

ADMINISTRATIVE AGREEMENT

Dated for reference: March 24, 2004

BETWEEN: Her Majesty the Queen in right of the Province of British Columbia (the "Crown"), as represented by the Minister responsible for the *Motor Dealer Act* (the "Minister")

AND: The Motor Dealer Council of British Columbia, a society incorporated under the laws of British Columbia (the "MDC")

RE: *Motor Dealer Act Delegated Administrative Authority*

March 24, 2004

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1. Background to this Agreement

The Minister is responsible for the administration of the *Motor Dealer Act*. In order to more effectively maintain and enhance consumer protection and consumer confidence within the Motor Dealer industry, the government wishes to delegate the administration of the *Act* to an administrative authority, pursuant to s. 24.2(1) of the *Act*.

The MDC was incorporated for the purpose of accepting this delegation. Upon delegation, the MDC will be responsible for administering the provisions of the *Act* as described in the Delegation Regulation. The Minister will be responsible for the *Act* and regulations, and will maintain oversight of the delegated administration.

The parties wish to enter into this Agreement in order to establish and document the obligations of the parties, and their roles and responsibilities in the context of the delegated administration.

2. Definitions

(a) In this Agreement,

“*Act*” means the *Motor Dealer Act*, R.S.B.C. 1996, c. 316, and any regulations pursuant to the *Act*, as amended from time to time.

“*Agreement*” means this Administrative Agreement regarding the *Motor Dealer Act* Delegated Administrative Authority, all attached schedules, and any agreement or schedule in writing supplementing or amending the Administrative Agreement or any attached schedules.

“*Authority*” means the Motor Dealer Council of British Columbia.

“*Board*” means the Board of Directors of the Authority.

“*Control*” of a record means the authority to manage the record throughout its life cycle from creation to final disposition.

“*Crown*” means her Majesty the Queen in Right of the Province of British Columbia.

“*Crown Records*” means records regarding the administration of the *Act* created by the Crown prior to the Delegation Date and transferred to the Authority for the purpose of administering the *Act*.

“*Delegation Date*” means the date on which the Authority assumes the delegated administration of the *Act* pursuant to the Delegation Regulation.

“*Delegation Regulation*” means an Order in Council delegating administration of the *Act* to the Authority pursuant to s. 24.2(1) of the *Act*.

“*FOIPP Act*” means the *Freedom of Information and Protection of Privacy Act*, R.S.B.C. 1996, c.165.

“**FOI Request**” means a request for information made pursuant to Part 2 of the *FOIPP Act*.

“**MDC**” means the Motor Dealer Council of British Columbia.

“**MDCCF**” means the Motor Dealer Customer Compensation Fund established pursuant to s.14 of the *Act*.

“**MDCCF Board**” means the MDCCF Board continued pursuant to s. 15 of the *Act*.

“**Minister**” means the Minister responsible for the administration of the *Act*.

“**Motor Dealer**” means “motor dealer” as defined in the *Act*.

“**Registrar**” means the registrar appointed by the Board pursuant to the *Act* and this Agreement.

“**Transition Plan**” means the “Delegated Administrative Authority Project Transition Plan” dated December 3, 2003.

3. List of Schedules

(a) The schedules to this Agreement are:

- i. Schedule A – Delegation Regulation,
- ii. Schedule B – Constitution and Bylaws of the Motor Dealer Council of BC,
- iii. Schedule C – Plan to Transfer Trusteeship of the MDCCF, and
- iv. Schedule D – Communications Protocol.

4. Purpose of this Agreement

(a) The purpose of this Agreement is to:

- i. set out the terms of the delegation of the administration of the *Act* to the Authority pursuant to Part 2.1 of the *Act*,
- ii. ensure that appropriate government oversight of the Authority’s administration of the *Act* is established and maintained, and
- iii. meet the requirements for the delegation of the administration of the *Act* to the Authority pursuant to s. 24.2(1) of the *Act*.

5. Delegated Administration of the Act

(a) Upon execution of this Agreement by the parties, the Minister will recommend to the Lieutenant Governor in Council that the administration of the *Act* be delegated to the Authority pursuant to s. 24.2(1) of the *Act*.

- (b) Upon delegation, the Authority will assume responsibility for the administration of all provisions in the *Act* as set out in, and to the extent authorized by the Delegation Regulation, in accordance with this Agreement and the *Act*. A copy of the Delegation Regulation will be attached as Schedule A to this Agreement.

6. Responsibility for Consumer Protection

- (a) The primary responsibility of the Authority under this Agreement is to maintain and enhance consumer protection and consumer confidence within the Motor Dealer industry.

7. Core Business Functions to be Delegated

- (a) Subject to the Delegation Regulation, the Authority's administration of the *Act* will include the following core business functions:
 - i. registration and licensing within the Motor Dealer industry by a Registrar of Motor Dealers,
 - ii. inspection and investigation of Motor Dealers for compliance with the *Act* and its regulations, and other consumer protection statutes on behalf of the Registrar,
 - iii. provision of information and assistance, including the voluntary and impartial mediation of disputes, to consumers and Motor Dealers regarding their rights and responsibilities under the *Act* and any other applicable consumer protection statutes,
 - iv. consumer education initiatives that provide information verbally, in printed materials, and via the Internet, to raise consumer awareness of their rights and responsibilities when purchasing or leasing vehicles,
 - v. Motor Dealer industry education initiatives that provide information verbally, in printed materials, and via the Internet, to help ensure a fair marketplace and to inform licensees and applicants for licence about requirements of licensees, and
 - vi. administration of the Motor Dealer Customer Compensation Fund pursuant to the *Act*.

8. Roles of the Parties

- (a) The Minister will work collaboratively and make reasonable efforts to consult with the Authority in respect of current and proposed government legislation, regulation, directives, or policy that may have a direct impact upon the Authority's administration of the *Act*.
- (b) The Minister may, where the Minister deems appropriate:

- i. recommend amendments to the *Act* and regulations under the *Act* to the Lieutenant Governor in Council,
 - ii. conduct policy, legislative, and regulatory reviews related to the *Act* and to the delegated administration of the *Act*,
 - iii. conduct performance, governance, accountability or financial reviews of the Authority after giving reasonable notice where feasible,
 - iv. consult with the Authority on communication strategies for critical or ongoing issues,
 - v. assist the Authority in establishing or maintaining working relationships with 3rd parties where those relationships are necessary for the Authority's administration of the *Act*,
 - vi. require that the Authority provide a financial report at any time, after giving reasonable notice where feasible, and
 - vii. refer to the Board any matter relating to the administration of the *Act*.
- (c) In order to achieve the agreed consumer protection and other public interest outcomes, the Authority will:
- i. exercise its authority and perform its duties to the extent granted or imposed by the Delegation Regulation in accordance with law, this Agreement and the *Act*,
 - ii. meet its responsibility for consumer protection while seeking to ensure a fair, safe, informed, and efficient marketplace for the Motor Dealer industry,
 - iii. increase consumer protection through timely access to a complaint resolution process for consumer disputes that will provide for redress and enforcement of standards,
 - iv. enhance consumer confidence by providing registration and licensing within the Motor Dealer industry and establishing qualifications and standards of conduct,
 - v. promote consumer awareness through public education,
 - vi. recommend to the Minister legislative or regulatory change regarding the administration of the *Act*, as it deems appropriate,
 - vii. provide the Minister with a financial report at any time when required to do so by the Minister,
 - viii. provide the Minister with timely and reliable information and advice on matters of public interest relating to the Motor Dealer industry, and
 - ix. advise or report to the Minister on any matter the Minister may refer to the Board relating to the delegated administration.

9. Financial Terms

- (a) The Authority acknowledges that after the Delegation Date, the Authority will receive no financial support from the Crown and will be solely responsible for all of its costs and expenses incurred in administering the *Act*, unless expressly stated elsewhere in this Agreement.
- (b) The Authority acknowledges that fines imposed by a court pursuant to the *Act* will be retained by the Crown.
- (c) The Authority may impose fees, costs or other service charges related to its administration of the *Act*, subject to any limitations in the *Act*, the Delegation Regulation, or this Agreement.
- (d) The Authority will report to the Minister at the earliest opportunity if there is any reason for concern about the financial viability of the Authority.

10. Governance of the Authority

- (a) The Authority will be governed in accordance with the Authority's constitution and by-laws dated June 27, 2003, copies of which are attached as Schedule B to this Agreement.
- (b) The Authority will consult with the Minister prior to any change in its constitution or bylaws respecting:
 - i. the composition of the Board,
 - ii. the selection criteria and process for appointing Board members, and
 - iii. the term of office of Board members.
- (c) If there is any conflict between the Authority's constitution and bylaws and this Agreement, the former will prevail.

11. Board Appointments

- (a) The Authority will establish and maintain a skills profile of current Board members, indicating the desirable skills of new Board members, and appropriate policies and procedures for selecting new Board members.
- (b) Prior to accepting nominations for new Board members, the Authority will provide its selection policies and procedures to the Minister and make them available to the public on request.
- (c) The Authority's selection policies and procedures for new Board members will be inclusive and the Board will make reasonable efforts to include:

- i. industry members who reflect a variety of perspectives, and
- ii. members who reflect the perspective of consumers and the public-at-large.

12. Appointment of the Registrar

- (a) The Board will appoint a Registrar pursuant to the *Act* who will be an employee of the Authority.
- (b) A person appointed as Registrar will have demonstrable skills and experience in the following areas:
 - i. a regulatory field similar to the regulation of Motor Dealers and involving consumer or public protection, and
 - ii. the exercise of unfettered discretion and the application of principles of administrative fairness in regulatory decision-making and the performance of statutory duties.
- (c) Any person authorized by the Registrar to issue violation tickets pursuant to the *Offence Act* will have appropriate skills and experience, and will be provided training as necessary.
- (d) The Authority acknowledges that the Registrar exercises statutory duties that require independent decision-making and, for that purpose, the Board will not interfere with the independent exercise of these statutory functions.
- (e) The Board may review the manner in which the Registrar carries out statutory duties, consistent with its duty to supervise the management of the business affairs of the Authority.

13. Addressing Complaints about the Authority's Operations

- (a) The Authority will establish appropriate policies and procedures for reviewing and addressing complaints raised by members of the public or the Motor Dealer industry regarding the manner in which the Authority administers the *Act*.
- (b) The Authority, in its annual report, will report on these policies and procedures and on the processing of any complaints received.

14. Administration of the Motor Dealer Customer Compensation Fund (MDCCF)

- (a) The Board will appoint an MDCCF Board pursuant to the *Act*, which will be separate and independent from the Board.

- (b) The Board will not appoint any of its members to the MDCCF Board.
- (c) The Board will establish appropriate policies and procedures for the selection of MDCCF Board members.
- (d) Prior to considering nominations for MDCCF Board members, the Authority will provide its selection policies and procedures to the Minister and make them available to the public on request.
- (e) The MDCCF Board will provide the Board with an annual report on the administration of the MDCCF.
- (f) The Registrar will collect payments due to the MDCCF and remit those payments to the Minister for deposit into the MDCCF.
- (g) The Registrar may request through the Minister that the costs of administering the MDCCF, including
 - i. money paid to MDCCF Board members, and
 - ii. investigating and processing claims against the MDCCFbe reimbursed from the MDCCF pursuant to the *Act*.
- (h) The parties will work collaboratively to develop a plan for transferring trusteeship of the MDCCF to the Authority. This plan will:
 - i. be completed no later than July 1, 2004, and
 - ii. upon approval by the Board and the Minister, will be attached as Schedule C to this Agreement.

15. Code of Conduct for Motor Dealers

- (a) The Authority will establish a code of conduct for Motor Dealers and for any other licensees under the *Act* within two years of the Delegation Date, and will report on the code of conduct in its annual report.
- (b) The code of conduct will focus on enhancing consumer protection and consumer confidence by establishing uniform standards for integrity, professionalism and fair dealing in the Motor Dealer industry.

16. Performance Objectives of the Authority

- (a) The performance objectives of the Authority will further the agreed consumer protection and public interest outcomes stated in subparagraph 8(c) of this Agreement.

- (b) The performance objectives for year-one of the Authority's delegated administration of the *Act* are to:
- i. develop and maintain an effective regulatory framework for registration and licensing within the Motor Dealer industry,
 - ii. license all Motor Dealers,
 - iii. license all automobile sales persons,
 - iv. implement an effective inspection and investigation program with a proven capacity to enforce regulations,
 - v. develop a communication strategy and establish successful communications with consumers and the Motor Dealer industry,
 - vi. provide timely and effective information and assistance to consumers and Motor Dealers regarding their rights and responsibilities under the *Act* and any other applicable consumer protection statutes,
 - vii. implement Motor Dealer industry education initiatives that provide information verbally, in printed materials, and via the Internet, to help ensure a fair marketplace and to inform licensees and applicants for licence about requirements of licensees,
 - viii. implement consumer education initiatives that provide information verbally, in printed materials, and via the Internet, to help create an improved level of consumer awareness regarding their rights and responsibilities when purchasing or leasing vehicles, and
 - ix. efficiently manage the Motor Dealer Customer Compensation Fund.
- (c) After year-one of the delegation, the Authority will determine its performance objectives annually and will include them in its business plan.

17. Accountability of the Authority

Business Plan

- (a) Each year, prior to the end of its fiscal year, the Authority will prepare a business plan for the next three fiscal years and provide a copy to the Minister.
- (b) For each of the Authority's areas of business, the business plan will include:
- i. goals,
 - ii. strategies,
 - iii. performance objectives, and
 - iv. the performance measure(s) that will be used to evaluate whether or not the goals and objectives are being met.

- (c) At least once every two years, the Authority will commission an independent survey of registrants and consumers who have received services from the Authority in order to gauge customer satisfaction and the effectiveness of its operations.
- (d) The Authority will make its business plan available to the public.

Annual Report

- (e) The Authority will prepare an annual report and provide a copy to the Minister within six months of the end of each fiscal year.
- (f) The annual report will include:
 - i. reports for the year based on the performance measures set out in the business plan, and an analysis of the reports. The analysis of the reports will include discussion on whether the performance measures confirm that the performance objectives of the Authority for that year were met, and will clearly show the Authority's progress in achieving its goals for each area of business.
 - ii. reports and comparative analysis based on performance in previous years,
 - iii. the results of any registrant and consumer satisfaction surveys conducted during the year and comparative analysis based on previous surveys, and
 - iv. audited financial statements for the Authority and for the operation of the Motor Dealer Customer Compensation Fund.
- (g) The reports, analysis and discussion referred to in subparagraph 17(f)(i), (ii), and (iii) will clearly address how the Authority has achieved the agreed consumer protection and other public interest outcomes for each area of business.
- (h) The Authority will make its annual report available to the public.

Ministerial Review

- (i) After the third year of the Authority's delegated administration, the Minister will undertake a comprehensive review of the Authority's operations and evaluate the effectiveness of the delegation of administrative authority.

18. Collection and Payment of Licence Fees

- (a) All fees paid and owing for licences issued pursuant to the *Act* prior to the Delegation Date, including fees for
 - i. new licences granted up to and including the day prior to the Delegation Date, and
 - ii. licences with a renewal date up to and including the day prior to the Delegation Date,will be payable to the Minister of Finance on behalf of the Crown.
- (b) All fees paid and owing for licences issued pursuant to the *Act* on or after the Delegation Date, including fees for
 - i. new licences granted on or after the Delegation Date, and
 - ii. licences with a renewal date on or after the Delegation Date,will be payable to the Authority.
- (c) The parties will take all reasonable steps to ensure that each receives payment for licence fees as described in this Agreement.

19. Oversight

- (a) The Minister will maintain oversight of the Authority's delegated administration of the *Act* on behalf of the Crown.
- (b) Oversight by the Minister will include:
 - i. review of any potential changes to the Authority's constitution or by-laws presented to the Minister for consultation by the Authority,
 - ii. review of the Authority's business plans and annual reports, and
 - iii. where the Minister deems appropriate, legislative, policy and regulatory reviews and reviews of the Authority's performance, governance, and finances.

20. Resources Required by Authority

- (a) The Authority will ensure that it has adequate resources to effectively administer the *Act* and to comply with this Agreement.
- (b) The Authority is solely responsible for negotiating and funding any service level agreements with government ministries or agencies required by the Authority.

21. Records Management

General

- (a) The Authority will identify a staff person responsible for the records management responsibilities of the Authority.
- (b) The Authority will ensure that all records are stored and managed with a level of security appropriate to the sensitivity of the record.
- (c) The provision of Crown Records to the Authority and the processing of FOI Requests for Crown Records under this Agreement will not be deemed to have waived solicitor-client privilege over anything contained in Crown Records.

Crown Records

- (d) The Minister will retain control of all Crown Records created prior to the Delegation Date.
- (e) The Minister will provide the Authority with the Administrative Records Classification System (ARCS) and the Operational Records Classification System (ORCS) retention and disposal schedules for Crown Records.
- (f) The Authority will manage Crown Records pursuant to the retention and disposal schedules provided by the Minister and will return all Crown Records to the Minister for final disposition.
- (g) Crown Records ready for off-site storage will be kept at a storage facility identified by the Minister prior to destruction or archiving.
- (h) The Authority will pay all costs incurred for the storage of Crown Records prior to archiving or destruction.
- (i) The Minister will pay all costs incurred for the archiving of Crown Records.
- (j) Where a party retrieves Crown Records from off-site storage, the retrieving party will pay the costs of retrieving the records.

Records created by the Authority

- (k) The Authority will have control of all records created by the Authority.
- (l) The Authority will identify appropriate off-site storage facilities for records created by the Authority and will pay all costs associated with the storage, retrieval, and final disposition of its records.
- (m) The Authority will manage its records pursuant to the Administrative Records Classification System (ARCS) and the Operational Records Classification System (ORCS) retention and disposal schedules provided by the Minister.

22. Access to Information and Privacy

- (a) The Authority will identify a staff person responsible for the *FOIPP Act* responsibilities of the Authority.
- (b) Each party will provide the other with reasonable access to its records regarding the administration of the *Act*, subject to its obligations under the *FOIPP Act*.
- (c) The Authority will respond to all FOI Requests whether the information requested is in Crown Records or records created by the Authority.
- (d) The Authority may consult with the Minister regarding FOI Requests.

23. Wind-Up or Other Termination of Delegation

- (a) Without limiting the powers of the Crown under the *Act* or otherwise, the termination of the Authority's delegated administration of the *Act* may result from:
 - i. a decision of the Authority to wind-up, dissolve or cease to operate as an administrative authority,
 - ii. the insolvency or bankruptcy of the Authority, or
 - iii. the failure of the Authority to comply with the *Act* or this Agreement.
- (b) If the Authority fails to comply with the *Act* or this Agreement, the Minister will allow the Authority an opportunity to remedy its failure within a time period that the Minister considers reasonable in the circumstances.
- (c) The Authority will provide in its bylaws that, upon voluntary dissolution and after payment of all debts and liabilities, its remaining property will be distributed:
 - i. to any successor administrative authority approved by the Minister, or
 - ii. if there is no successor administrative authority, to a not-for-profit corporation approved by the Minister with similar or compatible objectives and whose objectives are beneficial to the community.
- (d) Prior to the winding-up or other termination of the Authority, the parties will enter into a termination agreement establishing such financial terms and other terms as are necessary or advisable.
- (e) During the wind-up or other termination of the Authority, the Authority will keep the Minister informed of all matters of interest to the Minister or in the public interest which are necessary for the Minister to ensure the effective ongoing administration of the *Act*.

24. Transfer of Litigation

- (a) Civil and administrative litigation, including inquests, related to the *Act* in which the Minister or the Crown is a defendant or an interested party, which was commenced prior to the date of delegation or which was commenced after that date but which relates in whole or in part to any event, act or omission, or to any alleged event, act or omission occurring prior to that date, will be defended or otherwise carried out by the Minister or the Crown unless the parties expressly agree otherwise, and the Minister or the Crown will be responsible for all the costs of the litigation and for the payment of any damages, subject to order of the Court or express agreement of the parties otherwise. The parties agree that the Authority reserves its right to defend or otherwise carry out any such litigation on its own behalf and at its own cost where it determines that it has an independent interest in the litigation.
- (b) The Authority will cooperate with the Minister or the Crown as the case may be for the purpose of the Minister's or the Crown's defence or other participation in the litigation referred to in subparagraph 24(a) including, without limiting the generality of the foregoing, providing documentation or information and providing witnesses in such litigation, where appropriate.
- (c) Civil and administrative litigation, including inquests, related to the *Act* in which the Minister or the Crown is a defendant or an interested party which commenced after the date of delegation, but which does not relate in whole or in part to any event, act or omission, or to any alleged event, act or omission occurring prior to that date, will be defended or otherwise carried out by the Authority, (with full right and power to choose legal counsel and with the full power to reach a settlement which binds the Authority and which, with the Crown's consent, binds the Crown), unless the parties expressly agree otherwise. The Authority will be responsible for all costs of the litigation and for the payment of any settlement costs agreed to and payable by it and any damages awarded against it, subject to order of the Court or the express agreement of the parties otherwise. The parties agree that the Minister or the Crown reserves its right to defend or otherwise carry out any such litigation on its own behalf and at its own cost where it determines that it has an independent interest in the litigation.
- (d) The Minister or the Crown will cooperate with the Authority for the purpose of the Authority's defence or other participation in the litigation referred to in subparagraph 24(c) including, without limiting the generality of the foregoing, providing documentation or information and providing witnesses in such litigation, where appropriate.
- (e) The Minister or the Crown will keep the Authority informed of any litigation by or against the Minister or the Crown or in which the Minister or the Crown is an interested party that may affect the interests of the Authority.
- (f) The Authority will keep the Minister informed of any litigation by or against the Authority or in which the Authority is an interested party that may affect the interests of the Minister or the Crown.

25. Indemnity and Release

- (a) The Authority will be liable for anything done or omitted to be done by the Authority, its directors, appointees, officers, employees or agents in connection with the carrying out of the Authority's delegated administration under this Agreement and the *Act*, and will, at all times, indemnify and save harmless the Crown, including its directors, appointees, officers, employees and agents, from and against any and all claims, demands, losses, costs, damages, actions, suits or other proceedings suffered or incurred by or brought against the Crown attributable to anything done or omitted to be done by the Authority, its directors, appointees, officers, employees or agents in connection with the carrying out of the Authority's delegated administration under this Agreement and the *Act*.
- (b) The Crown will be liable for anything done or omitted to be done by the Crown, including its directors, appointees, officers, employees or agents related to this Agreement or the administration of the *Act*, and will, at all times, indemnify and save harmless the Authority, its directors, appointees, officers, employees and agents, from and against any and all claims, demands, losses, costs, damages, actions, suits or other proceedings suffered or incurred by or brought against the Authority attributable to anything done or omitted to be done by the Crown, including its directors, appointees, officers, employees or agents related to this Agreement or the administration of the *Act*.
- (c) The indemnifications in subparagraphs 25(a) and 25(b) will survive the termination of this Agreement.

26. Insurance

- (a) The Authority will, without limiting its obligations or liabilities under this Agreement and at its own expense, provide and maintain the following insurances with insurers licensed in British Columbia and in forms and amounts acceptable to the Crown:
 - i. commercial general liability insurance with a limit of liability not less than three million dollars (\$3,000,000) per occurrence, or such higher amount deemed necessary by the Authority to fully insure the activities and operations conducted by the Authority, any person performing work on behalf of the Authority, and those others for whom the Authority is in law responsible against bodily injury, personal injury and property damage and including liability assumed under contract. The Crown is to be an additional insured under this policy and this insurance shall be endorsed to provide the Crown with 30 days advance written notice of cancellation or material change. This policy must include a cross liability clause.
 - ii. directors and officers liability insurance with a limit of liability not less than two million dollars (\$2,000,000), or such higher amount deemed

- necessary by the Authority, for the benefit of any past or present directors or officers insuring against any loss resulting from any actual or alleged negligent act, error, omission, misstatement, misleading statement, neglect or breach of duty by the directors and officers in the discharge of their legal duties, solely in their capacity as directors and officers of the Authority. In the event that the Authority is temporarily unable to obtain this insurance, the Authority will request approval for an equivalent indemnity from the Crown for its directors and officers until such time as it is reasonably able to obtain this insurance.
- iii. automobile liability on all vehicles owned, operated or licensed by the Authority in an amount not less than two million dollars (\$2,000,000) per occurrence.
 - iv. any other insurance as the Crown, acting reasonably, may require from time to time under subparagraph 26(i).
- (b) Upon the issue of and upon every renewal of a policy of insurance required under this Agreement, and otherwise upon request by the Crown, the Authority will deliver to the Crown a "Province of British Columbia Certificate of Insurance", or if requested by the Crown, a certified copy of the policy of insurance or other satisfactory evidence of adequate insurance. No review or approval of any insurance certificate or insurance policy by the Crown derogates from or diminishes the Crown's rights or the Authority's liability under this Agreement.
- (c) Any of the policies of insurance required under this Agreement may provide that the amount payable in the event of any loss will be reduced by a deductible amount designated by the Authority and approved by the Crown, such approval not to be unreasonably withheld. The Authority will be a co-insurer to the extent of the amount deducted from the insurance moneys paid in the event of any loss, and the amount will, for the purposes of subparagraph 26(f), be included as part of the insurance moneys payable and paid.
- (d) If any of the policies of insurance required under this Agreement contain any co-insurance clauses, the Authority will maintain at all times a sufficient amount of insurance to meet the requirements of such co-insurance clause so as to prevent the Crown or the Authority from becoming a co-insurer under the terms of such policy or policies and to permit full recovery from the insurer in the event of loss.
- (e) The Authority will comply promptly with the requirements of all policies of insurance required under this Agreement and will not do or permit anything to be done that results in the cancellation or threatened cancellation or the reduction of coverage or threatened reduction of coverage under any such policy.
- (f) If the Authority fails to effect the restoration, reconstruction, or replacement of any loss or damage in respect of which insurance moneys are payable, without unreasonable delay, the Crown will be entitled to effect such restoration, reconstruction, or replacement and the Authority will cause the mortgagee or any other person to whom such insurance moneys are payable to pay or cause to be paid to the Crown such insurance moneys in the same manner the mortgagee or other person would have done had the Authority effected such restoration, reconstruction, or replacement.

- (g) The Authority will pay or cause to be paid all of the premiums under the policies of insurance required under this Agreement as they become due and payable, and if the Authority does not do so, the Crown may, but is not obligated to, do so.
- (h) If the Authority at any time fails to provide and maintain any insurance required under this Agreement, the Crown, although not obligated to do so, may obtain and maintain such insurance in such amount or amounts with such deductible amounts and for such period or periods of time as the Crown deems advisable.
- (i) The Crown may, from time to time, by notice to the Authority require the Authority to:
 - i. change the amounts of the insurances required to be provided and maintained under this Agreement, or
 - ii. provide and maintain another type or types of insurance in replacement of or in addition to the insurance previously required to be maintained under this Agreement.

The Authority will, within 90 days of receiving such notice, cause the amounts of the insurances to be changed or new types of insurance to be obtained and to deliver to the Crown a completed "Province of British Columbia Certificate of Insurance" for all insurance then required to be maintained by the Authority under this Agreement.

- (j) In the event that the Crown imposes an obligation on the Authority by way of legislative or regulatory amendments, term or otherwise, which gives rise to exposure to liability on the part of the Authority for which the Authority cannot reasonably obtain appropriate liability insurance, the Authority will provide immediate notice to the Minister in writing of the uninsured risk and the Authority and the Minister will take appropriate measures to resolve the issue to the satisfaction of both parties.

27. Term of Agreement

- (a) This Agreement, as amended from time to time, will remain in force until terminated
 - i. in accordance with the terms of this Agreement, or
 - ii. pursuant to the *Act*.

28. Conditions Precedent

- (a) This Agreement will come into force subject to the satisfaction of the following conditions on or before April 1, 2004:

- i. the transfer of assets from the Minister to the Authority as provided for in the Transition Plan has been completed,
 - ii. a regulation under the *FOIPP Act* to designate the Authority as a public body for the purposes of that Act has been enacted and brought into force,
 - iii. the indemnities to be granted by the Crown under this Agreement have been approved under the Guarantees and Indemnities Regulation made under the *Financial Administration Act*,
 - iv. all insurance that the Authority is required to obtain and maintain under this Agreement has been obtained, and
 - v. the Delegation Regulation has been enacted and brought into force.
- (b) The conditions set out in subparagraph 28(a) are for the benefit of both parties and may be waived in whole or in part, on or before April 1, 2004, only by a written waiver to that effect signed by both parties.

29. Review and Amendment of Agreement

- (a) The parties will conduct a review of this Agreement upon a mutually agreed timetable. Despite the foregoing, either party may initiate a review of the Agreement when advisable in the public interest upon giving notice to the other.
- (b) The parties will amend this Agreement as required to accommodate any changes to the *Act* or other applicable legislation.
- (c) The terms of this Agreement may only be amended with the consent of both parties. Such amendments will be in writing, dated, and signed by both parties and attached to this Agreement.

30. Dispute Resolution

- (a) The following dispute resolution procedures will be used to resolve any disputes that may arise out of or in connection with this Agreement, or the administration of the *Act*:
 - i. The administrators identified by each party under subparagraph 31(a) of this Agreement will attempt to settle the dispute.
 - ii. If the administrators are unable to settle the dispute within a reasonable time, the dispute will be referred to a single mediator, unless the parties agree otherwise. Any recommendation of the mediator for resolution of the dispute will not be binding on a party without its consent.
 - iii. If the recommendation of the mediator is not accepted and the parties are unable to resolve the dispute, the dispute shall be resolved by arbitration. The rules and procedures of the *Commercial Arbitration*

Act, R.S.B.C. 1996, c. 55, will apply to any arbitration under this Agreement, except to the extent that they are modified by agreement in writing of the parties.

31. Contacts and Ongoing Communications

- (a) Each of the parties will designate an administrator and an alternate who will be the primary contact for all issues and communications related to this Agreement, and the administration of the *Act*, and will keep the other informed of the names of its administrator and alternate.
- (b) The parties will make reasonable efforts to meet regularly to discuss any matters necessary for the proper administration of the *Act*.
- (c) The parties will develop a communications protocol describing their responsibilities for addressing issues that may arise during the Authority's delegated administration of the *Act*. Upon approval by the Board and the Minister, the communications protocol will be attached as Schedule D to this Agreement.

32. Entire Agreement

- (a) This Agreement is the entire agreement between the parties and supersedes any prior understanding or agreement existing between the parties at the date of execution of this Agreement.

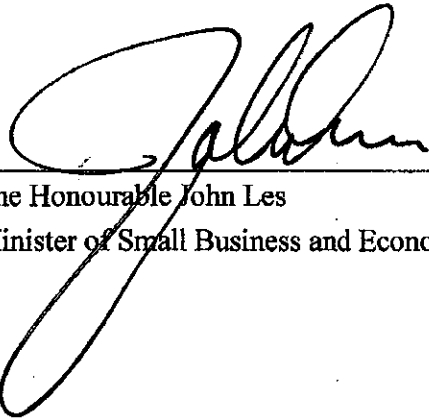
33. Jurisdiction

- (a) This Agreement will be governed by the laws of the Province of British Columbia.

34. Public Document

- (a) After execution, this Agreement, including the Schedules and any amendments, will be made available to the public by either party upon request to that party by any member of the public.

IN WITNESS WHEREOF the parties hereto have executed this Agreement.



The Honourable John Les
Minister of Small Business and Economic Development

MAR. 26/04.
Date



R. J. Stewart
Chair of the Board
Motor Dealer Council of British Columbia

March 24/04
Date

SCHEDULE A – DELEGATION REGULATION

Schedule A – Delegation Regulation

Subparagraph 5(a)

(to be added when in force)

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IMPORTANT INFORMATION

B.C. Reg. 129/2004

Deposited March 26, 2004

O.C. 319/2004

effective April 1, 2004

Motor Dealer Act**MOTOR DEALER DELEGATION REGULATION**

[includes amendments up to B.C. Reg. 124/2006, July 1, 2006]

Delegation

1 (1) The administration of the following is delegated to the authority:

- (a) the *Motor Dealer Act*;
- (b) the Motor Dealer Act Regulation;
- (c) the Motor Dealer Consignment Sales Regulation;
- (d) the Motor Dealer Customer Compensation Fund Regulation;
- (e) Repealed. [B.C. Reg. 124/2006, s. 2.]
- (f) the Salesperson Licensing Regulation.

(2) Without limiting subsection (1), the authority may exercise the powers, functions or duties of the minister under section 2 of the *Motor Dealer Act*.

[am. B.C. Regs. 241/2004, Sch. 2; 124/2006, s. 2.]

[Provisions of the *Motor Dealer Act*, R.S.B.C. 1996, c. 316, relevant to the enactment of this regulation: section 24.2]

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SCHEDULE B – MDC CONSTITUTION AND BYLAWS

**Schedule B – Constitution and Bylaws of the Motor Dealer
Council of BC
Subparagraph 10(a)**

SCHEDULE B – MDC CONSTITUTION AND BYLAWS

JUNE 27/03

FORM 3

SOCIETY ACT

Constitution

1. The name of the society is MOTOR DEALER COUNCIL OF BRITISH COLUMBIA
2. The purpose(s) of the society is (are)
 - (a) to administer, in whole or in part, the Motor Dealer Act, any regulations under that act and any other legislation or regulations to the extent such administrative powers may, from time to time, be lawfully delegated to the society;
 - (b) to increase consumer protection through timely access to a complaint resolution process for consumer disputes that will provide for redress and enforcement of standards;
 - (c) to enhance consumer confidence by licensing and registering members of the industry and codifying qualifications and conduct;
 - (d) to enforce other consumer protection legislation as it pertains to the motor dealer industry;
 - (e) to promote consumer awareness through public education;
 - (f) to promote education and certification of those involved in the motor dealer industry;
 - (g) to provide the Minister with timely and reliable information and advice on matters of public interest relating to the motor dealer industry;
 - (h) to comply with the principle of providing a fair, safe, informed, and efficient market place within the motor dealer industry; and
 - (i) to engage in such other activities as may become necessary in order for the Society to fulfill its mandate.

and the purposes of the Society shall be carried out without personal gain for its members and any funds accruing to the Society shall be used for furthering its mandate and purposes.

SCHEDULE B – MDC CONSTITUTION AND BYLAWS

SOCIETY ACT

**BYLAWS OF MOTOR DEALER COUNCIL OF
BRITISH COLUMBIA**

Here set forth, in numbered clauses, the bylaws providing for the matters referred to in Section 6(1) of the Society Act, and any other bylaws.

1.0 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In these Bylaws:

- (a) "Act" means the Society Act, R.S.B.C. 1996, c. 433, as enacted or amended from time to time and every statute that may be substituted for that act and the regulations made pursuant to that act;
- (b) "Bylaws" means the bylaws of the Society from time to time in force;
- (c) "Board of Directors" or "Directors" means the directors of the Society for the time being;
- (d) "Minister" means the Minister responsible for the administration of the Motor Dealer Act;
- (e) "Nominee" means a nominee of the BCADA, ARA or RVDA (each, an "Association") for the position of director of the Society whose nomination was the result of an election by the members of that Association to which that nominee belongs occurring prior to the expiry of the term of the director of the Society who such nominee is intended to replace;
- (f) "Society" means the Motor Dealer Council of British Columbia.

1.2. Meaning of the Society Act

All words or expressions in these Bylaws which are defined in the Act on the date these Bylaws became effective shall have the meaning given to them in the Act.

1.3 Language

Words importing the singular include the plural and vice versa; words importing a female person include a male person.

SCHEDULE B – MDC CONSTITUTION AND BYLAWS

1.4 Interpretation

The rules of construction contained in the Interpretation Act apply with all necessary changes, to the interpretation of these Bylaws.

2.0 MEMBERSHIP

2.1 First Members

The members of the Society are the applicants for incorporation of the Society, and those persons who subsequently become members, in accordance with these Bylaws and, in either case, have not ceased to be members.

2.2 Admission to Membership

A member shall be admitted into membership in the Society upon becoming a director of the Society.

2.3 Termination of Membership

Membership in the Society is not transferable and ceases to exist upon the member ceasing to hold office as a director of the Society;

2.4 Rights and Obligations of Membership

Every member of the Society will be bound by and shall abide by the constitution of the Society and these Bylaws and has the same rights and obligations of a director of the Society;

2.5 Standing of Members

All members are in good standing except a member who has failed to pay any amount due and owing by the member to the society, and the member is not in good standing so long as the amount remains unpaid.

3.0 MEETINGS OF MEMBERS

3.1 Annual Meeting

Subject to compliance with the Act, the Directors shall call an annual general meeting to be held once each calendar year within 120 days of the end of the Society's fiscal year, at such time and place as the Directors may decide.

3.2 Business at a General Meeting

At an annual general meeting, or other general meeting, only such matters as are required by the Act to be brought before the members at an annual general meeting, or other general meeting, as the case may be, shall be transacted.

SCHEDULE B – MDC CONSTITUTION AND BYLAWS

3.3 General Meeting

A general meeting of the members may be convened by order of the Board of Directors at any date and time and at any place within British Columbia.

3.4 Voting

Any member is entitled to vote at any general meeting who is present at the meeting.

3.5 Decision by Majority

At all meetings of the Society, all questions shall be decided by a majority of the votes cast by the members unless otherwise specifically provided for by the Act or by the Bylaws.

3.6 Decision of Meeting

At any meeting, unless a poll is demanded, a declaration by the presiding officer that a resolution has been carried or carried unanimously or by a particular majority or lost, or not carried by a particular majority is conclusive evidence of that fact.

3.7 Quorum

A quorum at any general meeting of the members of the Society (unless a greater number is required by the Act or a bylaw) must number more than one half of the members as of the date of that general meeting.

3.8 Adjournment

Notwithstanding the absence of a quorum of any general meeting of the Society, the meeting may be adjourned to any time.

3.9 Business at Adjourned Meeting

Any business may be transacted at an adjourned meeting as might have been transacted at the meeting which was adjourned.

3.10 Notice of Adjourned Meeting

A written notice shall be given to each member of a meeting adjourned for 10 days or more.

4.0 DIRECTORS

4.1 Duties and Powers

The Directors shall manage or supervise the management of the affairs and business of the Society and shall have the authority to exercise all such powers of the Society as are not, by the Act or these Bylaws, required to be exercised by the Society in general meeting.

SCHEDULE B – MDC CONSTITUTION AND BYLAWS

4.2 Composition of the Board of Directors

The number of Directors shall be eleven (11) as follows:

- (a) three (3) Nominees of the British Columbia Automobile Dealers Association ("BCADA");
- (b) two (2) Nominees of the Automotive Retailers Association ("ARA");
- (c) one (1) Nominee of the Recreation Vehicle Dealers Association of B.C. ("RVDA");
- (d) two (2) persons nominated by the Minister; and
- (e) three (3) other persons nominated by the members.

4.3 Disqualified Persons

No person shall be eligible to be elected as a Director of the Society who:

- (a) is an employee of the Society;
- (b) is under the age of 18 years;
- (c) is an employee of a motor dealer industry organization;
- (d) is an undischarged bankrupt;
- (e) has been convicted, in or out of British Columbia, of an offence:
 - (i) in connection with a motor vehicle retail transaction
 - (ii) involving fraud, or
 - (iii) that is an indictable offence;
- (f) is found to be incapable of managing the person's own affairs by reason of mental infirmity; or
- (g) is a corporation.

4.4 First Directors

The applicants for the incorporation shall become the first Directors of the Society whose term of office on the Board of Directors shall continue until the first meeting of the Board of Directors (which meeting the Board of Directors must convene within nine months of the date of incorporation of the Society), at which time the Board of Directors shall be appointed under Section 4.5.

4.5 Board of Directors

The first Board of Directors shall be appointed from those Nominees of the BCADA, ARA and RVDA and the other persons referred to in section 4.2 to hold office in the following manner:

SCHEDULE B – MDC CONSTITUTION AND BYLAWS

- (a) two (2) of the Nominees from the BCADA shall hold office for a term of two (2) years;
- (b) one (1) of the Nominees from the BCADA shall hold office for a term of three (3) years;
- (c) one (1) of the Nominees from the ARA shall hold office for a term of two (2) years;
- (d) one (1) of the Nominees from the ARA shall hold office for a term of three (3) years;
- (e) the Nominee from the RVDA shall hold office for a term of three (3) years;
- (f) one (1) person nominated by the members who shall hold office for a term of two (2) years;
- (g) two (2) persons nominated by the members who shall hold office for a term of three (3) years; and
- (h) two (2) persons nominated by the Minister who shall hold office for a term of three (3) years, or at the pleasure of the Minister.

4.6 Maximum Term

A director may not hold office for more than six consecutive years.

4.7 Vacation of Office

A director ceases to hold office:

- (a) when the director dies, or resigns in accordance with Section 4.9;
- (b) when the term of office of that director expires;
- (c) if a director is removed from office in accordance with Section 4.9;
- (d) if a director under section 4.5(h) is removed by the Minister; or
- (e) if a director is no longer eligible to be elected as a Director of the Society under Section 4.3.

4.8 Casual Vacancies

The Board of Directors may at any time and from time to time appoint a person as a director to fill a casual vacancy in the Board of Directors, which person shall be nominated by or from the category under section 4.2 from which the vacancy arises. A person so appointed holds office only until the conclusion of the term of the director that person has been appointed to replace.

4.9 Remuneration and Expenses

The Chair and Directors shall be paid remuneration for their services as the Board of Directors may from time to time by resolution determine and shall also be entitled to be reimbursed for reasonable expenses incurred by them in the performance of their duties

SCHEDULE B – MDC CONSTITUTION AND BYLAWS

4.10 Resignation and Removal

A director may at any time resign by notice in writing delivered to the secretary and may be removed before the expiry of his or her period of office by special resolution of the members.

4.11 Voting

Questions arising at any meeting of the Directors shall be decided by a majority of votes and in case of an equality of votes the matter shall fail.

4.12 Quorum

The quorum necessary for the transaction of business of the Board of Directors must number more than one half of the Directors.

4.13 Calling of Directors' Meetings

Meetings of the Directors may be called by any officer of the Society or under the direction of any two of the Directors, and no formal notice of any meeting of the Directors shall be necessary if all the Directors are present, or if those absent have signified their consent to the meeting being held in their absence.

4.14 Telephone Participation

If all the Directors of the Society consent, then one or more Directors may participate in a meeting of the Directors, or of any committee of the Directors, by means of conference telephone or other communications facilities by means of which all Directors participating in the meeting can hear each other simultaneously and instantaneously, and a Director participating in such meeting by such means is deemed to be present at that meeting and shall be counted in the quorum for that meeting and be entitled to speak and vote at that meeting.

4.15 Indemnification

Subject to the Act, the Society shall indemnify and save harmless each director from and against cost, charges, or expenses arising out of the execution of the duties of his or her office, and also from and against all other costs, charges and expenses which he or she sustains or incurs in or about or in relation to the affairs of the Society except such costs, charges or expenses as are occasioned by his or her own willful act or default.

5.0 OFFICERS

5.1 First Chair

The Directors shall elect a first Chair from among the Directors appointed to the Board of Directors who shall hold office for a term of two (2) years and shall be eligible for election to an additional one (1) year term for so long as he or she remains a director during that term.

SCHEDULE B – MDC CONSTITUTION AND BYLAWS

5.2 Elected Officers

Subject to 5.1, the Directors shall elect from among themselves the following officers for a term of one (1) year each:

- (a) each Chair subsequent to the first Chair;
- (b) Vice-Chair;
- (c) Secretary; and
- (d) Treasurer.

Subject to the Act, none of the said officers, except the Chair, Vice-Chair and the Secretary, need be a director or member of the Society and the offices of Secretary and Treasurer offices may be held by the same person.

5.3 President

The Directors may appoint a President subject to section 5.7.

5.4 Other Officers

The Directors may from time to time appoint such other officers and agents and authorize the employment of such other persons as may be necessary to carry out the objectives of the Society and such officers, agents, and employees shall have such authority and perform such duties as are determined by the Directors.

5.5 Remuneration

The remuneration of all officers appointed by the Board of Directors shall be determined from time to time by resolution of the Board of Directors. All officers shall be entitled to be reimbursed for reasonable expenses incurred in the performance of their duties.

5.6 Removal of Officers

All officers, in the absence of agreement to the contrary, shall be subject to removal by resolution of the Board of Directors at any time, with or without cause.

5.7 Powers and Duties of Officers

All officers shall sign such contracts, documents, or instruments in writing as require their respective signatures and shall respectively have and perform all powers and duties incident to their respective offices and such other powers and duties respectively as may from time to time be assigned to them by the Board of Directors. The duties of the officers shall include:

Chair— the Chair shall act as the presiding officer of the Society, unless otherwise determined. The Chair shall be a director and shall be vested with and may exercise all of the powers and perform all of the duties of a chairperson of the board, including supervising all other officers in the execution of their duties, and presiding at all meetings.

SCHEDULE B – MDC CONSTITUTION AND BYLAWS

Vice-Chair—the Vice-Chair shall be vested with all the powers and shall perform all the duties of the Chair in the absence or inability or refusal to act of the Chair. The Vice-Chair shall assist the Chair at all times in any or all of the Chair's duties of office as the Chair decides.

Secretary—the Secretary shall be a director and shall conduct the correspondence of the Society; issue notice of meetings of the Society; keep minutes of all meetings of the Society and Directors; have custody of all records and documents of the Society except those required to be kept by the treasurer; and maintain a register of members.

Treasurer—Subject to the provisions of any resolution of the Board of Directors, the Treasurer shall have the care and custody of all the funds and securities of the Corporation and shall deposit the same in the name of the Corporation in such bank or banks as the Board of Directors may direct. The Treasurer shall keep or cause to be kept the requisite books of account and accounting records.

President—The President shall be the chief executive officer of the Society and shall supervise other employees in the execution of their duties. The President shall be responsible to the Board of Directors and shall have the full authority to manage and direct the business and affairs of the Society (except such matters and duties as by law must be transacted or performed by the Board of Directors or by the members) and to employ and discharge assistants, clerks, agents, representatives and employees of the Society.

The President shall comply with all lawful orders given by the Board of Directors and shall at all reasonable times give to the Directors or any of them all information they may require regarding the affairs of the Society.

6.0 FINANCIAL

6.1 Bankers

The Board of Directors shall designate, by resolution, the officers and other persons authorized to transact the banking business of the Society with the bank, trust company, credit union or other corporation carrying on a banking business that the Board of Directors has designated as the Society's banker, to have the authority set out in the resolution, including the power to:

- (a) operate the Society's accounts with the banker;
- (b) make, sign, draw, accept, endorse, negotiate, lodge, deposit or transfer any of the cheques, promissory notes, drafts, acceptances, bills of exchange and orders for the payment of money;
- (c) issue receipts for and orders relating to any property of the Society;

SCHEDULE B – MDC CONSTITUTION AND BYLAWS

- (d) execute any agreement relating to any banking business and defining the rights and powers of the parties thereto; and
- (e) authorize any officer of the banker to do any act or thing on the Society's behalf to facilitate the banking business.

6.2 Deposit of Securities

The securities of the Society shall be deposited for safekeeping with one or more bankers, trust companies, credit unions or other financial institutions to be selected by the Board of Directors. Any and all securities so deposited may be withdrawn only upon written order of the Society signed by such officer or officers, agent or agents of the Society. The institutions, which may be so selected as custodians by the Board of Directors, shall be fully protected in acting in accordance with the directions of the Board of Directors and shall in no event be liable for the due application of the securities so withdrawn from deposit or the proceeds thereof.

7.0 AUDITORS

7.1 Appointment

The Directors may, from time to time

- (a) appoint an auditor to audit the accounts of the Society, and
- (b) terminate the appointment of an auditor.

7.2 Remuneration

The Directors may fix the remuneration of the auditor.

7.3 Casual Vacancy

The Directors may fill any casual vacancy in the office of the auditor.

7.4 Rights of Auditor

The auditor may attend any annual meeting of the Society.

8.0 CODE OF CONDUCT AND GUIDELINES FOR CONFLICT OF INTEREST

8.1 Code of Conduct and Guidelines for Conflict of Interest

The Society's Code of Conduct and Guidelines for Conflict of Interest is a policy of the Board of Directors that is intended to provide direction to Directors on the standard of conduct to be used when Directors are conducting the business affairs of the Society.

SCHEDULE B – MDC CONSTITUTION AND BYLAWS

8.2 Conflicts of Interest

Directors will perform their duties conscientiously and will not knowingly place themselves in circumstances in which their private interests and those of the Society are, or appear to be, in conflict.

8.3 Director to Disclose Interest

Every Director must avoid any situation in which there is an actual or apparent conflict of interest that could interfere or could be perceived to interfere with the Director's judgment in making decisions in the Society's best interests.

Every Director shall declare any circumstances that constitute an actual or apparent conflict of interest. Such declaration shall be in writing to the Chair of the Board of Directors and shall state the fact, the nature and the extent of the conflict.

The declaration shall be made by the Director at the first meeting of the Directors held:

- (a) after he or she becomes a director; or
- (b) if he or she is already a director, after he or she began to hold the office or possess the property in conflict.

8.4 Directors' Obligation

Directors are obliged to review the Society's Code of Conduct and Guidelines For Conflict Of Interest and acknowledge their support and understanding of the Code by signing an annual Declaration Statement.

9.0 NOTICES

9.1 Service

Any notice to members under these Bylaws will be given in writing and may be sent by courier, facsimile, or email, or may be delivered or mailed by prepaid post addressed to the member at the address of that member given in the register of members of the Society. If there is an interruption in normal mail service due to strike, labour unrest or other cause at or before the time a notice is mailed the notice will be sent by courier, facsimile or email or will be delivered by other means.

9.2 Computation Time

If notice is sent by facsimile or email, or is delivered, it will be deemed to have been given at the time of transmission or delivery. If notice is mailed, it will be deemed to have been received within two business days following the date of mailing of the notice.

SCHEDULE B – MDC CONSTITUTION AND BYLAWS

9.3 Proof of Service

With respect to every notice or other document sent by post it shall be sufficient to prove that the envelope or wrapper containing the notice or other document was properly addressed and put into a post box.

10.0 DISSOLUTION**10.1 Not for Profit**

The Society shall be carried on without purpose of gain for its members, and any profits or other accretions to the Society shall be used to promote the Society's objectives.

10.2 Dissolution

Should the Society be dissolved or terminated or for any reason whatsoever surrender its charter, its remaining assets and property, after payment of or provision for all of the debts, liabilities and obligations of the Corporation, shall be distributed:

- (a) to any successor administrative authority approved by the Minister; or
- (b) if there is no such successor administrative authority, then to a not-for-profit society approved by the Minister with similar or compatible objectives and whose objectives are beneficial to the community.

11. MISCELLANEOUS**11.1 Head Office**

The Directors may establish a head office of the Society within the Greater Vancouver Regional District, in the Province of British Columbia.

11.2 The Seal

The seal of the Society, if any, shall be kept in the custody of the Secretary of the Society and shall not be affixed to any instruments except by and in the presence of any two of the Directors of the Society or as may be authorized from time to time by the Board of Directors.

11.3 Borrowing

Subject to the Act, in order to carry out the purposes of the Society the Directors may, on behalf of and in the name of the Society, raise or secure the payment or repayment of money in the method they decide. These methods may require the Board of Directors of the Society, from time to time to:

- (a) borrow money on the credit of the Society;
- (b) issue, sell or pledge debt obligations (including bonds, debentures, debenture stock, notes or other like liabilities whether secured or unsecured) of the Society's;

SCHEDULE B – MDC CONSTITUTION AND BYLAWS

- (c) charge, mortgage, hypothecate or pledge all or any currently owned or subsequently acquired real or personal, movable or immovable property of the Society, including book debt, rights, powers, franchises and undertakings, to secure any debt obligations or any money borrowed, or other debt or liability of the Society; and
- (d) delegate the powers conferred on the Board of Directors under this paragraph to such officer or officers of the Society and to such extent and in such manner as the Directors shall determine.

The powers hereby conferred shall be deemed to be in supplement of and not in substitution for any powers to borrow money for the purposes of the Society possessed by its Directors or officers independently of this bylaw.

11.4 Board of Directors Authorized Signatories

From time to time the Board of Directors may authorize any director, officer or employee of the Society or any other person to make arrangements with reference to the money so borrowed or to be borrowed and as to the terms and conditions of the loan thereof, and as to the security to be given therefore, with power to vary or modify such arrangements, terms and conditions and to give such additional security as the Board of Directors may authorize, and generally to manage, transact and settle the borrowing of money by the Society.

SCHEDULE C – PLAN TO TRANSFER TRUSTEESHIP OF THE MDCCF

Schedule C – Plan to Transfer Trusteeship of the MDCCF

Subparagraph 14(h)

(to be added when completed)

Motor Dealer Act

Delegated Administrative Authority Agreement

SCHEDULE C – PLAN TO TRANSFER TRUSTEESHIP OF THE MDCCF

Schedule C – Plan to Transfer Trusteeship of the MDCCF
Subparagraph 14(h)

VEHICLE SALES AUTHORITY OF B.C.

APR 16 2010

RECEIVED

Motor Dealer Act**Delegated Administrative Authority Agreement****SCHEDULE C – PLAN TO TRANSFER TRUSTEESHIP OF THE MDCCF**

1. Introduction

Pursuant to the *Act* and this Agreement, the MDC is responsible for administering the MDCCF. However, currently the *Act* stipulates that the MDCCF is a trust fund under the *Financial Administration Act*, with the Minister of Finance as trustee. These provisions limit the extent to which the Authority can independently administer some aspects of the MDCCF. Therefore, the Ministry and the MDC have agreed on the need to amend the *Act* to make the MDC the trustee of the MDCCF, and to establish interim procedures that will maximize the MDC's ability to administer the MDCCF prior to the MDC becoming the trustee.

VEHICLE SALES AUTHORITY OF B.C.

APR 16 2010

RECEIVED

2. Purpose

- (a) The purpose of this plan is to document
- i. the intentions of the parties to affect a transfer of the trusteeship of the MDCCF from the Minister of Finance to the MDC, and
 - ii. the procedures relating to the administration of the MDCCF that the parties will follow prior to the MDC becoming the trustee.

3. Transfer of Trusteeship

- (a) The Minister will request an amendment to the *Act* that will:
- i. transfer the MDCCF to the MDC,
 - ii. declare that, upon transfer to the MDC, the MDCCF is no longer a trust fund under the *Financial Administration Act*,
 - iii. require the MDC to hold the MDCCF in trust,
 - iv. exempt money paid into the fund from any process of garnishment, attachment, execution, or seizure under any legal process by any creditor of the MDC,
 - v. require that the MDC invest the MDCCF only as permitted under the provisions of the *Trustee Act* respecting the investment of trust property by a trustee,
 - vi. provide for the transfer of the fund to another trustee designated by the Minister in the event that the MDC ceases to act as the delegated administrative authority under the *Act*, and
 - vii. include any other provisions that are determined to be necessary or advisable.
- (b) The Minister will make reasonable efforts to obtain approval for the amendment of the *Act* at the earliest practicable date.

Motor Dealer Act**Delegated Administrative Authority Agreement****SCHEDULE C – PLAN TO TRANSFER TRUSTEESHIP OF THE MDCCF**

4. Contributions Held in Trust

- (a) The MDC will hold in trust all contributions to the MDCCF received by the MDC and will remit those contributions to the MDCCF as provided in section 5 of this schedule.

5. Interim ProceduresProcessing contributions to the MDCCF

- (a) MDC will hold contributions to the MDCCF in trust and remit the contributions to the MDCCF monthly by sending MSBED a cheque payable to the Minister of Finance.
- (b) MDC will maintain a record of contributions to the MDCCF, including
- i. contributions received, and
 - ii. monthly remittances of contributions held in trust to the MDCCF.

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Paying out approved claims

- (c) MDC will batch all claims approved at an MDCCF Board meeting and send a cheque request memo for claim payments to MSBED, in a form approved by MSBED.
- (d) The cheque request memo will be signed by the President of MDC and the Chair of the MDCCF Board.
- (e) MSBED will process the cheque request and send a claim cheque, payable to the claimant, to MDC.
- (f) MDC will send the claim cheque to the claimant.

Processing MDC expenses for administering the MDCCF

- (g) MDC will send an invoice to MSBED monthly for costs incurred in administering the MDCCF.
- (h) The monthly invoices will itemize MDC's administrative costs within the following categories:
- i. administrator remuneration and general administrative overhead
 - ii. claims investigation costs, and
 - iii. MDCCF Board meeting costs, excluding individual Board member per diem and expenses.
- (i) MSBED will process the invoice against the MDCCF.

Motor Dealer Act

Delegated Administrative Authority Agreement

SCHEDULE C - PLAN TO TRANSFER TRUSTEESHIP OF THE MDCCF

Processing Expense Claims for MDCCF Board Members

- (j) MDC will collect expense claims and receipts from all MDCCF Board members who are not also members of the public service.
- (k) MDC will batch all claims related to a Board meeting and send them to MSBED with a cover letter including
 - i. the total claim for each Board member, itemizing per diem and expense totals, and
 - ii. original receipts for each board member for all expenses claimed.
- (l) MSBED will process the claims and send reimbursement cheques directly to the board member making the claim.
- (m) MSBED will maintain expense claim records and will issue T4A forms for Board members annually.
- (n) Any Board member who is also a member of the public service will submit expense claims directly to the Province.

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Daily balance spreadsheet and crediting interest to the MDCCF

- (o) MSBED will maintain a daily balance spreadsheet for the MDCCF and update it monthly.
- (p) MSBED will send the daily balance spreadsheet to Provincial Treasury for interest calculation monthly.
- (q) Provincial Treasury will credit the MDCCF with interest and send MSBED a report of the interest amount credited to the fund.
- (r) MSBED will send MDC a copy of the updated daily balance spreadsheet monthly.

6. Approvals

Donald Leitch, Deputy Minister
Ministry of Small Business and Economic Development

15/10/04

Date

R. J. Stewart, Chair of the Board
Motor Dealer Council of British Columbia

Oct 11 04

Date

SCHEDULE D – COMMUNICATIONS PROTOCOL

Schedule D – Communications Protocol
Subparagraph 31(c)

SCHEDULE D – COMMUNICATIONS PROTOCOL

DESCRIPTION	RESPONSIBILITY	
	Ministry	MDC
Correspondence		
Correspondence on operational issues related to the MDC	<ul style="list-style-type: none"> • Drafts ministerial response indicating that correspondence referred to the MDC • Forwards to MDC for response 	<ul style="list-style-type: none"> • Responds directly
Correspondence on corporate issues related to the MDC, including complaints about MDC performance	<ul style="list-style-type: none"> • Consults with MDC • Drafts ministerial response indicating that correspondence referred to the MDC • Forwards to MDC for response 	<ul style="list-style-type: none"> • Responds directly • Notifies Ministry as appropriate
Correspondence on statutory or policy change or development	<ul style="list-style-type: none"> • Consults with MDC • Drafts ministerial response 	<ul style="list-style-type: none"> • Consults with Ministry • Responds indicating that correspondence referred to Minister
Briefing Notes		
All	<ul style="list-style-type: none"> • Consults with MDC • Prepares note 	<ul style="list-style-type: none"> • Provides information as required
Cabinet Materials		
All (e.g. Cabinet Submissions, Treasury Board Submissions, Issue Notes)	<ul style="list-style-type: none"> • Consults with MDC • Prepares note 	<ul style="list-style-type: none"> • Provides information as required

SCHEDULE D – COMMUNICATIONS PROTOCOL

DESCRIPTION	RESPONSIBILITY	
	Ministry	MDC
Press Releases and Media Inquiries		
Requests for interviews and background material on specific operational issues related to MDC	<ul style="list-style-type: none"> Refers request to MDC 	<ul style="list-style-type: none"> Responds directly
Press releases or media inquiries on high profile investigations or prosecutions	<ul style="list-style-type: none"> Consults with MDC Issues joint press release or response with MDC 	<ul style="list-style-type: none"> Consults with Ministry Issues joint press release or response with Ministry
Press releases or media inquiries on legislative or regulatory change	<ul style="list-style-type: none"> Consults MDC Issues press release or response 	<ul style="list-style-type: none"> Consults with Ministry
Crisis Management		
E.g. crisis involving Motor Dealer Customer Compensation Fund	<ul style="list-style-type: none"> Coordinates and prepares response in cooperation with MDC 	<ul style="list-style-type: none"> Cooperates with Ministry in preparing coordinated response
Speeches by/Speaking Notes for government representative		
Formal Speeches – all topics	<ul style="list-style-type: none"> Advises MDC Prepares materials 	<ul style="list-style-type: none"> Provides information as required
Speaking notes on success/merits of delegated authority	<ul style="list-style-type: none"> Prepares materials 	<ul style="list-style-type: none"> Provides information as required
Speaking notes on success/merits of delegated authority	<ul style="list-style-type: none"> Prepares materials 	<ul style="list-style-type: none"> Provides information as required
Speaking notes on government interest, political context, comparisons with other jurisdictions	<ul style="list-style-type: none"> Prepares materials 	<ul style="list-style-type: none"> Provides information as required

SCHEDULE D – COMMUNICATIONS PROTOCOL

DESCRIPTION	RESPONSIBILITY	
	Ministry	MDC
<i>Freedom of Information Requests</i>		
Requests for information regarding the administration of the <i>Motor Dealer Act</i>	<ul style="list-style-type: none"> Transfers request to MDC pursuant to s. 11 of the <i>FOIPP Act</i> 	<ul style="list-style-type: none"> Responds to request
Requests for information on the delegation of authority and the transition process	<ul style="list-style-type: none"> Consults with MDC Coordinates response Responds to request as required 	<ul style="list-style-type: none"> Cooperates with Ministry in coordinating response Responds to request as required
<i>Attendance at Ministerial Meetings with Stakeholders</i>		
When Minister is invited to attend stakeholder event	<ul style="list-style-type: none"> Minister attends as required 	<ul style="list-style-type: none"> Informed and invited to attend where appropriate
When Minister is asked to meet with stakeholder group on a specific issue	<ul style="list-style-type: none"> Consults with MDC as required Minister attends as required 	<ul style="list-style-type: none"> Not invited Provides information as required