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CTP INSURANCE REGULATOR

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Rules

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The Scheme, the CTP Regulator and the Rules

Overview of the Scheme

Compulsory Third Party Insurance in South Australia is paid at the same time you pay your motor vehicle registration. It is compulsory for motor vehicle owners to pay the CTP insurance premium and their motor vehicle registration fee at the same time. By paying the CTP insurance premium, motorists protect themselves from potential liability for damages if they cause injury to other road users.

The South Australian CTP insurance scheme (**Scheme**) is a fault-based scheme which means people injured in a motor vehicle accident may be eligible for compensation where the owner or driver or a passenger of the vehicle, caused the accident.

The CTP policy of insurance insures the owner of the motor vehicle to which the policy relates, and any other person who drives or is a passenger in or on the motor vehicle (with or without the owner's consent), in respect of all liability for death or bodily injury to any person caused by or arising out of the use of the vehicle in any Australian State or Territory.

The at-fault driver involved in the motor vehicle accident cannot make a claim against the Scheme for their own injuries.

In accordance with section 127B of the *Motor Vehicles Act 1959* (SA) (**MV Act**), regardless of fault, all necessary and reasonable expenses with respect to treatment, care and support needs of children under the age of 16 at the accident date are paid by the CTP Insurer even after the child turns 16 if attributable to the injury from the accident.

Role of the CTP Regulator

The CTP Regulator is an independent Statutory Authority established under the *Compulsory Third Party Insurance Regulation Act 2016*.

The Regulator is responsible for:

- Oversight, monitoring and reporting of CTP Insurer activities in South Australia
- Ensuring a fair and affordable Scheme is maintained
- Continuing to improve Scheme outcomes for injured persons
- Oversight of the CTP insurance premium setting process.

Purpose of the Rules

The Rules:

- Do not override or substitute CTP Insurers' obligations under the MV Act, the *Civil Liability Act 1936* (**CLA**) and other relevant legislation or applicable common law, which obligations prevail to the extent of any inconsistency;
- Are designed to provide guidance for CTP Insurers as to the operation of the Scheme. The aim is to ensure fairness, transparency and consistency of service standards for injured persons regarding claims management and dispute resolution processes
- Apply to all CTP Insurers approved by the South Australian Government to provide CTP insurance to South Australian motor vehicle owners for accidents occurring on or after 1 July 2016. The Motor Accident Commission (MAC) (or its successor) is still responsible for claims management arising from accidents, which occurred prior to 1 July 2016. These Rules do not apply to MAC.

All reasonable care has been taken to ensure the information published is correct. The Rules:

- Provide general information only and are not intended to be exhaustive
- Will be continuously reviewed and subsequent updates will be published
- Are available to the public to enhance the efficiency of the Scheme
- Are not to be used for commercial advantage
- Contain information on policy and legal matters which may be subject to alternative interpretation
- Are not intended to be a substitute for legal advice.

Definitions

accident means a collision or impact caused by, or arising out of, the use of a motor vehicle;

Accredited Medical Practitioner means an Accredited Health Professional as described in the CLR (i.e. a person who is accredited under a scheme established by the designated Minister under section 76(2) of the CLA);

ARF means an Accident Report Form in such form as may be issued by the Regulator from time to time;

ASIC means the Australian Securities and Investments Commission;

Australian Privacy Principles means the principles described as the 'Australian Privacy Principles' in the *Privacy Act 1988* (Cth), as amended and replaced from time to time;

Awareness Marketing Period means the period from 1 January 2019 up to and including 31 March 2019;

business day means any day except Saturdays, Sundays and declared public holidays in South Australia;

business hours means 0830 to 1700 hours Australian Central Standard Time;

child means a person under the age of 18 years;

children's claim means a claim where the claimant is a child at the time of the accident (i.e. including but not limited to a claim to which section 127B of the MV Act applies);

CLA means the *Civil Liability Act 1936* (SA), as amended and replaced from time to time;

claim means a claim for loss or damage:

(a) under, asserted to be under, or capable of being validly made under, a Policy; or

(b) a Nominal Defendant Claim;

claimant means an individual who makes a claim or on whose behalf a claim is made, including their properly appointed representative, agent or their lawyer where applicable;

claimant's lawyer means a legal practitioner acting in that capacity on behalf of a claimant in relation to the claimant's claim;

claim form means an Injury Claim Form or Fatality Claim Form approved by the designated Minister; or any other form prescribed by the Regulator to facilitate claims management;

CLR means the *Civil Liability Regulations 2013* (SA), as amended and replaced from time to time;

complaint means an expression of grievance or dissatisfaction relating to claims management (but does not include anything relating to offers made by CTP Insurers to resolve a claim or determinations made by CTP Insurers relating to claim outcomes) made, either verbally or in writing, to a CTP Insurer that is not resolved to the complainant's satisfaction;

complainant means a person who makes a complaint;

conciliator means a person suitably qualified to be a conciliator;

Conversion Marketing Period means the period from 1 April 2019 onwards;

CTP insurance means compulsory third party insurance under Part 4 of the MV Act;

CTP insurance business means business relating to CTP insurance;

CTP Insurer means any person or body (whether incorporated or not) approved by the designated Minister under Part 4 of the MV Act to carry on CTP insurance business in South Australia, but excludes MAC;

customer means a person who holds or intends to hold a Policy with a CTP Insurer;

data means all hard copy and electronic representation of Scheme information including:

(a) open, closed and archived documents;

(b) accounts, records and all other information relating to claims made against the Scheme;

(c) document reproduction, document imaging, correspondence and file communication;

(d) reports and reporting specifications which outline how each reported data element is defined or derived; and/or

(e) any other storage form directed by the Regulator;

GEPIC means *The Guide to the Evaluation of Psychiatric Impairment for Clinicians* prepared by MWN Epstein, G Mendelson and NHM Strauss as published in the Victorian Government Gazette on 8 May 2008;

guardian means a person who is the parent or legal guardian of a child or a person under legal disability; or a person appointed the litigation guardian of the child or person under legal disability;

health professional means a legally qualified medical practitioner, registered occupational therapist, registered physiotherapist, registered chiropractor, or health practitioner designated under section 4 of the RTW Act;

IDR means internal dispute resolution which provides a process for a claimant or motor vehicle owner to resolve a complaint or dispute directly with the CTP Insurer;

IME means an independent medical examination;

IME examiner means a legally qualified medical practitioner conducting an IME, but who is not the claimant's treating medical practitioner;

incentive means any reward, benefit or gift, including a commission or rebate, membership or loyalty program, administration payment or general financial support offered or provided, directly or indirectly, to the customer or any other person (and includes for the avoidance of doubt any inducement), unless permitted by the MV Act. Without limiting the foregoing, "incentive" includes:

(a) the offering of any inducement; and

(b) the offering or provision of any benefit given directly or indirectly in respect of a product or service sold or distributed by or through a CTP Insurer or any related company of a CTP Insurer, where that benefit is given by reason of or in connection with the actual or proposed issue or holding of a Policy;

independent assessment has the meaning given to that term in Rule 8.1;

inducement means any commission, discount, gift, rebate or any other form of financial benefit or inducement within the meaning of section 129A of the MV Act;

injury means:

(a) bodily injury including pure mental harm or nervous shock; or

(b) where the context admits – the death of a person;

insured person means a person insured by a Policy that complies with Part 4 of the MV Act;

interim payment means an advance payment of monies the subject of a claim that would otherwise not be available until settlement of a claim;

investigation provider means an investigator licensed under the *Security and Investigation Industry Act 1995* (SA), as amended and replaced from time to time;

ISV means the injury scale value described in the CLR;

ISV medical assessment has the meaning given to that term in Rule 9.1;

LA Act means the *Limitation of Actions Act 1936* (SA);

LSA means the Lifetime Support Authority of South Australia established under the LSS Act;

LSS means Lifetime Support Scheme as established under the LSS Act;

LSS Act means *Motor Vehicles (Lifetime Support Scheme) Act 2013* (SA), as amended and replaced from time to time;

MAC means the commission described in the *Motor Accident Commission Act 1992* (SA), as amended and replaced from time to time;

Marketing Communications Materials means all marketing communications, advertising, public information, promotional campaigns, commercial sponsorships and other materials related to a CTP Insurer's CTP insurance business, which a CTP Insurer wishes to publish, communicate or release to the market;

medical report includes any clinical information provided by a health professional that the claimant or CTP Insurer obtains in relation to the claim;

mid-term nomination, without limiting any rights that may arise under section 99A(9A) of the MV Act, means a non-binding nomination of a CTP Insurer by a customer at any time during the term of the customer's Policy;

month means:

(a) a calendar month; or

(b) if calculating a month from a certain date, the period from that date to the day prior to the same date in the next calendar month (or if the next month does not contain the same date then the last day of the next month);

motor vehicle means a vehicle that is built to be propelled by a motor that forms part of the vehicle and is registerable, as described in the MV Act;

MV Act means the *Motor Vehicles Act 1959* (SA), as amended and replaced from time to time;

MVR means the *Motor Vehicle (Third Party Insurance) Regulations 2013* (SA), as amended and replaced from time to time;

nominal defendant means a person appointed by the Minister to be the nominal defendant, and for the time being holding that appointment, as described in the MV Act;

nominal defendant claim means a claim for loss or damage:

(a) against, or capable of being validly made against the nominal defendant as contemplated by Part 4 of the MV Act; or

(b) in relation to a self-propelled wheelchair or other motor vehicle that is taken to be subject to a Policy, as described in section 12A of the MV Act;

person under legal disability means a child or any person (whether under statutory protection or not) who by reason of physical or intellectual impairment is unable to give sufficient instructions to conduct or compromise a claim or legal proceedings;

personal information has the meaning given by the Privacy Act, or where the context relates to another privacy law the corresponding term and meaning given by that Privacy Law (for example, the relevant term is 'personal data' under the *General Data Protection Regulation 2017/679*);

personnel means any employee or contractor of a CTP Insurer who is engaged by the CTP Insurer in conducting the CTP insurance business but not including third party service providers or subcontractors;

Policy has an equivalent meaning to the term "policy of insurance" as used in the MV Act;

prescribed authority means a statement authorising the CTP Insurer to access documentary information relevant to the claim, as required by section 126A(2)(d) of the MV Act and described by Regulation 6 and Schedule 1 of the MVR;

Privacy Act means *Privacy Act 1988* (Cth) as amended or replaced from time to time;

privacy laws means, as applicable:

(a) the Privacy Act including the Australian Privacy Principles (irrespective of whether the CTP Insurer would otherwise be required to comply with the Australian Privacy Principles at law);

(b) the confidentiality provisions in section 139D of the MV Act as amended or replaced from time to time;

(c) any other Australian or overseas privacy related statute, regulation, directive, standard, by-law, ordinance, subordinate legislation, industry code of conduct or government order, decree or other instrument which a CTP Insurer is required to comply with whether by operation of law or contract in connection with its CTP insurance business;

Regulator means the State acting through its designated agent the CTP Regulator established under the *Compulsory Third Party Insurance Regulation Act 2016* (SA);

related entity has the meaning defined in section 9 of the *Corporations Act 2001* (Cth);

Return to Work SA means the Return to Work Corporation of South Australia trading as ReturnToWorkSA established pursuant to the *Return to Work Corporation of South Australia Act 1994* (SA), as amended and replaced from time to time;

RTW Act means the *Return to Work Act 2014* (SA);

Scheme means the South Australian Compulsory Third Party Insurance Scheme;

Scheme stakeholders means any party that may have an interest in and/or provide services to the Scheme, aside from a CTP Insurer;

subcontractor means any subcontractor or agent engaged by a CTP Insurer to fulfil all or part of its obligations to conduct CTP insurance business, not including a third party service provider;

third party service provider means any person who provides services to a CTP Insurer for the purposes of conducting CTP insurance business;

treatment, care and support services means medical treatment (including pharmaceuticals); dental treatment; rehabilitation; ambulance transportation; aids and appliances; prostheses; and such other kinds of treatment, care support or services as may be prescribed by the MVR;

Unsolicited Contact includes targeted contact with customers or potential customers of any kind, including via mail, email, telephone, text message, selective online advertising or social media, whether in person or by any other method.

1 Market Practice

1.1 Act in good faith with all customers

1.1.1 CTP Insurers are required to accept all properly identified motor vehicles required to be insured under the MV Act for the issue of a Policy.

1.1.2 CTP Insurers must avoid marketing techniques that prejudice this obligation in any way.

1.1.3 CTP Insurers are required to give prompt and uniform service to all customers who approach them for information, irrespective of the risk characteristics of the motor vehicle and/or its owner.

1.2 Processes and business practices that do not unfairly discriminate

1.2.1 CTP Insurers and their agents must use processes and business practices that do not unfairly discriminate against individual, or groups of, customers or claimants. With the exception of pricing differentiation otherwise expressly permitted under the Rules, CTP Insurers and their agents must treat customers and claimants in the same manner irrespective of the risk profile of the motor vehicle, or customer or claimant, or the term of the Policy.

1.2.2 CTP Insurers may not pay discounts or incentives linked to Policies to customers, agents or other intermediaries, whether financial or non-financial. This restriction applies irrespective of whether such discounts or incentives are:

(a) linked directly to the Policy; or

(b) linked to any other product provided to the same customer or provided separately, but conditional upon or related to:

(i) the issue of;

(ii) the making of an application for; or

(iii) the holding, renewal or maintenance of,

a Policy.

1.2.3 CTP Insurers and their agents must not encourage customers to take their business to another CTP Insurer.

1.3 Transparent and practical processes and business practices

1.3.1 A CTP Insurer's communication with the customer or claimant must include any information required by the Regulator. The CTP Insurer must ensure that, when required by the Regulator, the CTP Insurer uses specific scripts or pro-forma documents.

1.3.2 The CTP Insurer must at all times have a sufficient number of appropriately skilled personnel to maintain the systems, customer interface and processes required to perform CTP insurance business up to date, operational and consistent to all customers.

2 Brand marketing

2.1 Review and approval process

2.1.1 All Marketing Communications Materials must be approved by the Regulator in accordance with this Rule before publication, communication or release to the market. Both new Marketing Communications

Materials and existing Marketing Communications Materials with substantive variations are required to be submitted to the Regulator under this Rule.

2.1.2 The process for CTP Insurers to seek the Regulator's approval of Marketing Communications Materials is as follows:

(a) Marketing Communications Materials are to be submitted using the Regulator's secure system for file sharing, unless the Regulator otherwise directs.

(b) The CTP Insurer must submit a bought media schedule for the Regulator's information, before the relevant Marketing Communications Materials can be published, communicated or released to the market.

2.1.3 The Regulator will review each submission of Marketing Communications Materials received from a CTP Insurer once the Regulator is satisfied that the Regulator has adequate information in support of the submission to complete the review. The Regulator will use all reasonable endeavours to provide its response within seven business days of receipt of all information deemed necessary to review the submission (or such other time as may be agreed between the parties), which response may be:

(a) to grant approval; or

(b) to refuse approval, in which case reasons for refusal will also be provided.

2.1.4 The Regulator's approval of the publication, communication or release to the market of Marketing Communications Materials submitted pursuant to this Rule may not be relied on until such time as it has been expressly communicated to the CTP Insurer by the Regulator in writing.

2.2 CTP Insurer communication activities within approved periods

Without limiting the Regulator's discretion under Rule 2.1.3:

(a) during the Awareness Marketing Period, CTP Insurers:

(i) may align brands with CTP insurance in South Australia;

(ii) may emphasise a customer's ability to choose a CTP Insurer with registration renewal effective from 1 July 2019; and

(iii) may cross-advertise CTP insurance products with other insurance products; but

(iv) must not engage in Unsolicited Contact with customers or potential customers (including organisations and fleets), regarding CTP insurance business without the prior written approval of the Regulator, except:

(A) in connection with a claim; or

(B) as otherwise required by law;

(b) during the Conversion Marketing Period and without limiting Rule 2.2(a), CTP Insurers:

(i) may engage in the activities set out in Rules 2.2(a)(i) to 2.2(a)(iii) inclusive; and

(ii) may engage in targeted marketing or Unsolicited Contact with customers or potential customer (including organisations and fleets); but

(iii) must not produce any Marketing Communications Materials not aligned with the Regulator's message;

(c) any Marketing Communications Materials incorporating the Regulator's logo must comply with any branding guidelines issued by the Regulator from time to time; and

(d) Marketing Communication Materials must not under any circumstance include the Government of South Australia logo.

2.3 Requirements if Marketing Communications Materials not approved

If the Regulator notifies a CTP Insurer of its refusal to approve the publication, communication or release of any Marketing Communications Materials in accordance with Rule 2.1.3(b), then:

(a) the CTP Insurer must not publish, communicate or release the Marketing Communications Materials to the market; but

(b) subject to amending the Marketing Communications Material to address any reasons for refusal provided by the Regulator, the CTP Insurer may re-submit the amended Marketing Communications Material to the Regulator in accordance with Rule 2.1.2.

3 CTP Insurer obligations

3.1 Guiding principles

3.1.1 When issuing CTP Policies or administering claims a CTP Insurer, its personnel or third party service providers must:

(a) act in good faith with all customers;

(b) inform each claimant of applicable service level timeframes (as determined by the CTP Insurer), and its commitment to manage the claim in accordance with these timeframes;

(c) ensure its processes for dealing with claims are efficient, cost effective and in accordance with law;

(d) support injury recovery through early, necessary and reasonable treatment and rehabilitation for people who are injured in accordance with Regulator guidelines or directions;

(e) use processes and business practices that do not unfairly discriminate against individual, or groups of, customers or claimants;

(f) maintain service standards and business practices consistent to all customers;

(g) make the Policy readily accessible and available to all customers;

(h) accept all properly identified motor vehicles presented to it for the issue of a Policy; and

(i) not selectively discourage or de-incentivise customers from selecting the CTP Insurer, or attempt to do so.

3.1.2 CTP Insurers must not adopt tactics, practices or techniques that prejudice these obligations in any way, irrespective of the risk profile of the customer, their motor vehicle or the motor vehicle owner.

3.2 Contact points

3.2.1 Unless otherwise agreed by the Regulator in writing, a CTP Insurer must have an office in South Australia to conduct CTP insurance business staffed with personnel who are competent and authorised to deal with claims on the CTP Insurer's behalf.

3.2.2 That office, and any other locations in Australia where the CTP Insurer provides CTP insurance business must:

(a) be open for business on every business day during business hours; and

(b) be staffed sufficiently to deal with enquiries and provide CTP insurance business within the stated service level timeframes.

3.3 Other contact requirements

A CTP Insurer must have:

(a) a dedicated telephone line (listed in the white pages and yellow pages, in hard copy, and online) that is available to take telephone calls on every business day during business hours;

(b) a dedicated facsimile line;

(c) a dedicated email address; and

(d) such other or replacement methods as may be notified by the Regulator as being, in the Regulator's opinion, convenient having regard to changes in communications technology.

3.4 Web site

A CTP Insurer must have a web site in place that:

(a) provides customers and claimants with the facility to download forms including claim forms;

(b) is prominently linked to the Regulator's web site;

(c) is up to date, and provides information for claimants, customers, Scheme stakeholders and members of the public that is clear, relevant, appropriate and accurate, and is not misleading in any way;

(d) provides general contact information for the CTP Insurer;

(e) contains any other information as directed by the Regulator; and

(f) includes a reference and hyperlink to any materials the Regulator requires the CTP Insurer to provide.

3.5 Service levels

CTP Insurers must:

(a) deal with enquiries from claimants, customers, and their representatives, in a professional and courteous manner;

(b) contact insured persons as soon as they become aware of, or are notified of, an insured person's involvement in an accident;

(c) provide assistance to claimants to ensure they are able to comply with claim lodgment requirements;

(d) provide clear and accurate information about the progress of the claim and assessment of the claim;

(e) focus on the early assessment of claims;

(f) respond to enquiries whether made by telephone, in person, or by email, within the stated service level timeframes;

(g) explain to claimants any decisions they make about their claim and provide them with the opportunity to provide feedback;

(h) where additional information is identified as being required to progress a claim, advise claimants within seven business days;

(i) make fair and reasonable assessments of claims in accordance with law; and

(j) have a clear process to deal with complaints or disputes.

4 Incentives and inducements

4.1 Incentives for CTP insurance business prohibited

Unless permitted to do so by the MV Act or these Rules, a CTP Insurer or other person acting for a CTP Insurer must not give, or offer to give, an incentive to any person:

(a) in respect of a Policy; or

(b) in order to influence, directly or indirectly, the selection of the CTP Insurer by a customer,

whether directly or indirectly through a broker, agent or other representative or intermediary of the CTP Insurer (including without limitation a motor dealer).

4.2 Prohibition on incentives with no direct benefit

CTP Insurers must not offer or propose to offer any incentive, unless:

(a) the incentive is an inducement of a class approved by the Minister pursuant to section 129A(2) of the MV Act;

(b) each person to whom the offer is made (or proposed to be made) is capable of receiving direct benefit and real value from the incentive; and

(c) the offer made (or proposed to be made) clearly and prominently outlines any eligibility criteria or other impediments which might prevent each such person from obtaining the full benefit or value of the incentive.

4.3 Application to Regulator for new inducement class

CTP Insurers may, by written notice to the Regulator, request approval by the Minister of a class of inducement pursuant to section 129A(2) of the MV Act. The Regulator will convey any such request received from a CTP Insurer to the Minister, together with such other information, materials or recommendation as the Regulator may consider relevant to the request.

4.4 Submission of information regarding inducements

Where a CTP Insurer proposes to implement any inducement of a class approved by the Minister pursuant to section 129A(2) of the MV Act, the CTP Insurer must, for the information of the Regulator, provide details in writing, including the monetary value of the proposed inducement at least seven business days prior to releasing to the market.

4.5 Regulator to notify CTP Insurers of changes to inducement classes

The Regulator will, prior to publishing on the Regulator's website any changes in inducements of a class approved by the Minister pursuant to section 129A(2) of the MV Act, provide notice in writing to all CTP Insurers.

4.6 Evidence of consent for mid-term nominations

A CTP Insurer must obtain evidence of a customer's consent to a mid-term nomination prior to performing the mid-term nomination for that customer, which consent must be retained and promptly provided to the Regulator by the CTP Insurer on request by the Regulator.

5 Claimant obligations

It is acknowledged that claims will be determined more efficiently when claimants:

(a) complete a claim form to the best of their ability;

(b) comply with any legal requirements and obligations;

(c) provide honest and accurate information about their claim. Claimants must not deliberately withhold information or consent from their CTP Insurer to obtain information about the claim;

(d) advise if circumstances change that affect their claim;

(e) provide information in a timely manner to assist in the decision making process and resolution of their claim;

(f) cooperate with their CTP Insurer to facilitate, when required, timely access to reasonable and necessary treatment, care and support services; and

(g) commit to optimising recovery from their injuries and make all efforts to participate in recovery programs and return to usual activities.

6 Information and privacy

6.1 Compliance with Privacy Laws

In addition to any statutory requirements which apply to CTP Insurers, when performing CTP insurance business, CTP Insurers, their personnel, contractors and third party service providers must comply with the privacy laws.

6.2 Contractors' privacy obligations

A CTP Insurer must ensure any personnel, contractors and third party service providers it engages to provide CTP insurance business, also comply with the privacy laws and any additional obligations imposed by this Rule 6.

6.3 Collection of personal and health information

When a CTP Insurer collects personal information about any person in connection with a claim they must provide all notices and obtain all consents required by the privacy laws.

Without limiting any such obligation, a CTP Insurer must take reasonable steps to ensure that claimants are aware of:

(a) the CTP Insurer's identity and contact details;

(b) the circumstances of any indirect collection of personal information about the claimant (that is any personal information collected by the CTP Insurer other than directly from its dealings with the claimant);

(c) the purposes for which the information is collected;

(d) the persons or entities to which the CTP Insurer usually discloses personal information of that kind (unless disclosure of such personal information without notifying the person to which the information relates is expressly permitted by law);

(e) any law that requires or authorises the personal information to be collected;

(f) the main consequences, if any, for the person if all or some of the information is not collected by the CTP Insurer;

(g) whether the CTP Insurer is likely to disclose the personal information to overseas recipients, and if so, the countries in which such recipients are likely to be located if it is practicable to specify those countries in the notification or to otherwise make the individual aware of them; and

(h) the CTP Insurer's privacy policy and that the CTP Insurer's privacy policy includes information about:

(i) how the person may access the personal information the CTP Insurer holds about them and seek correction of such information; and

(ii) how the person may complain about a breach of the Australian Privacy Principles by the CTP Insurer and how the CTP Insurer will deal with such a complaint.

6.4 Use of data

6.4.1 CTP Insurers will take all reasonable steps to ensure Policy holder data, data collected through the claim process and subsequent data collected by use of the prescribed authority (as applicable) will remain protected and only be used and disclosed for the purposes of a function conferred on them to provide CTP insurance business or to comply with a legal obligation.

6.4.2 Each CTP Insurer must ensure any personnel, contractors and third party service providers it engages to provide CTP Insurance Business also comply with Rule 6.4.1.

6.5 Third parties

6.5.1 Without limiting a CTP Insurer's obligations under any other provision of this Rule 6, CTP Insurers must only use personal information, or disclose personal information to another person, body or agency, for a secondary purpose if:

(a) it is necessary and relevant to perform their claims management obligations and functions under the MV Act;

(b) they have the individual claimant's consent;

(c) a claimant would reasonably expect disclosure;

(d) the use or disclosure is required, authorised or permitted by the MV Act or another law (e.g. court orders, subpoenas, statutory demands by agencies such as Centrelink, Medicare Australia or the Australian Taxation Office); or

(e) the use or disclosure is necessary for the enforcement of a criminal law, law imposing a financial penalty or the protection of public revenue (e.g. a criminal investigation for providing false or misleading information or to detect and prevent fraud).

6.5.2 This list is not exhaustive and the above uses/disclosures are not mutually exclusive. More than one purpose or exception may be applicable.

6.6 Access

CTP Insurers must not allow personnel to access personal information or other data held in connection with their CTP insurance business, including viewing/browsing of information on a screen or in hard copy, making a record of the information (e.g. printing out material) and/or disclosing the information to third party service providers, except in connection with their role and then only where there is a reasonable purpose for such access related to their CTP insurance business.

6.7 Incidents

6.7.1 On becoming aware that there has been, or is likely or reasonably suspected to have been, unauthorised access, unauthorised use, unauthorised disclosure or loss of personal information or other data held in connection with a CTP Insurer's CTP insurance business, or any other suspected or known breach of this Rule 6, the CTP Insurer must:

(a) immediately provide preliminary notice to the Regulator (whether by email, telephone or otherwise and for the avoidance of doubt, at the same time as, or as soon as is reasonably practical following any notification to a regulator, including APRA); and

(b) provide further details in writing within ten business days of providing the preliminary notice.

6.7.2 Exceptions to these reporting requirements are:

(a) an employee working on a claim file identifies and rectifies/removes foreign records from a claim file;

(b) collecting/viewing another employee's print out/fax in error from a utility room only to realise and return it;

(c) an employee identifying and remedying an incorrect, outdated address or wrong enclosures before sending/posting correspondence; and

(d) an internal check/audit identifying areas or issues for improvement about privacy,

except where such circumstances are required by law to be notified to a regulator, affected individual or other third party.

6.8 Information from the State

6.8.1 Any personal information made available to CTP Insurers by or on behalf of a State agency may be provided subject to additional handling restrictions. CTP Insurers must comply, and must ensure their personnel, contractors and third party service providers also comply with such additional handling conditions.

6.8.2 The conditions referred to in Rule 6.8.1 include conditions necessarily imposed on CTP Insurers by a State agency to enable the State agency to comply with the terms of an exemption granted to the State agency by the Privacy Committee of South Australia exempting the State agency from compliance with any part of the Information Privacy Principles (as set out in *Part II of Cabinet Administrative Instruction No. 1 of 1989*) in connection with the disclosure of personal information to CTP Insurers.

6.9 Distribution of Scheme information

CTP Insurers must distribute any leaflets, brochures or other publications produced by the Regulator about CTP insurance to Scheme stakeholders in their complete and accurate form, as provided by the Regulator:

(a) openly displaying those publications:

(i) at their office and any other locations where their CTP insurance business is provided in South Australia;

(ii) on their web site; and

(b) forwarding those publications to Scheme stakeholders expeditiously upon request.

6.10 Requests for information

A request for information related to a claim may be made by:

(a) a claimant; or

(b) a person authorised by the claimant to obtain the information.

6.11 A valid request

6.11.1 A request must be made in writing and clearly describe the information, document or documents being requested.

6.11.2 The request may be made directly to the CTP Insurer that manages the claim and holds the information or documents requested.

6.11.3 If a request is from an authorised representative of a claimant, it must be accompanied by a current and properly executed consent or authority. If there is any doubt about the validity of the consent, the CTP Insurer may contact the person(s) nominated as the authorised representative.

6.11.4 CTP Insurers must assist claimants with the information they require to make a valid request.

6.11.5 CTP Insurers can release information to the claimant or, if authorised, the claimant's representative.

6.12 Exemptions from information requests

Unless otherwise required by law, a CTP Insurer is not required under these Rules to release documents which are protected by legal professional privilege or which the CTP Insurer is otherwise required by law not to disclose, which documents (if applicable) may include:

(a) internal briefings or memoranda by the CTP Insurer or Regulator;

(b) documents relating to negotiation strategy or future planned activities (such as surveillance);

(c) draft documents; or

(d) documents containing an opinion, deliberation or intention of a CTP Insurer about negotiations with claimants that would expose the CTP Insurer to an unreasonable disadvantage.

6.13 Freedom of information

CTP Insurers must provide any assistance required by the Regulator to enable the Regulator to comply with the Regulator's obligations under the *Freedom of Information Act 1991* (SA).

6.14 Vehicle Collision Reports

A CTP Insurer that receives a Vehicle Collision Report (VCR) from SA Police pursuant to a claimant's prescribed authority must:

(a) within 21 days of receiving the VCR, send a copy of the VCR to that claimant (or a legal practitioner engaged by that claimant);

(b) prior to sending a copy of the VCR in accordance with Rule 6.14.1(a):

(i) redact all information appearing in the "witness" field within the VCR; and

(ii) redact the following information relating to any person other than the relevant claimant or witnesses (for instance, the at fault driver, another claimant or passenger):

(A) address;

(B) date of birth;

(C) alcohol and drug test results; and

(D) any other information which may identify or disclose an offence or likely offence as it pertains to that person.

(c) provide the VCR in the form received from SA Police to another CTP Insurer with a financial interest in accordance with any Regulator approved sharing agreement entered into between CTP Insurers in connection with the handling of multi-insurer claims.

7 Claims management

7.1 Process

7.1.1 CTP Insurers must optimise a claimant's experience in the claim process by:

(a) providing information and assistance to claimants and helping them to understand each step of the process;

(b) being proactive in obtaining sufficient information early to be in a position to assess and resolve the claim as soon as possible and advising claimants, if and when, additional information is required (as detailed in Rule 3);

(c) if there are issues affecting the claim (such as liability or payment of treatment expenses), explaining the issues to the claimant, including how they affect their claim and any entitlement to compensation;

(d) disclosing when the prescribed authority is being used and for what purposes;

(e) focusing on paying for necessary and reasonable treatment, care and support services to optimise the claimant’s recovery (as detailed in Rule 14); and

(f) in respect of an interstate motor vehicle that is uninsured, obtaining proof from the relevant interstate insurer or authority responsible for regulating the relevant interstate compulsory third party insurance scheme, that the interstate motor vehicle was uninsured and outside of the relevant jurisdiction’s grace period at the time of the accident.

7.1.2 The CTP Insurer must provide the claimant with a copy of any information obtained using the prescribed authority within 21 days of receiving the information, as prescribed by section 126A(4) of the MV Act.

7.1.3 CTP Insurers must:

(a) have a consistent internal approach in place to ensure the claim process is explained to claimants throughout the claim lifecycle;

(b) develop and disseminate supporting claims management information to explain the claims management process to claimants; and

(c) ensure claims management information materials are approved by the Regulator prior to dissemination.

7.2 Making a claim

Section 126A of the MV Act provides that a person who seeks to make a claim must provide a CTP Insurer with a notice of claim which must set out or be accompanied by:

(a) a statement setting out details of the claim;

(b) a certificate or opinion as to the nature and probable cause of the death or injury (as the case requires) provided by a medical practitioner;

(c) the relevant police report number for any report provided to a police officer under the *Road Traffic Act 1961* (SA) in connection with the relevant accident;

(d) a prescribed authority enabling the CTP Insurer to have access to records and other sources of information relevant to the claim; and

(e) such other report or other information in relation to the accident or claim as may be prescribed by the MVR from time to time.

7.3 Time Limits for lodgment of claims

7.3.1 Regulation 4 of the MVR requires a claimant to submit the claim form within six months of the date of the accident, except in the case of a nominal defendant claim.

7.3.2 In the case of a nominal defendant claim, the claim form is required, as soon as reasonably practicable after it becomes apparent that the identity of the relevant motor vehicle is not readily ascertainable or the relevant motor vehicle is uninsured.

7.3.3 If the claimant fails to comply with these timeframes, the consequences are:

(a) CTP Insurer or the nominal defendant may decline to deal with the claim, while the failure continues; and

(b) the claimant is not entitled to commence or continue proceedings until they have complied with the requirements in section 126A of the MV Act.

7.3.4 However, under Regulation 4(2) of the MVR, these consequences will not apply to the claimant if the failure to give notice of the claim within the relevant period was caused by:

(a) ignorance or mistake on the part of the claimant;

(b) absence of the claimant from South Australia;

(c) inability of the claimant to lodge within the prescribed timeframe due to injury or a legal disability; or

(d) any other reasonable cause,

provided that the proper assessment of a claim by the CTP Insurer has not been substantially prejudiced.

7.3.5 A CTP Insurer must provide information, support and assistance to claimants to ensure they are aware of their obligations to comply with the notice requirements in section 126A of the MV Act.

7.3.6 Where a non-compliant claim is submitted, the claimant must be advised, and provided with the opportunity to correct the situation within a reasonable time.

7.4 Photocopies, faxes or scans

7.4.1 Photocopies, faxes or scans of claim forms are acceptable if the claimant has provided legible copies of all pages including the signed prescribed authority required by the MVR.

7.4.2 While the claimant should forward the original claim form to the CTP Insurer, the CTP Insurer must start the claim registration and liability process using the photocopied/faxed/scanned copy of the claim form.

7.4.3 The CTP Insurer must accept the claim form and related documents furnished by the claimant by any of the following means:

(a) mail or in person;

(b) electronic methods (if the original signed document is scanned);

(c) facsimile; or

(d) such other or replacement methods as in the opinion of the Regulator are convenient having regard to changes in communications technology.

7.5 Acknowledging a claim

Upon receipt of a claim a CTP Insurer must:

(a) ensure accident and claim information is accurately recorded;

(b) register all participants and witnesses to the accident;

(c) assign a unique accident number to each accident;

(d) assign a unique number to each claim;

(e) identify and link participants from previous accidents to the current claim as facilitated by the Regulator;

(f) link each claim to an accident number;

(g) ensure a claim receipt notification letter is sent to the claimant within seven business days;

(h) ensure there are reasonable attempts to make early contact via telephone with the:

(i) claimant individually, or if represented, the claimant's lawyer;

(ii) insured person;

(iii) other known parties involved in the accident; and

(iv) witnesses to the accident;

(i) assign a claims consultant as the primary contact responsible for the future management of the claim; inform the claimant of the name of their claims consultant, direct telephone number and email address; and inform the claimant of any changes in these contact details;

(j) ensure the claimant and the insured person receive the unique identifier for the claim; and

(k) comply with any other requirements as directed by the Regulator.

7.6 Contacting claimants

7.6.1 A CTP Insurer is to contact claimants directly, or if the claimant is legally represented, the claimant's lawyer, subject to the below exceptions.

7.6.2 The CTP Insurer may send correspondence directly to a claimant who is legally represented if:

(a) it contains only generic information about making and resolving claims;

(b) it provides details about an Accredited Medical Practitioner assessment or other medical assessment arranged by the CTP Insurer; or

(c) it is in relation to a claimant's rehabilitation, treatment care and support,

provided that a copy of the correspondence is also sent to the claimant's lawyer.

7.6.3 A CTP Insurer may contact a claimant directly when the claimant is legally represented if:

(a) requested to do so by the claimant;

(b) there is no substantive reply from the claimant's lawyer to the CTP Insurer's offer of settlement within 10 business days of likely receipt and an attempt has been made by the CTP Insurer to confirm receipt of the offer of settlement with the claimant's lawyer;

(c) there is no substantive reply from the claimant's lawyer to the CTP Insurer's correspondence (excluding offers of settlement) within 20 business days of likely receipt, and an attempt has been made by the CTP Insurer to confirm receipt of the correspondence; or

(d) in response to a complaint by the claimant.

7.7 Enquiries required to make a liability determination

7.7.1 The enquiries a CTP Insurer makes in relation to determining liability will be based on the facts of each claim and cannot be specified but may include:

(a) making enquiries appropriate to the accident circumstances;

(b) obtaining a police report of the accident;

(c) requesting an ARF from the driver(s) and the insured person (excluding the claimant);

(d) where an ARF is not received from the insured person, ensuring reasonable efforts are made by the claims consultant to contact the insured person and to ascertain and record their version of events;

(e) obtaining witness statements where applicable.

7.7.2 Where liability is contentious, or the circumstances of the accident are unclear, or a nominal defendant claim is involved, further enquiries will be conducted and consideration given to refer the matter to an appropriate investigation provider.

7.8 Determining liability

7.8.1 A CTP Insurer must ensure the liability determinations are:

(a) made appropriately according to the evidence on the claim file;

(b) made in a timely fashion;

(c) made in accordance with relevant law;

(d) based on sound evidence to support the decision;

(e) based on rationale documented on the claim file; and

(f) notified promptly to the claimant or legal representative.

7.8.2 A CTP Insurer must provide written notice to the claimant in reasonable time advising:

(a) whether the CTP Insurer admits or denies liability for the claim;

(b) the reasons for the CTP Insurer's decision; and

(c) the nature of evidence that supports those reasons.

7.8.3 Where contributory negligence (including any applicable statutory reductions under Part 7 of the CLA, such as failure to wear a seatbelt/helmet or the claimant/driver being affected by alcohol/drugs) is a reason for not wholly admitting liability, the CTP Insurer must provide written notice to the claimant of:

(a) the percentage of contributory negligence attributed to the claimant;

(b) the relevant provisions of Part 7 of the CLA relied on for the statutory reduction;

(c) the reasons for that decision; and

(d) the nature of evidence that supports the contributory negligence alleged.

7.9 Interpreters

A CTP Insurer must provide, at its cost, interpreting services for claimants to assist them in the claims process including attendance at medical assessments.

8 Independent Assessments and Reports

8.1 Purpose of the independent assessment

An assessment by a health professional, obtained by either the claimant or by the CTP Insurer, provides an independent opinion regarding the claimant's injury and treatment to assist with decisions about treatment, rehabilitation, activities of daily living, including return to work, and the claimant's entitlement to compensation.

The independent assessment may be undertaken either by an IME examiner, or by a health professional (**independent assessment**).

8.2 Provision of independent assessment report to claimant

8.2.1 Subject to Rule 8.2.2, a CTP Insurer must, on receipt of an independent assessment report relevant to a claim, provide the claimant to whom the report relates a copy of the report within 21 days of receipt by the CTP Insurer.

8.2.2 Nothing in Rule 8.2.1 operates to relieve a CTP Insurer of its obligations under section 126A(4) of the MV Act, which obligations prevail over Rule 8.2.1 to the extent of any inconsistency.

8.3 Selection of health professional

When selecting a health professional to undertake an independent assessment, a CTP Insurer must:

(a) match the specialty of the health professional to the claimant's injury/injuries, medical treatment or rehabilitation issue to be resolved;

(b) ensure the choice of health professional is not motivated by the opportunity to obtain an opinion from a health professional who is considered to hold particular views (adverse to claimants) on specific medical conditions or treatment issues; and

(c) not exert influence on the health professional about the outcome of the assessment and report.

8.4 Arranging the independent assessment

8.4.1 In arranging an independent assessment, a CTP Insurer must:

(a) identify issues that may impact a claimant's ability to attend the independent assessment, for example:

(i) if a claimant has limited ability to use stairs this may make it unsuitable to attend a particular health professional's rooms;

(ii) if a claimant is from a rural or remote location they may require an afternoon or early evening appointment; or

(iii) cultural or religious issues which may dictate the required gender of the health professional;

(b) advise the claimant, in writing, at least seven business days prior to the appointment occurring, of:

(i) the date, time and location of the appointment;

(ii) the name of the health professional, street address and contact telephone number;

(iii) the specialty of the health professional;

(iv) the reason for attending the independent assessment;

(v) the need to take medical reports, x-rays and other relevant documentation about the claimant's injury, where appropriate, to the independent assessment;

(vi) any information prescribed by the Regulator for that purpose;

(vii) their obligation to attend and that failure to do so, without reasonable cause, may adversely affect their claim and incur a cancellation fee; and

(viii) the need to notify the CTP Insurer if they are unable to attend the independent assessment due to a change in circumstances at least two business days (48 hours) of the assessment occurring or other time so as to avoid any cancellation fee;

(c) send all relevant documentation (except those previously provided) to the health professional at least two business days (48 hours) prior to the independent assessment, which will include but is not limited to:

(i) details, if and when, that health professional has previously examined the claimant;

(ii) claim forms;

(iii) medical certificates (limited to first and last unless otherwise relevant);

(iv) any relevant medical history, records or notes (including hospital notes);

(v) any previous reports, including diagnostic reports, from other health professionals;

(vi) details of treatment;

(vii) details of a claimant’s relevant personal, family, occupational and past medical history;

(viii) mechanism of injury; and

(ix) copies of the relevant Rules of Court, including Rule 160 of the *Supreme Court Civil Rules 2006* (SA), to ensure that the heath professional complies with the provisions of these rules as an expert witness;

(d) only disclose information to the health professional that is relevant to the assessment;

(e) not request a health professional to provide an opinion on matters outside their area of expertise; and

(f) if a CTP Insurer believes there is a potential safety risk for the health professional in assessing a claimant, the CTP Insurer must discuss security requirements with the health professional before confirming the appointment, implement any security arrangements required or requested and allow the health professional the option to decline the referral.

8.4.2 In arranging an independent assessment, a CTP Insurer must determine whether an interpreter is required. Professional interpreters must be used rather than a claimant relying upon family members or friends to interpret. If a CTP Insurer is uncertain as to whether an interpreter is required, they should make enquiries with the claimant when arranging the assessment.

8.4.3 In addition to the above, when arranging an independent assessment for a claim in relation to a child, CTP Insurers must, wherever possible:

(a) reach agreement with the child's parent, legal or litigation guardian as to the relevant health professional;

(b) attempt to minimise the need for multiple assessments; and

(c) arrange assessments so as to minimise interference with educational commitments.

8.5 Arranging independent assessments through lawyers acting for CTP Insurers

If lawyers acting on behalf of a CTP Insurer arrange an independent assessment, the CTP Insurer must ensure they comply with the Rules relating to independent assessments.

8.6 Payment for independent assessments and reports

8.6.1 A CTP Insurer must pay for the cost of an independent assessment and report when the CTP Insurer:

(a) arranged the independent assessment; or

(b) approved the independent assessment arranged by the claimant or their lawyer, with reasonable notice to the CTP Insurer before the proposed date of the independent assessment.

8.6.2 If a claimant fails, without reasonable cause, to attend an independent assessment as required by a CTP Insurer then:

(a) when a cancellation fee is paid by the CTP Insurer, the claimant must be advised that a cancellation fee has been incurred;

(b) a CTP Insurer may request the claimant makes payment of any cancellation fees incurred because of the claimant's non-attendance; and

(c) if a request is made by the CTP Insurer, the claimant is liable to pay for any fees incurred by the CTP Insurer and the CTP Insurer may set this off against any liability for payment of damages or compensation.

9 ISV medical assessments and reports

9.1 Purpose of the ISV medical assessment and medical reports

A CTP Insurer may seek a medical report from an Accredited Medical Practitioner in order to determine:

(a) the claimant's injuries sustained in the accident;

(b) the ISV item number; and

(c) the claimant's entitlements,

(**ISV medical assessment**).

9.2 Provision of the ISV medical report to the claimant

A CTP Insurer must, on receipt of a medical report relevant to a claim, provide the claimant to whom the medical report relates, with a copy of the report within 21 days.

9.3 Assessment and selection of Accredited Medical Practitioner

9.3.1 When selecting an Accredited Medical Practitioner, a CTP Insurer must:

(a) match the specialty of the Accredited Medical Practitioner to the claimant's injury/injuries; and

(b) ensure the choice of the Accredited Medical Practitioner is not motivated by the opportunity to obtain an opinion from an Accredited Medical Practitioner who is considered to hold particular views (adverse to claimants) on specific medical conditions.

9.3.2 Under Regulation 4 of the CLR, a CTP Insurer may obtain a report from another health professional who is not an Accredited Medical Practitioner if:

(a) the Court determines an ISV medical assessment is not required;

(b) there is no health professional accredited to undertake the assessment; or

(c) the CTP Insurer and the claimant mutually agree that such an assessment is not required, provided that if such agreement is reached, the CTP Insurer confirms the agreement in writing to the claimant within seven business days, including details of the reasoning for the agreement.

9.4 Arranging an ISV medical assessment

9.4.1 In arranging an ISV medical assessment with an Accredited Medical Practitioner, a CTP Insurer must:

(a) identify issues that may impact on a claimant's ability to attend the ISV medical assessment, for example:

(i) if a claimant has limited ability to use stairs this may make it unsuitable to attend a particular Accredited Medical Practitioner's rooms;

(ii) if a claimant is from a rural or remote location they may require an afternoon or early evening appointment; or

(iii) cultural or religious issues which may dictate the required gender of the Accredited Medical Practitioner;

(b) advise the claimant at least seven business days prior to the appointment occurring by letter of:

(i) the date, time and location of the appointment;

(ii) the name of the Accredited Medical Practitioner, street address and contact telephone number;

(iii) the specialty of the Accredited Medical Practitioner;

(iv) the reason for attending the ISV medical assessment;

(v) the need to take medical reports, x-rays and other relevant documentation about the claimant's injury, where appropriate, to the appointment;

(vi) any information prescribed by the Regulator for that purpose;

(vii) the obligation to attend and that failure to do so may adversely affect their claim; and

(viii) the need to notify the CTP Insurer if they are unable to attend the ISV medical assessment due to a change in circumstances within at least two business days (48 hours) prior to the ISV medical assessment or earlier to avoid any cancellation fee;

(c) send all relevant documentation (except those previously provided) to the Accredited Medical Practitioner at least two Business Days (48 hours) prior to the ISV medical assessment, which will include but is not limited to:

(i) details, if and when, that Accredited Medical Practitioner has previously examined the claimant;

(ii) claim forms;

(iii) medical certificates (limited to first and last unless otherwise relevant);

(iv) any relevant medical history, records or notes (including hospital notes);

(v) any previous reports, including diagnostic reports, from other Accredited Medical Practitioners and/or health professionals;

(vi) details of treatment;

(vii) details of a claimant's relevant personal, family, occupational and past medical history;

(viii) mechanism of injury; and

(ix) copies of the relevant Rules of Court, including Rule 160 of the *Supreme Court Civil Rules 2006* (SA), to ensure that the Accredited Medical Practitioner complies with the provisions of these Rules as an expert witness for the court;

(d) only disclose information to an Accredited Medical Practitioner that is relevant to the examination;

(e) not request an Accredited Medical Practitioner to provide an opinion on matters outside their area of accreditation; and

(f) if a CTP Insurer believes there is a potential safety risk for an Accredited Medical Practitioner in examining a claimant, the CTP Insurer must discuss security requirements with the Accredited Medical Practitioner before confirming an appointment, implement any

security arrangements required or requested by the Accredited Medical Practitioner and allow the Accredited Medical Practitioner the option to decline the referral.

9.4.2 In arranging an ISV medical assessment, a CTP Insurer must determine whether an interpreter is required. Professional interpreters must be used rather than a claimant relying upon family members or friends to interpret. If a CTP Insurer is uncertain as to whether an interpreter is required, it must make enquiries with the claimant when arranging the examination.

9.4.3 When arranging an ISV medical assessment for a claim in relation to a child, CTP Insurers should, wherever possible:

(a) reach agreement with the child's parent, guardian or legal representative the choice of Accredited Medical Practitioner;

(b) attempt to minimise the need for multiple ISV medical assessments; and

(c) arrange appointments so as to minimise interference with educational commitments.

9.4A ISV medical assessments for a pure mental harm GEPIC rating during COVID-19 pandemic

9.4A.1 This Rule applies to ISV medical assessments for a pure mental harm GEPIC rating via telehealth video conferencing permitted by the Minister for a finite period related to the COVID-19 pandemic. For the purposes of this Rule, the designated Minister has been appointed under section 76 of the *Civil Liability Act 1936.*

9.4A.2 Before arranging an ISV medical assessment via telehealth video conferencing for a GEPIC rating for psychiatric impairment caused by pure mental harm, a CTP Insurer must:

(a) confirm a face-to-face ISV medical assessment is not available with an Accredited Medical Practitioner;

(b) provide the Accredited Medical Practitioner with all relevant information for the Accredited Medical Practitioner to determine the claimant's suitability for telehealth video conferencing; and

(c) attempt to obtain an opinion from at least one of the claimant's treating health practitioner for the claimant's suitability to undertake a telehealth ISV assessment and provide to the Accredited Medical Practitioner. A minimum of 3 attempts is required to obtain this opinion.

9.4A.3 After the Accredited Medical Practitioner confirms the claimant is suitable for the ISV medical assessment to proceed via telehealth under this Rule, and no later than seven business days prior to an appointment, the CTP Insurer must ensure the claimant (directly or through their legal representative) is:

(a) provided with a consent form for the telehealth video conference to proceed; and

(b) provided with the Motor Accident Injury Accreditation Scheme (MAIAS) telehealth information sheet.

9.4A.4 For telehealth assessments arranged by the CTP Insurer, the CTP Insurer must ensure a consent form, signed by the claimant, is provided to the AMP prior to the commencement of the assessment.

9.4A.5 Any reference to an ISV medical assessment in Rule 9 includes an ISV medical assessment conducted via telehealth video conferencing for pure mental harm GEPIC assessments.

9.4A.6 Rule 9.4.1 applies as if the ISV medical assessment was being conducted via face-to-face, with the exception of 9.4.1(a)(i) and 9.4.1(a)(ii).

9.4A.7 The CTP Insurer must not accept an ISV medical assessment report conducted via telehealth video conferencing unless it is on the prescribed GEPIC ISV telehealth template with a declaration signed by the Accredited Medical Practitioner.

9.5 Lawyers acting for CTP Insurers arranging ISV medical assessments

If lawyers acting on behalf of a CTP Insurer arrange an ISV medical assessment, the CTP Insurer retaining the lawyers must ensure they comply with the Rules relating to ISV medical assessments.

9.6 Payment for ISV medical assessments and reports

9.6.1 A CTP Insurer must pay for the cost of an ISV medical assessment by an Accredited Medical Practitioner and the report when the CTP Insurer:

(a) arranged the ISV medical assessment; or

(b) authorised or approved the ISV medical assessment arranged by the claimant, or their lawyer, with reasonable notice to the CTP Insurer before the proposed date of the ISV medical assessment.

9.6.2 If a claimant fails, without reasonable cause, to attend an ISV medical assessment as required by a CTP Insurer then:

(a) a CTP Insurer may request the claimant makes payment of any cancellation fees incurred because of the claimant's non-attendance; and

(b) if a request is made by the CTP Insurer, the claimant is liable to pay for any fees incurred by the CTP Insurer and the CTP Insurer may set this off against any liability for payment of damages or compensation.

9.6.3 When a cancellation fee is paid by the CTP Insurer the claimant must be advised that a cancellation fee has been incurred and the amount.

9.7 ISV medical assessments

9.7.1 A claimant may request in writing that a CTP Insurer arrange an ISV medical assessment and the CTP Insurer must, subject to Rule 9.7.2, arrange that ISV medical assessment if:

(a) 12 months have passed since the date of injury or, if earlier, a medical report from a health professional has been obtained that the injury is stable;

(b) liability in relation to the accident has been accepted; and

(c) a settlement of damages has not been reached between a CTP Insurer and a claimant.

9.7.2 If requirements in Rule 9.7.1 are met, then a CTP Insurer may only refuse a request if:

(a) it is unlikely a person's injury or injuries will score above ISV 7; or

(b) the claimant's injury or injuries are not sufficiently stable for an ISV medical assessment to occur.

9.7.3 If a CTP Insurer accepts the request under Rule 9.7.1 it must:

(a) promptly arrange the ISV medical assessment, including by attending to booking the ISV medical assessment within seven business days of such acceptance with an Accredited Medical Practitioner in accordance with these Rules;

(b) notify the claimant of its determination and the details of the ISV medical assessment; and

(c) pay any reasonable costs associated with the ISV medical assessment.

9.7.4 If a CTP Insurer refuses a request under Rule 9.7.1 then it must:

(a) expediently notify the claimant;

(b) provide to the claimant details of the basis of the denial; and

(c) if the denial is a result of insufficient evidence, advise the claimant of what further evidence is required.

10 Cost of travel

10.1.1 A CTP Insurer must pay travel expenses reasonably incurred during a claimant's attendance for treatment, or attendance at an assessment undertaken by an Accredited Medical Practitioner or a health professional.

10.1.2 Travel by private motor vehicle is reimbursed on a per kilometre basis at the Return to Work SA gazetted rate which includes allowance for petrol and like expenses.

10.1.3 CTP Insurers are not required to reimburse the claimant's travel in relation to court appearances and appointments with legal representatives, damage or loss of property resulting from travel, and infringements incurred whilst travelling to these appointments.

11 Investigations

11.1.1 The CTP Insurer, or their legal representative, must only engage an investigation provider to conduct any investigation the subject of the *Security and Investigation Industry Act 1995* (SA).

11.1.2 A CTP Insurer must ensure any investigation provider engaged by it:

(a) complies with all relevant laws; and

(b) is aware of and complies with any relevant requirements placed on a CTP Insurer by these Rules.

12 Use of third party service providers

12.1.1 A CTP Insurer must not, without the prior written consent of the Regulator, permit another person to exercise its responsibility for the determination or resolution of claims by way of assignment, transfer, agency agreement or other similar arrangement (except that, for the avoidance of doubt, the Regulator's approval will not be required under this Rule 12 for the entry by the CTP Insurer into arrangements for the provision of professional services to the CTP Insurer by its actuarial, legal, IT and/or ordinary accounting services providers).

12.1.2 Such prior approval may be granted by the Regulator by the Regulator's express acceptance of the CTP Insurer's business plan containing full details of each relevant third party service provider and the scope of its proposed role.

12.1.3 Approval of a third party service provider may be withdrawn by the Regulator at any time at its absolute discretion by notice in writing to the CTP Insurer.

12.1.4 A CTP Insurer must not, without the prior written consent of the Regulator, engage a third party service provider where there is a relationship between the CTP Insurer and the third party service provider (e.g. rehabilitation, investigative, forensic medical and accounting service providers) except that, for the avoidance of doubt, the Regulator's approval will not be required under this Rule 12.1.4 for the

entry by the CTP Insurer into arrangements for the provision of professional services to the CTP Insurer by its actuarial, legal, IT and/or ordinary accounting services providers.

12.1.5 For the purpose of Rule 12.1.4, the CTP Insurer will be considered to have a "relationship" with the third party service provider if the third party service provider is:

(a) a director or secretary of the CTP Insurer;

(b) a related entity of the CTP Insurer; or

(c) a director or secretary of a related entity of the CTP Insurer.

13 Children's claims

In relation to any claim involving any children's claim, the CTP Insurer must ensure:

(a) an appropriate claims management strategy is in place which recognises the unique nature of children's claims and the effect on families of such claimants;

(b) children's claims are actively managed;

(c) children's claims are reviewed at regular intervals;

(d) depending on the significance of the injuries, the CTP Insurer's claims staff are experienced in managing children's claims; and

(e) children's claims are managed in accordance with any other directions given by the Regulator.

14 Assessment of reasonable and necessary treatment, care and support services

14.1.1 CTP Insurers must respond in writing to funding requests relating to treatment, care and support services within seven business days of receipt of any such request where the claimant has completed a prescribed authority which remains valid.

14.1.2 The response must either:

(a) approve the funding request; or

(b) if the CTP Insurer requires further information in order to make a decision on the treatment, care and support service request, provide detail of what clarification or further information is required from the service provider, health professional or claimant (as applicable) to assist in the approval of the request; or

(c) if the funding request is declined or partially declined, include reasons for the CTP Insurer's decision to decline.

14.1.3 In establishing whether the treatment, care or support service is reasonable and necessary, a CTP Insurer must consider the following:

(a) appropriateness of the proposed injury recovery services for the injuries;

(b) expected benefit of the proposed injury recovery services for the claimant;

(c) quality of the service provider;

(d) any advice provided to the claimant by treating practitioners;

(e) background and medical history of the claimant;

(f) the relationship of the service to the injury caused by or arising out of the accident;

(g) whether evidence exists that the proposed service is not recommended;

(h) the proposed number and frequency of services;

(i) whether other services have been undertaken and the outcome to date; and

(j) whether refusing to fund would result in a deterioration in the claimant's condition, rate of recovery and return to usual activities, including return to work.

15 Court approval in claims of persons under legal disability

15.1.1 If a claimant is a person under a legal disability, a CTP Insurer must not settle entitlements under section 127B of the MV Act without the consent of the claimant's litigation guardian.

15.1.2 A CTP Insurer must not compel the claimant's litigation guardian to enter into settlement negotiations with respect to entitlements under section 127B of the MV Act, no fault entitlements for children under 16 years or common law damages in relation to a claim.

15.1.3 In relation to the settlement of a claim, including entitlements under section 127B of the MV Act or damages corresponding to those entitlements, a CTP Insurer must advise the parent or legal guardian to obtain court approval in relation to the settlement where the claimant is a child or person under a legal disability at the date of settlement and is not legally represented.

15.1.4 A CTP Insurer must allow the claimant to obtain an opinion from independent legal counsel to enable the court to approve or reject the proposed settlement and make orders in relation to the manner in which settlement funds are to be paid.

15.1.5 CTP insurers must ensure that the parent or legal guardian is made aware that there is an entitlement to recover from the CTP Insurer the costs of the counsel opinion and application to the court, in particular the fees applicable to advise on compromise or settlement for a person under a disability under the cost scales in the *Magistrates Court (Civil) Rules 2013* (SA) as amended from time to time, or under the *District Court Civil Supplementary Rules 2014* (SA), as amended from time to time.

16 Settlement Payments

16.1 Interim payments

16.1.1 A claimant may request in writing that a CTP Insurer make an interim payment in relation to their claim.

16.1.2 A CTP Insurer must only consider making an interim payment to a claimant where:

(a) there is evidence of financial hardship demonstrated by the claimant's:

(i) incapacity for work;

(ii) spouse or partner being unable to work; and

(iii) inability to focus on their recovery due to financial stress;

(b) fault has been established in relation to the accident;

(c) there is enough evidence to establish the claimant's entitlement to damages;

(d) that interim payment would not exceed the overall estimated value of the claim;

(e) there is no suspicion of fraud on the part of the claimant; and

(f) the claimant has completed a prescribed authority which remains valid.

16.1.3 In determining financial hardship a CTP Insurer may take into account and request from a claimant:

(a) sick certificates;

(b) letters from employers confirming leave taken or the claimant's inability to work;

(c) particulars of pre- and post-injury income and expenditure;

(d) outstanding bills, invoices or other requests for payment; and/or

(e) financial records including business activity statements, bank account statements or correspondence with Centrelink.

16.1.4 A CTP Insurer must assess requests received from a claimant for an interim payment within seven business days of receipt of the request.

16.1.5 If, following a CTP Insurer's assessment, the request is approved the CTP Insurer must:

(a) expediently notify the claimant;

(b) ensure any necessary statutory clearances are obtained (e.g. Centrelink);

(c) ensure the claimant signs a discharge releasing the CTP Insurer from making future payment of damages in respect to the amount of the interim payment; and

(d) on receipt of a signed discharge and statutory clearances, make interim payment to a claimant within five business days.

16.1.6 If, following a CTP Insurer's assessment, the request is denied, the CTP Insurer must:

(a) expediently notify the claimant;

(b) provide to the claimant details of the basis of the denial; and

(c) if the denial is a result of insufficient evidence, advise the claimant as to what further evidence is required.

16.2 Reimbursement of claimant expenses

16.2.1 If liability has been determined for a claim, the CTP Insurer must respond in writing to all requests for reimbursement of claimant expenses, which are accompanied by valid receipts, within seven business days of receipt of the request. The CTP Insurer must:

(a) pay all expenses assessed as valid expenses;

(b) if the CTP Insurer requires further information in order to make a decision on whether or not the expense is valid, include in the response what clarification or further information is required from the claimant to assist in the request; and

(c) if the payment request is declined or partially declined, include in its response the reasons for its decision to decline.

17 Lifetime Support Scheme

17.1 Obligations of disclosure

CTP Insurers must disclose and make available information to claimants who qualify for or may qualify for the LSS as prescribed by the Regulator from time to time.

17.2 Referral of claimants to the LSS

CTP Insurers must:

(a) provide early notification of possible LSS claims to LSA where appropriate;

(b) not refer claimants to the LSS without sufficient supporting evidence that the claimant is likely to qualify to be a participant in the LSS;

(c) provide early information and assistance regarding the LSS to a claimant where appropriate and necessary; and

(d) consider whether application to LSA is appropriate.

17.3 Management of claimants who may be potential or interim LSS participants

17.3.1 CTP Insurers must not actively encourage or discourage claimants from making a claim or continuing to receive benefits pursuant to section 127B of the MV Act in the event they qualify for participation in the LSS.

17.3.2 Subject to any other eligibility criteria prescribed by legislation, a CTP Insurer must fund necessary and reasonable treatment, care and support services pursuant to section 127B of the MV Act for participants who are no longer "interim" participants in the LSS.

17.4 Notification to be given to the Regulator

17.4.1 A CTP Insurer must comply with section 127B of the MV Act:

(a) prior to a claimant being assessed for interim or lifetime support eligibility; and

(b) when an interim participant is not accepted into lifetime care and reverts to the Scheme.

17.4.2 A CTP Insurer must notify the Regulator if they are involved in a dispute with the LSA or a claimant regarding a claimant's participation in the LSS.

18 Offers of settlement

18.1 Offers (at any time but prior to 90 days before issue of proceedings)

18.1.1 A CTP Insurer must endeavour to resolve a claim expeditiously and reduce costs associated with the claim by making a settlement offer when reasonable to do so or by giving proper consideration to any settlement offer received from a claimant.

18.1.2 If a CTP Insurer receives a settlement offer from a claimant, the CTP Insurer must respond to the settlement offer in writing within 60 business days.

18.1.3 CTP Insurers must ensure any offers of settlement made to a claimant:

(a) are in writing;

(b) explain the basis for the dominant injury item number;

(c) explain the entitlements to compensation arising from the chosen ISV, including where there is no entitlement; and

(d) explain the value and assessment for each head of damage.

18.2 Notice of claim (90 day rule)

18.2.1 A claimant is required to give written notice to CTP Insurers at least 90 days prior to issuing proceedings in the Court, containing or accompanied by:

(a) an offer to settle the claim on a basis set out in the notice;

(b) sufficient details of the claim, and sufficient supporting material, to enable the CTP Insurer to assess the reasonableness of the claimant's offer of settlement and to make an informed response to that offer; and

(c) if the claimant is in possession of expert reports relevant to the claim, copies of the expert reports.

18.2.2 CTP Insurers must, within 60 days after receiving a written notice referred to in Rule 18.2.1, respond in writing to the notice by either:

(a) accepting the claimant's offer of settlement;

(b) making a counter-offer which is accompanied by sufficient details and supporting material to enable the claimant to assess the offer and to make an informed response to it; or

(c) stating that liability is denied and the grounds on which it is denied.

18.2.3 CTP Insurers must endeavour to resolve a claim within 90 days of receiving written notice of a claim from a claimant.

18.3 Payments

CTP Insurers must ensure settlement payments:

(a) take into account all statutory repayments, statutory reductions, interim payments, reductions for negligence and credit for special damages; and

(b) are promptly authorised for payment, which ordinarily should be no longer than five business days, following the receipt of final statutory and other clearances and notices.

18.4 Time limits for issuing Court proceedings

18.4.1 Under the LA Act, if the claimant was 18 years of age or over at the date of the accident, and the claim is not resolved within three years of the anniversary of the accident date, legal proceedings must be commenced by the claimant in a court of relevant jurisdiction prior to the expiration of the three year anniversary. Failure to do so may result in the claimant being barred from issuing or continuing legal proceedings, and recovering any entitlement to compensation for damages or costs.

18.4.2 If the claimant was a person under a legal disability at the date of the accident, the time to issue legal proceedings may be extended by the period or periods for which the disability exists or continues after the time at which the right to bring the action or proceeding arose (the date of the motor vehicle accident), but for a period not exceeding 30 years.

18.4.3 If the claimant was a child at the date of the accident, and the time for bringing legal proceedings is extended by more than six years from the accident date, notice of an intended claim must be given to the CTP Insurer within six years of the anniversary of the accident, by or on behalf of, the child.

18.4.4 If the claimant was under the age of 16 years at the time of the accident, and the accident occurred in South Australia, under section 127B of the MV Act the CTP Insurer is liable to pay all necessary and reasonable expenses relating to the claimant's treatment, care and support needs arising from the injury, including after the claimant turns 16 years. These no-fault benefits are not to be confused with, and may be in addition to, the common law right of the child to seek compensation for damages and to which the LA Act time limits apply.

18.4.5 Time limits to issue proceedings and compliance with court rules are complex and subject to relevant court rules. Therefore, if the three year anniversary of the accident date is approaching, the CTP Insurer must take reasonable steps to inform the claimant of the time limits for issuing proceedings and the manner in which to lodge proceedings in a court.

19 Complaints

19.1 Complaints to be initially raised with CTP Insurers

It is expected in the first instance, complaints will be raised with the relevant CTP Insurer as the first point of contact.

19.2 Process for making a complaint

19.2.1 CTP Insurers must develop and maintain a fair, equitable and non-discriminatory process for addressing complaints.

19.2.2 The CTP Insurer may adopt a process for addressing complaints that is approved by the Regulator, but at a minimum, must:

(a) ensure the complaint is dealt with appropriately by its personnel;

(b) ensure complaints are managed efficiently and individual complaints are promptly responded to;

(c) endeavour to resolve all complaints within 10 business days of receiving the complaint;

(d) provide a final response about the complaint in writing to the complainant within 30 business days;

(e) ensure a consistent approach is in place for managing and recording complaints;

(f) ensure Scheme stakeholders and members of the public are advised of the complaint management process in a variety of forms of communication, formats and languages appropriate to the needs of claimants or members of the public;

(g) train personnel involved in the complaints management process;

(h) ensure their dealings with complainants are clearly recorded;

(i) investigate complaints in a timely and effective manner and, where a prolonged investigation is necessary, provide regular feedback to the complainant;

(j) handle complaints at no charge to the complainant including interpreting services; and

(k) record:

(i) the date;

(ii) the name of the complainant;

(iii) the complainant's contact details;

(iv) the claim number;

(v) a brief description of the complaint;

(vi) the action in progress; and

(vii) the resolution of the complaint.

19.2.3 CTP Insurers must, where appropriate, introduce service improvements to reduce the incidence of complaints.

20 Disputed claims

20.1 IDR processes

20.1.1 If a claimant disagrees with a determination made by a CTP Insurer in relation to a claim, the CTP Insurer acknowledges that:

(a) the claimant may ask to have that decision reviewed by the CTP Insurer's State claims manager (or person holding the equivalent position); and

(b) if the claimant disagrees with the determination made by the CTP Insurer's State claims manager, the claimant may ask to have that decision referred to the CTP Insurer's IDR process.

20.1.2 CTP Insurers must ensure their IDR processes comply with the standards and requirements made or approved by ASIC including:

(a) Australian Standard AS ISO 10002-2014 Customer Satisfaction—Guidelines for complaints handling in organisations; and

(b) ASIC Regulatory Guide 165.

20.1.3 CTP Insurers must obtain approval from the Regulator for their IDR processes.

20.1.4 CTP Insurers must have detailed IDR processes and the IDR processes must be fully explained to claimants.

20.1.5 Subject to any restriction imposed by law, medical reports, assessor's reports, witness statements, private investigator's reports and anything else obtained by claimants, CTP Insurers or their legal advisers with respect to a claim will be exchanged between the claimant and CTP Insurer as part of the IDR process.

20.2 Conciliation

20.2.1 If a claimant disagrees with a determination by a CTP Insurer, and the claimant requests the CTP Insurer conciliate the dispute, the CTP Insurer:

(a) must, in respect of unrepresented claimants, agree to conciliate the dispute with a conciliator;

(b) may, in respect of claimants who are legally represented, but is not obligated to, agree to conciliate the dispute with a conciliator,

if the claimant's request to conciliate the dispute is made within 30 business days of the date of the relevant determination.

20.2.2 If a claimant requests conciliation then, subject to rule 20.2.1, a CTP Insurer must arrange a conciliation with a conciliator within 30 business days of the request being made.

20.2.3 The CTP Insurer must consider any directions given by the conciliator.

20.2.4 CTP Insurers must pay the costs of a conciliation conference, including the costs of the conciliator.

20.2.5 A claimant who attends a conciliation conference is entitled to seek reimbursement from a CTP Insurer for:

(a) reasonable expenses of the claimant's transport to and from the conciliation up to a maximum of $50; and

(b) loss of income incurred by the claimant as a result of attending the conciliation up to a maximum of $350.

20.3 Receiving a summons

CTP Insurers must accept service of proceedings on behalf of their insured persons.