and minus the total Facility liability written premiums allocated to the insurer for the fiscal year ending September 30 of the corresponding calendar year. Such voluntary all other premiums shall exclude the total premiums for death and disability coverage written by the insurer. Such premium shall be gross direct premiums, including policy membership fees, less return premium and premium on policies not taken, without including reinsurance assumed and without deducting reinsurance ceded, but including premiums for other than private passenger excess of loss policies, except in the case of an insurer which writes no basic limits automobile liability insurance.

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4. "Voluntary all other automobile physical damage premiums" shall be the automobile physical damage premium shown on page 15 of each member insurer's Annual Statement, minus the total of private passenger nonfleet automobile physical damage premium written by the insurer in the state during the calendar year ending December 31 of the second prior year of the experience being distributed and minus the total Facility physical damage written premiums allocated to the insurer for the fiscal year ending September 30 of the corresponding calendar year. Such premium shall be gross direct premiums, including policy and membership fees, less return premium and premium on policies not taken, without including reinsurance assumed and without deducting reinsurance ceded.
- D. Each member company shall be liable for all costs or expenses not chargeable to the allocated experience of any class of business in the proportion of that member company's Michigan automobile insurance gross direct premiums written, including policy and membership fees, less return premiums and premiums on policies not taken, without including reinsurance assumed and without deducting reinsurance ceded for the calendar year ending December 31 of the second prior year of the experience being distributed, to the comparable statewide totals for all members.
- E. All of the data necessary to comply with the foregoing distribution procedures shall be reported to AIPSO by each member company or by the statistical agencies designated by such companies and each company agrees to permit its statistical agent to release such data to AIPSO and agrees that its statistical agent shall be permitted to furnish AIPSO with statements of its experience.
- F. Effective with 2004 base data, for companies that do not report data necessary to comply with the foregoing distribution procedures, AIPSO shall increase the premiums reported by the company on its annual statement to the NAIC by 25% for assessment purposes. In addition, a charge will be made for reporting services. If the assessment results in a distribution of Facility funds to the company, the distribution shall not be made. Data corrections made after October 15<sup>th</sup> will not be accepted.
- G. The Board may periodically, but not less than annually, assess members if necessary to defray operating losses of the Facility arising from the placement of Facility risks. Such assessment shall be filed with the Commissioner and shall be allocated among the members in accordance with this Section.
- H. Any assessments paid by participating members under this Section or [Section 4](#) may be recouped through a surcharge included in the insurance rates filed with the Director for automobile policies issued by the member and/or on behalf of the Facility.
- I. In the event a member company discontinues writing automobile liability or physical damage insurance in this state, it shall continue to pay assessments until its proportionate share established by its writings prior to discontinuance of business has been determined and paid; provided, however that if the automobile liability or physical damage insurance in this state has been purchased by, transferred to, or reinsured by another company, the latter shall receive the assessments of the former until the proportionate share of the former as established by its writings prior to such transfer has been determined and paid, unless another company has agreed, in manner satisfactory to the Board, to assume such obligation.

No assessments shall be levied nor shall any be made to a member company which has written no automobile liability or physical damage insurance during the period for which the proportionate shares are based.

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Groups of companies under the same ownership and management must be treated as a single company under these provisions. Groups of companies under either the same ownership or management, but not both, may elect to be treated either separately or as a single company.

#### J. **Negotiation of Settlement of Balances with Companies in Rehabilitation**

On behalf of the Facility, AIPSO shall negotiate the best offer or settlement of balances due for Facility assessments and participation and shall protect the financial interest of the Facility. It is understood that all settlement offers are subject to the approval of the Board of Governors.

- K. Assessments levied under this Section shall be paid in full by members within such period of time as the Board may establish, after the assessment charge is billed by the Facility. Payment shall be made in cash.

### **Sec. 12. COVERAGE**

Servicing carriers shall make available uniform coverage to persons who are qualified under the [Availability](#), Policy Administration, and Service Standards Chapter of the MAIPF Manual. Coverage afforded shall be equivalent to that afforded by policy forms as specified in the MAIPF Manual.

### **Sec. 13. RATES**

- A. All risks placed through the Facility shall be subject to the rules, rates, surcharges, minimum premiums, and classifications filed by the Facility. Rates for private passenger nonfleet automobiles shall be determined in the manner set forth in MCL 500.3340(4). Rates for all other lines shall be determined using losses, expenses, and sound actuarial principles for that line of business.
- B. All of the statistical data required to develop the appropriate rates shall be furnished to AIPSO by each servicing carrier or by a statistical agency designated by such servicing carrier. Each servicing carrier agrees to permit its statistical agent to release such data to AIPSO and agrees that its statistical agent shall be permitted to furnish AIPSO with statements of its Facility experience. All statistical data shall be provided in accordance with the annual AISPO statistical program. It is the responsibility of each servicing carrier to ensure that the above statistical reporting requirements are met if they furnish the data directly or if they utilize a designated statistical agency.

### **Sec. 14. COMMISSION**

Each licensed producer authorized to transact automobile insurance business in the state shall be entitled to place business with the Facility and is entitled to receive commissions. However, a producer who has been disqualified or whose license is suspended or revoked is not entitled to place business with the Facility or receive commissions.

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The determination of whether a producer is entitled to receive a commission (i.e., the agent is authorized) is made at the time the entitlement to receive the commissions occurs. A producer who is unauthorized at the time of the renewal or endorsement of a policy placed through the Facility may not be paid a commission.

A. Commission to authorized producers shall be as follows:

1. For long haul trucking risks and public passenger carrying vehicles other than school buses, 5% of the policy premium for commission to a licensed producer designated by the insured;
2. For other risks, 10% of the policy premium for commission to a licensed producer designated by the insured.

**Note:** For policies that include vehicles described under both A.1 and 2 above, commission will be based on whichever class in A.1 or 2 generates 80% of the policy premium. For those policies that include vehicles described under both A.1 and 2 above and neither class generates 80% of the policy premium, 5% commission will be paid.

B. Commission may not be retained by the producer of record under any circumstances.

1. Commission will be based on premiums collected.
2. New and Renewal Policies

Commissions will be paid by the servicing carrier not less frequently than monthly and will be made within 30 days after the close of the month in which the commission was credited to the producer's account.

3. Endorsements—Additional Premium

Commission may be paid by the servicing carrier at the time the endorsement is issued or in accordance with procedures for new and renewal policies.

C. Unearned commission shall be returned by the producer of record to the insurer under the following circumstances:

1. Cancellation of the policy
2. Downward adjustment of premium because of change in classification, cancellation, or reduction in coverage or substitution of automobile

### **Sec. 15. DEFERRED PREMIUM PAYMENT**

Except for risks requiring noncancelable, 100% prepaid policies to comply with the registration requirements of Section 22a of the Michigan Vehicle Code, the deferred payments plan shall be available to applications of the Facility.

**Sec. 16. AMENDMENT TO PLAN OF OPERATION**

Amendment of this Plan of Operation may be made by a majority vote of the Board subject to the ratification of a majority vote of the membership and subject to the approval of the Commissioner. Such membership vote shall be in accordance with [Section 3](#) of this Plan.

**Sec. 17. RIGHT OF APPEAL**

- A. Any participating member, applicant, or person insured under a policy placed through the Facility may request a formal hearing and ruling by the Board of the Facility or its designee for any of the following:
  - 1. An alleged violation of the Plan of Operation
  - 2. Any alleged improper act or ruling of the Facility directly affecting an assessment, premium, or coverage furnished
  - 3. A participating member's application to service risks
- B. A request for hearing must be filed within 30 days after the date of the alleged act or decision. Such hearing shall be held within 30 days after the request is received by the Facility unless the parties otherwise agree to another date.
- C. A right to a hearing under subsection A shall not apply to any claim arising out of insurance provided by any participating member.
- D. Any formal ruling by the Board may be appealed to the Director by filing notice of appeal with the Facility and Director within 30 days after issuance of the ruling.
- E. The Director shall issue an order approving the action or decision, disapproving the action or decision, or directing the Board to reconsider the ruling.

**Sec. 18. PERFORMANCE STANDARDS FOR SERVICING CARRIERS**

- A. Servicing carriers must meet the following time standards for servicing Facility risks:
  - 1. Issuance of Policy  
The servicing carrier must mail an appropriate policy to the insured within 30 calendar days of receipt of the completed application.
  - 2. Acknowledgment  
The servicing carrier will act on all requests within 30 days or acknowledge the receipt of such a request.
  - 3. Renewal Policies or Certification  
Renewal policies or certification will be issued and mailed within 30 days of receipt of renewal premium.
  - 4. Endorsement

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Within 30 days of receipt of request for endorsement, the servicing carrier will issue such endorsement or acknowledge receipt of the request.

#### 5. Cancellation

Any request for cancellation of the policy shall be processed and notice mailed within 30 calendar days of the servicing carrier's receipt of such request.

#### 6. Return Premium

The servicing carrier must mail the return premium check, credit the renewal billing, or apply to any outstanding balance due, within 30 days of a request for cancellation or endorsement resulting in return premium.

#### 7. Commission

Commission must be paid in accordance with [Section 14](#).

#### 8. Underwriting

Servicing carriers will underwrite new business and renewal policies according to the Servicing Carrier Agreement.

### B. The following standards apply to performance concerning:

#### 1. Producer Information

The servicing carrier must supply producers with

- a. copy of renewal billing broken down by price per coverage;
- b. notice of policy changes affecting coverage or premium;
- c. notice of change of address;
- d. notice of change in vehicles.

#### 2. Internal Review Procedures

The servicing carrier must comply with Section 2113 of Chapter 21 Michigan Insurance Code.

#### 3. Compliance

All servicing carriers shall comply with all rules and procedures as outlined in the manuals of the Facility.

#### 4. Claim Handling

- a. The servicing carrier shall provide policyholders with information on how and where to report claims.
- b. The servicing carrier is responsible for handling all claims properly and promptly in accordance with the terms of the contract of insurance subject to limits of coverage provided. Claim adjustment

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practices and procedures of each servicing carrier shall correspond with those followed for the voluntary business. The servicing carrier must comply with any fair claim practices legislation.

**Sec.19. PERFORMANCE STANDARDS FOR PRODUCERS OF RECORD**

Producers must adhere to the performance standards listed below and as further delineated within the MAIPF Manual, Producer Guide, and Producer Violation Guidelines (which are incorporated herein by reference and collectively constitute the "Producer Performance Guidelines") when placing and servicing Facility risks:

**A. Original Applications**

1. Applications shall be fully completed and must include the following:
  - a. Necessary information, in accordance with the Producer Performance Guidelines, to rate and issue the policy, prepare a bill, and make any required financial responsibility or motor carrier filings. This includes, but is not limited to:
    - (1) Valid vehicle ownership documentation;
    - (2) Valid driver's licenses for all vehicle operators;
    - (3) Valid documentation related to coverage selection, rejection, or discounts; when required under the laws of the State of Michigan and/or MAIPF Producer Performance Guidelines.
  - b. Name, address, and system identification number of producer; and
  - c. Original signature of applicant and producer and the name of the producer legibly printed or typed
2. Deposit premiums submitted concurrently and in accordance with Producer Performance Guidelines
3. For all applications where applicants are seeking immediate coverage, Producers must complete the "Immediate Coverage" section of the application. The application must be mailed with adequate postage, include the appropriate deposit and/or premium amount, and must be submitted within the required time frame in accordance with Producer Performance Guidelines.

**B. Return Commissions**

Return commissions shall be paid within fifteen (15) days from the date of notice to the producer.

**C. Policy Change Request**

When an insured requests a policy change, the producer must report it to the servicing carrier with the required deposit, if necessary, and the necessary information to complete the requested change, in accordance with Producer Performance Guidelines.

**D. Claims**

When an insured reports an accident or claim to the producer, the producer shall report it to the carrier within one working day in accordance with the instructions of the insurer. If requested by the carrier, the producer shall provide the best known contact information for the insured for the purposes of conducting the claims process.

**E. Payments**

Producers shall remit all payments received from insureds within one working day.

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**F. Electronic Application and Rating System**

1. Producers of record who are authorized to transact automobile insurance business in the state shall use the MAIPF electronic rating system (“ERS”) unless the system is unavailable. Applications completed in the ERS must be submitted with required documentation and deposit premiums as set forth under Sec. 19. Coverage will be effective only when the electronic submission is transmitted in accordance with Producer Performance Guidelines and the completed application is delivered to the Facility Office.
2. Retraction Procedure  
Following assignment of a confirmation number and prior to the mailing of a completed signed application to the Facility, the producer of record may retract the application in accordance with Producer Performance Guidelines.
3. If violations pertaining to the use of the ERS have occurred, the MAIPF Director of Operations or his/her functional equivalent may recommend limited access, suspension of access for a period of time, and/or immediate termination of access to the ERS. The determination regarding Producer access may be based on the egregious nature of the conduct, the repetitive nature of the conduct, and the gravity of the circumstances (i.e. access and conduct which constitutes unlawful or prohibited conduct under the laws of the State of Michigan will result in immediate termination of access to the ERS). The Facility shall notify the producer in writing of the limitation or suspension and will provide a written statement of the alleged violations against the producer. A producer may appeal the Facility’s decision in accordance with Secs. 22 and 23 of the Plan.

**Sec. 20. COMPLIANCE WITH PERFORMANCE STANDARDS**

Producers are expected to comply with the Producer Performance Guidelines, as defined within Sec. 19.

**A. Assessment of Violations**

The Facility shall maintain a record of a producer’s violations of the Producer Performance Guidelines, either due to action or inaction, and shall notify the producer of repeated violations in writing. This notification will include a warning that if violations continue to occur, the producer may be disqualified. In addition to written notification, the Facility may also contact the producer via telephone.

If repeated violations of the Producer Performance Guidelines continue to occur after the first notification, the Facility shall notify the producer of the repeated violations in writing. Within thirty (30) calendar days of the second notification letter, the producer must participate in a training session provided by Facility staff. If the required training is not completed, the producer may be subject to disqualification. If repeated infractions of performance standards contained in this section continue after the training session, notice will be sent to the producer advising him/her of his/her right to a hearing before the Facility.

**B. Serious & Flagrant Violations/Immediate Disqualification**

Serious and flagrant violations of the Producer Performance Guidelines may result in referral for a hearing before the Facility and/or potential immediate disqualification.

Actions which may result in immediate disqualification include, but are not limited to:

1. Material and willful misrepresentation or falsified information on the part of the producer;

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2. Failure to forward all monies collected from the insured in a timely manner;
3. Manipulation of the MAIPF ERS to generate a lower rate; and/or
4. Conduct which constitutes unlawful or prohibited conduct under the laws of the State of Michigan.

#### **C. Hearing Before the Facility**

In the event the producer is referred for a hearing before the Facility, the producer shall be notified in writing. The notice of hearing with Facility staff shall include:

1. Reasons for the hearing and identifying specific violations and/or deficiencies to be addressed at the hearing;
2. A brief description of the hearing process, including notification that the hearing will take place with a court reporter for the purpose of taking sworn testimony;
3. A statement that should the producer choose not to appear for the hearing, this may serve as an additional basis for disqualification; and
4. A statement that a written response to the notice, via email or mail, must be provided within ten (10) calendar days of the date of notice.

During the hearing, the Facility shall present its findings and the producer will be afforded an opportunity to respond to the findings. Based on the information obtained during the hearing, the Facility shall determine if the producer's conduct warrants escalation to the Board of Governors, or its designee, for immediate consideration of disqualification. If the Facility determines escalation is unwarranted at the time, and if violations persist, the Facility may then refer the producer to the Board of Governors, or its designee, for consideration of disqualification.

#### **Sec. 21. DISQUALIFICATION**

The Facility may disqualify a producer who persistently violates Producer Performance Guidelines, acts in contravention of Michigan civil, criminal and/or administrative laws including laws governing producers and the Insurance Code, or is assessed serious/flagrant violations warranting immediate disqualification as set forth herein.

In the event of disqualification by the Board of Governors, or its designee, the Facility shall send written notification, which conforms with MCL 500.3355(7)(c), to the producer via certified mail with a copy to the Department of Insurance and Financial Services, or its equivalent.

Said disqualification shall become effective fifteen (15) calendar days from the date of the notification letter.

On or after the effective date of the disqualification, the disqualified producer shall not do any of the following during the period of disqualification:

- A. Solicit, negotiate, or effect automobile insurance on behalf of any participating member through the facility.
- B. Submit new applications to the facility.

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- C. Service any existing facility policies except as permitted by the Facility's Producer Performance Guidelines.
- D. Be entitled to compensation for either new business applications or renewals.
- E. Obtain any binders, certificates or other supplies from the facility. Existing binders or other supplies shall be surrendered to the facility upon request.

Disqualification under this section does not affect the disqualified producer's authority to place automobile insurance through an authorized insurer in the voluntary market.

### **Sec. 22. APPEAL OF FACILITY DECISIONS TO THE BOARD OF GOVERNORS, OR ITS DESIGNEE**

A producer may submit a written request for appeal hearing before the Facility's Board of Governors, or its designee, no later than ten (10) business days of the date of a letter notifying the producer of a Facility decision. If a written request for appeal hearing is received by the Facility, the Facility shall suspend its decision pending a ruling by the Board of Governors, or its designee. Upon written request and payment of a reasonable copying charge, the producer shall receive any information pertinent to the disqualification.

The Board of Governors, or its designee, shall hold a hearing no later than ten (10) business days after receipt of the written request for appeal hearing.

During the hearing, the Facility shall present its findings and the producer will be afforded an opportunity to respond to the findings. The Board of Governors, or its designee, shall determine if there were sufficient grounds for the Facility's decision based on the information presented during the appeal hearing. If additional information is necessary, the Board of Governors, or its designees, shall request such information in writing from the relevant party.

The Board of Governors, or its designee, shall issue a ruling no later than five (5) days after the hearing (or no later than five (5) days after the request for additional information is dated) and shall so notify the producer, the Facility and the Department of Insurance and Financial Services, or its equivalent. A ruling of disqualification by the Board of Governors, or its designee, shall become effective five (5) calendar days after the date of ruling.

### **Sec. 23. APPEAL OF FACILITY DECISIONS TO THE DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES OR ITS EQUIVALENT**

A ruling of disqualification by the Facility's Board, or its designee, or other Facility decisions may be appealed to the Department of Insurance and Financial Services or its equivalent by filing a written notice of appeal with the Facility and the Department within thirty (30) calendar days after the date of the ruling or date of notification of the Facility decision.

The disqualification ruling shall remain in effect during the appeal process with the Department of Insurance and Financial Services. The appeal process with the Department of Insurance and Financial Services shall be in accordance with the standards, rules and guidelines as set forth by the Department, and not by the Facility.

### **Sec. 24. REINSTATEMENT AFTER DISQUALIFICATION**

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A producer who has been disqualified may petition the Facility for reinstatement after the disqualification period has run in accordance with MCL 500.3355(7)(b). The petition must be in writing and shall contain, at a minimum, the following:

- A. Documented corrective action plan(s) developed to prevent future violations of Producer Performance Guidelines; and
- B. Written verification and/or acknowledgment by the producer that the documented corrective plan(s) have been implemented and shared with any and all agency employees involved with submitting business to the Facility and/or servicing of existing Facility customers.

The producer may provide additional information in his/her petition to be considered by the Facility.

Upon receipt of a petition to remove a disqualification, the Facility shall consider the information provided by the producer and notify the producer, in writing, of its decision within ten (10) business days of receipt of the written request. The Facility may, at its discretion, seek input from the Board of Governors, or its designee, prior to rendering a decision regarding reinstatement. If the Facility determines reinstatement is not appropriate, it shall provide the reason(s) for the determination.

The producer may appeal the Facility's unfavorable decision in accordance with Secs. 22 and 23, if necessary.

Future conduct and violations will be assessed in accordance with the Plan of Operations and the Producer Performance Guidelines.

Producers and any and all agency employees involved with submitting business to the Facility and/or servicing of existing Facility customers will also be required to attend a training session, the terms of which will be determined by the Facility, within thirty (30) calendar days of the effective date of the reinstatement/removal of the disqualification.

If the producer, and any other employee who is involved in the submission of applications to the Facility or the servicing of existing Facility customers, fails to attend the training session within thirty (30) calendar days, access to the ERS will be suspended until the required training session has been completed.

A producer whose license is suspended or revoked by the Department of Insurance and Financial Services at the time of petition is ineligible for reinstatement with the Facility. Upon re-activation or reinstatement of the producer's license by the Department of Insurance and Financial Services, the producer may petition the Facility for removal of disqualification in accordance with this section and subject to the Producer Performance Guidelines.