

## APPENDIX “A”

### **Insurance Brokers Association of Manitoba Application to Intervene: MPI 2022/2023 General Rate Application**

#### *Additional Information*

**Please describe the mandate of your organization and provide a description of the membership, including the number of members. Please also confirm whether the organization’s intervention in this proceeding is supported by a resolution of the governing body, if any. Please enclose the resolution, if any, with your Application, along with supporting documentation of your mandate and membership.**

*Insurance Brokers Association of Manitoba (“IBAM”)* is a not for profit organization which represents the interests of brokers and consumers of *Property & Casualty (“P&C”)* insurance in Manitoba. P&C brokerages employ over 2,600 people in over 300 storefronts located throughout the Province. IBAM currently has over 2,000 broker members. Although membership in IBAM is voluntary, the vast majority of eligible brokers in this Province choose to be members of IBAM.

P&C brokers are the primary interface for consumers of *Manitoba Public Insurance Corporation (“MPI”)* and *Drivers Vehicle Licensing (“DVL”)* services in Manitoba. The vast majority of MPI and DVL transactions are conducted with the guidance and consultation of a broker. All brokers must be licenced through the *Insurance Council of Manitoba (“ICM”)*<sup>1</sup> to ensure that they are educated and properly equipped to provide the right advice to Manitobans with respect to their insurance needs. This includes, but is not limited to, their exposure to potential losses on their assets, including vehicles.

For the purposes of *MPI’s 2022/23 General Rate Application* (the “**2023 GRA**”), it is important to reiterate that IBAM advocates for the consumers of insurance *and* for the brokerage industry as a whole. For example:

1. At the federal level, IBAM advocates for consumers and brokers with respect to legislative reviews of the *Bank Act* and other related statutes and regulations;
2. At the provincial level, IBAM works with ICM to ensure that licencing requirements are appropriate, are fully understood by our members and, most importantly, serve to protect consumers. More specifically, ICM has the authority to conduct investigations into a complaint, and to come to a determination as to whether there has been a breach of any of the provisions of *The Insurance Act (Manitoba)*, its *Regulations*, the *Licensing Rules* and/or ICM’s *Code of Conduct*; and

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<sup>1</sup> The ICM is the regulatory body responsible for the licensing and discipline of insurance agents, brokers and adjusters in Manitoba. The ICM regulates insurance agents, brokers and adjusters in several ways and has established standards for applicants and licensees that promote high standards of professionalism, competence and integrity in the insurance industry.

Relatedly, IBAM manages the *Canadian Accredited Insurance Broker* (“CAIB”)<sup>2</sup> program in the Province of Manitoba, and delivers many other insurance-related educational programs/seminars on a variety of topics, including on the sale and service of vehicle insurance and DVL products and services.

Indeed, IBAM’s “Why” Statement reads, “*IBAM exists to protect, serve and offer choice to Manitobans through developing and supporting brokerages.*”

Of note is that IBAM has been responsible for working with MPI on the launch of new products or changes in service-delivery which impact consumers or brokers. This is sensible because brokers are the face of MPI to the consumer and brokers have unique insight into the customer experience when purchasing insurance. IBAM and its membership also work with MPI through committees - including with respect to *Project Nova* (Broker Liaison Group - and in working to improve internal and external processes which impact consumers and brokerages alike.

IBAM also represents brokers in discussions with MPI regarding compensation for services provided by brokers to Manitobans. The recent *MPI-IBAM Future Services Agreement* (the “**Broker Agreement**”)<sup>3</sup> was negotiated by IBAM on behalf of brokers and was ratified by IBAM’s membership prior to it being finalized.

Moreover, IBAM is active at the municipal level as small business storefronts are located in municipalities throughout the Province of Manitoba. A hallmark of Manitoba’s relatively stable auto insurance environment is the access consumers have to a professional licenced broker throughout the Province.

IBAM's Board of Directors unanimously supports *IBAM’s Application to Intervene* in the 2023 *GRA* (“**Application**”).

**Please state your reasons for intervening in this proceeding:**

IBAM is seeking Intervener status so that the *Public Utilities Board* (the “**Board**”) will fully and properly understand the issues relating to broker agreements entered into with MPI,<sup>4</sup> the work undertaken and the services that brokers provide in the delivery of MPI services, and the other insurance related services that brokers provide to all residents of the Province of Manitoba. In particular, the 2023 *GRA* confirms that MPI and IBAM are currently in discussions to update the Broker Agreement given changes to the *Project Nova* delivery schedule.<sup>5</sup> It is anticipated that the Board and other Interveners will seek information respecting any amendments to the Broker

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<sup>2</sup> The CAIB program is a professional development course of study designed and written specifically for insurance brokers. The CAIB program enables brokers to expand their general insurance knowledge, develop new sales markets and enhance their opportunity for career advancement. CAIB boasts four (4) levels of study pertaining to personal lines, commercial lines and broker management skills. Students must complete all four (4) modules and be working for a member broker in order to use the CAIB designation.

<sup>3</sup> Effective April 1, 2021.

<sup>4</sup> Including, but not necessarily limited to, the Broker Agreement.

<sup>5</sup> See 2023 *GRA*, Part IV - NOVA Project, NOV.6, page 28 of 32.

Agreement, such that IBAM’s participation is desirable to ensure that the Board has all relevant information before it as it relates to the 2023 GRA.

Moreover, actions taken by MPI not only impact consumers of Autopac and DVL services, but brokerages as well. It is important for IBAM to be granted Intervener status as there no doubt will be areas of inquiry where IBAM will be able to provide evidence, clarify issues and/or add value to the very important dialogue before the Board. It is also important for IBAM to be able to represent the views of brokers and consumers in any discussions pertaining to proposed changes in the current service delivery model as those discussions will impact the industry - and consumers - in a number of ways.

In addition, the Board will recall that following last year’s GRA [*MPI’s 2021/22 General Rate Application* (the “**2022 GRA** ”)], and after application by IBAM, the Board varied Order 134/21 by Order 20/22. By way of Order 20/22, the Board clarified information regarding the role brokers may play in online transactions. There is important context for the 2023 GRA and for Order No. 20/22 which supports IBAM’s position that it should be granted Intervener status, namely:

1. IBAM intervened and participated extensively in *MPI’s 2020/2021 General Rate Application* (the “**2020 GRA**”). Following this extensive intervention, the Board held that it did not have the jurisdiction to direct MPI as to the terms and conditions of any agreements it enters into with IBAM.<sup>6</sup> While the Board determined that it would review any new service agreement between IBAM and MPI (ie. the Broker Agreement), based on its decision that it lacked jurisdiction as to the manner by which MPI delivers its products, such a review would necessarily need to be limited to the cost consequences of the agreement;
2. Following this determination, IBAM sought intervener status at the *2021/2022 General Rate Application* (the “**2021 GRA**”). At that time, IBAM requested Intervener status in order to provide the Board with information respecting broker commissions, fees and/or direct sales in order to ensure that all significant and relevant issues were fully and properly before the Board.<sup>7</sup> The Board subsequently dismissed IBAM’s application to intervene in the *2021 GRA* on the following basis:

*“The Board finds that the intervention as proposed by IBAM would not assist it in determining whether the rate applied for by MPI is just and reasonable. The issue of broker commissions was extensively reviewed in the 2020 GRA and the Board has made clear the extent of its jurisdiction in that regard. The Board does not understand how IBAM’s participation, without witnesses or evidence, would provide any assistance to it when counsel for the Board and other Interveners will be cross-examining MPI on cost containment. **The Board does not require IBAM’s intervention in order to assess the reasonableness or prudence of MPI’s expenditures with respect to broker commissions**”*<sup>8</sup> [emphasis added];

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<sup>6</sup> See pages 13 and 102-103 of Board Order No. 176/19.

<sup>7</sup> As set out at pages 11 and 12 of Board Order No. 88/20.

<sup>8</sup> As set out at page 21 of Board Order No. 88/20.

3. Prior to the 2022 *GRA*, IBAM again considered whether it would seek leave to intervene. In doing so, it reviewed the 2022 *GRA*, reviewed the Intervener requests as they were submitted and, significantly, attended an informal meeting amongst counsel for the Board and the proposed Interveners on June 29, 2021 (counsel for MPI were not in attendance). The purpose of this meeting was for counsel to discuss what issues would be of importance to their respective clients at the 2022 *GRA*. IBAM made it clear at this meeting that it had not yet determined whether it would be seeking to intervene in the 2022 *GRA* and sought clarity about whether the other parties expected brokers, IBAM and/or the Broker Agreement to be issues of focus at the 2022 *GRA*. All counsel, including counsel for the Board, advised that they did not expect brokers to be a central area for their submissions or intervention, though counsel for *Consumers Association of Canada, Manitoba Branch* (“**CAC Manitoba**”) did state that broker commissions could come up in the normal course when enquiring about costs of operation generally;
4. Counsel for IBAM subsequently attended the *Pre-Hearing Workshop* held on July 5, 2021 respecting the *Preliminary Issues List* for the 2022 *GRA*. Counsel for Board, MPI and the other prospective Interveners were in attendance and each spoke to their proposed focuses and interventions, if applicable. The transcript from this *Pre-Hearing Workshop* confirmed that counsel for IBAM specifically advised that she was there to determine “if brokers or broker commissions or IBAM will be the focus of any of the questions of the other Interveners or the focus of the [2022] *GRA* in general with MPI.” None of the counsel present indicated that the issues of the service delivery model, brokers in general, broker commissions or the Broker Agreement should be added as issues to the 2022 *GRA*, nor did any counsel indicate that brokers or broker commissions would be a focus of their lines of questioning;
5. In keeping with the representations by counsel described above, the *Final Issues List* for the 2022 *GRA* did not include issues relating to brokers, broker commissions, IBAM and/or the Broker Agreement; and
6. On the basis of the Order respecting the Board’s jurisdiction over the service delivery model, the Board’s rejection of IBAM’s Intervener Application for the 2021 *GRA*, the assurances of counsel that it was not expected that brokers would be a focus of the 2022 *GRA*, and the content of the *Final Issues List*, IBAM ultimately chose not to intervene in the 2022 *GRA*.

Despite these assurances and the Board’s past determination as to their lack of jurisdiction respecting the service delivery model, the Board accepted and considered incomplete and inaccurate submissions in the 2022 *GRA* respecting service delivery and, in particular, the involvement of brokers in online transactions. The Board then proceeded to make a determination about same, without notifying IBAM that it no longer considered itself bound by its decision regarding jurisdiction, and without notifying IBAM that it intended to make a finding of fact in this regard. Had the Board notified IBAM as to its change in position as to jurisdiction, IBAM would have gladly provided the Board with the requisite information to ensure that this issue was fully and properly before the Board. As the Board did not do so, it lacked relevant information and came to conclusions that were simply incorrect. Those conclusions were summarized in a *News*

*Release* issued by the Board following the conclusion of the 2022 *GRA* on December 15, 2021 (the “*News Release*”). It was the *News Release* that ultimately led to Order No. 134/21 being varied.

With this background in mind, and to ensure that there can be no misunderstanding as to the basis of this Application, counsel for IBAM attended the *Pre-Hearing Workshop* held on July 20, 2022 respecting the *Preliminary Issues List* for the 2023 *GRA*. At that time, counsel for IBAM inquired as to whether there was the need for IBAM to formally seek leave to intervene in the 2023 *GRA*. In doing so, he inquired as to whether an agreement could be reached between the parties so that formal intervention would not be required. More specifically, counsel for IBAM inquired as to whether an agreement could be reached between the parties so that this Application would not have to be filed: IBAM could be given notice or a “*heads up*” in the event that brokers, broker commissions and/or the delivery of services became a live issue at the 2023 *GRA*.<sup>9</sup> Based on the responses provided by other counsel, such an agreement was not possible, which necessitated the filing of this Application:

1. Counsel for the Board advised that it “*cannot really ahead of time say to IBAM we will or will not look at this issue in detail. Things arise in the course of the discovery process that the parties may not have twigged to at the outset*”;<sup>10</sup>
2. Counsel for MPI advised that any decision on whether brokers and/or the delivery of services will be raised at the 2023 *GRA* is “*outside of [MPI’s] control*” given the expressions by other Interveners such as CAC. He went on to add that IBAM is “*going to do what it needs to do to protect its interests*”;<sup>11</sup>
3. Counsel for CAC advised that they were “*not prepared to commit to refraining from pursuing issues that are relevant to [CAC’s] interests*”;<sup>12</sup> and
4. Counsel for *The Coalition of Manitoba Motor Groups* (“**CMMG**”) advised that CMMG had no comment with respect to the proposed agreement.<sup>13</sup>

In light of these responses, it is evident that issues relating to brokers, broker commissions, the delivery of services and/or the Broker Agreement will be raised at the 2023 *GRA* and that the other parties are not prepared to enter into any type of agreement whereby IBAM would be given notice or a “*heads up*” as to when this will happen. In light of what occurred last year, absent such an agreement, this Application is necessary.

To be abundantly clear, IBAM and its members are ready, willing and able to provide information on any aspect regarding brokers, broker commissions, the Broker Agreement and/or any aspect of the delivery of services to Manitobans. By way of this Application, IBAM is simply wanting to

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<sup>9</sup> See Transcript of Workshop held on July 20, 2022 (the “**Workshop Transcript**”), pages 18-19, lines 20-25; 1-5.

<sup>10</sup> See Workshop Transcript, page 21, lines 13-18.

<sup>11</sup> See Workshop Transcript, page 22, lines 4-18.

<sup>12</sup> See Workshop Transcript, page 23, lines 1-4.

<sup>13</sup> See Workshop Transcript, page 23, lines 7-8.

ensure that the Board has all relevant information before it, in the most cost-efficient manner. Although IBAM's preference is not to seek Intervener status, the reality is that based on the recent history and representations by the other parties, it has become necessary.

Given that the Board would have benefitted from IBAM being an Intervener at the 2022 GRA,<sup>14</sup> it is clear that IBAM's participation as an Intervener could assist the Board in the 2023 GRA, especially given that the other parties will be raising the issue of brokers, broker commissions, the delivery of services and/or the Broker Agreement. IBAM's relatively limited Intervention will ensure that the Board has a full and proper understanding of the issues relating to broker agreements entered into with MPI,<sup>15</sup> the work undertaken and the services that brokers provide in the delivery of MPI services, and the other insurance related services that brokers provide to all residents of the Province of Manitoba. It will also ensure that a similar situation does not happen again with respect to inaccurate or incomplete evidence being raised with respect to the topics of brokers and the delivery of services.

**Please state how you are directly affected by the Board's decision in this matter:**

Given that the costs and efficiencies of brokers is incorporated into MPI's costs of operation, and given that the role of brokers will be raised as an issue at the 2023 GRA, consumers and the members of IBAM will be *directly* affected by any decision that is ultimately rendered by the Board. Moreover, any findings by the Board respecting the Broker Agreement and/or amendments thereto directly affects brokers' reputation and the public's perception of brokers.

Brokers were also directly impacted by Order No. 134/21, as shown by its application to vary the Order, and it leads to reason that brokers could very well be impacted by any Orders rendered by the Board vis-a-vis the 2023 GRA.

As set out above, IBAM represents all consumers of P&C insurance in Manitoba as well as brokerages located throughout the Province of Manitoba. No other Intervener is currently representing the interests of brokerages (ie. MPI's primary customer-facing channel). As a result, the over 2,000 Manitobans that are currently members of IBAM (and the over 2,600 Manitobans employed by P&C brokerages) have a substantial interest in the outcome of the 2023 GRA.

**Please explain whether and how you represent a substantial number of ratepayers that are otherwise not represented on issues that are within the scope of this proceeding:**

IBAM represents all consumers of P&C insurance in Manitoba, in that brokers are professionally responsible to their customers, as well as (virtually) all brokerages in the Province of Manitoba. No other Intervener is currently representing brokers at the hearing before the Board. IBAM has expertise in the general operations of MPI's distribution model and in the sale and servicing of insurance and *Autopac* services at brokerages throughout the Province of Manitoba. This expertise obviously impacts upon each and every Manitoban as our members are licenced and legislation ensures that consumers are presented with options that ultimately protect them (ie. this is why *Regulations* exist).

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<sup>14</sup> As it would have, at minimum, avoided the need for Order No. 134/21 being varied.

<sup>15</sup> Including, but not necessarily limited to, the Broker Agreement.

If granted Intervener status, IBAM will be in attendance throughout the hearing, will monitor discussion(s) and will provide evidence and/or additional information, as required.

**Please describe your experience, information, or expertise relevant to this matter that would contribute to the Board's decision making, including any other prior interventions in regulatory matters before this Board or other decision-makers:**

IBAM was previously an Intervener in the 2020 GRA. There is little doubt that it played an important role in ensuring that the Board had all relevant information before it with respect to the services provided by brokers to the citizens of the Province of Manitoba, along with the relative costs of those services when compared to other jurisdictions.

In this instance, IBAM's experience, information and expertise relate to the general operations of MPI's distribution model and in the sale and servicing of insurance and *Autopac* services at brokerages throughout the Province of Manitoba. This experience, information and expertise will include discussion about the important role that brokers play in ensuring that all Manitobans have access to a licenced professional when purchasing *Autopac* and other non-MPI insurance products and services, including other vehicle insurance options. No other Intervener has the experience, information and/or expertise that IBAM and its members have in this very important area of the 2023 GRA.

**Please list the key issues you intend to address in the proceeding. Please be specific:**

IBAM will be in attendance at the hearing and will monitor discussion, provide evidence and/or provide information, as may be required. IBAM will likely provide Intervener evidence, respond to Intervener *Information Requests* and can make witnesses available for cross-examination by the other parties respecting the written evidence, if required. IBAM intends to keep its Intervention limited to issues surrounding brokers, and the service delivery model, and would take steps to keep the costs of its intervention low and in line with the scope of its Intervention. In short, IBAM's involvement in the 2023 GRA is required, and it will pursue the most cost-efficient way forward.

The key issues that IBAM intends to address at the hearing, if required, include, but are not necessarily limited to, the following:

1. The important role that brokers play in consumer protection and in providing the delivery of MPI services throughout the Province of Manitoba;
2. The efficiencies associated with the broker channel providing the delivery of MPI services throughout the Province of Manitoba;
3. The importance of having a licenced professional central to all insurance transactions;
4. The value and high-quality of service that brokers provide to the residents of the Province of Manitoba and/or the service level that Manitobans have come

to expect when dealing with a local / professional broker. The interests of these consumers must be protected; and

5. The costs associated with providing the delivery of MPI services and the commissions paid for those services, in comparison to other services, distribution and/or cost models provided by other entities in other industries and/or other jurisdictions, including by providing evidence relating to and answering questions relating to amendments of the Broker Agreement (if any), if necessary.

**Do you intend to participate fully and actively, including attendance at hearings, submission of evidence, and testing of evidence and cross examination of witnesses? If yes, please describe your intended participation:**

IBAM intends to keep its intervention limited in scope. If granted Intervener status, IBAM will be in attendance at relevant periods of the hearing and will monitor the hearing throughout. IBAM will likely file written evidence and can make witnesses available for cross-examination by the other parties, if required. IBAM will make *Information Requests*, and may cross-examine witnesses, in a limited manner and respecting only the issues impacting on or relating to brokers, broker commissions and/or the delivery of services to Manitobans, and only if those questions are not canvassed by other parties (so as not to duplicate submissions).

**Do you intend to request an award of costs for your participation? Please explain how you meet the criteria for an award of costs:**

If granted Intervener status by the Board, IBAM will seek an award of costs for its participation at the hearing.

IBAM intends to make a significant contribution to the hearing as it will ensure that the interests of brokers and consumers are made known to the Board and by being available to ensure that the Board has all relevant information respecting amendments to the Broker Agreement (if any) and any other matters relating to brokers and/or the delivery of services to Manitobans.

As noted above, IBAM will participate in the 2023 *GRA* in a reasonable manner and will cooperate with other Interveners who have common objectives. It will keep the scope of its intervention limited to matters which impact on or relate to brokers and/or the delivery of services to Manitobans, and will not duplicate submissions or questioning by other parties. To reiterate, IBAM's involvement in the 2023 *GRA* is required; it will pursue the most cost-efficient way forward.

**Do you intend to retain experts or consultants?**

No.



**Do you intend to provide evidence from witnesses other than experts and/or consultants?**

If the Board or the parties determine that it is desirable that IBAM provide *viva voce* evidence, IBAM will make Mr. Grant Wainikka, CEO, and/or other IBAM representatives available for questioning. Such evidence may relate to amendments to the Broker Agreement (if any) and/or to and service delivery or compensation matters.

**Do you intend to seek approval for any other form of participation or provision of evidence, including for which you intend to seek an award of costs? If yes, please provide details and an explanation of the relation to issues in scope in the proceeding:**

IBAM's intervention will be limited in scope, though it can be fluid based on the needs of the Board, the other parties and IBAM. As set out above, IBAM attempted to reach an agreement with the other parties so that this Application would not be required. However, for various reasons, those other parties were not prepared to provide the assurances sought by IBAM so that this Application would not be necessary.

To reiterate, IBAM's "Why" Statement reads, "IBAM exists to protect, serve and offer choice to Manitobans through developing and supporting brokerages." For this reason, IBAM has filed this Application to ensure that the Board has all relevant evidence before it. With that being said, IBAM will obviously accept any reasonable limitations on its participation that may be proposed by the Board for the purposes of granting it Intervener status at the 2023 GRA.

**Conclusion**

The Board has a specific mandate based on its enabling legislation and establishes just and reasonable rates for the provision of rate bases and premiums charged for compulsory driver and basic vehicle insurance provided by MPI. In order for the Board to ensure that it has a full and proper understanding of all issues arising from the 2023 GRA, the Board should grant Intervener status to IBAM.

In closing, IBAM would like to thank the Board for its consideration of this Application.

Yours truly,

**INSURANCE BROKERS ASSOCIATION OF MANITOBA**



**Per:**

**Grant Wainikka, CEO**