



**AMERICAN ACCESS  
CASUALTY COMPANY  
A STOCK COMPANY**

**Personal Automobile Insurance Policy**

**IMPORTANT**

Notify the Company's claims office in Oak Brook, Illinois by telephone of every accident, however slight, immediately upon its occurrence at 630-645-7755.

Delay in providing notice may jeopardize **your** claim rights. Send a completed written report as soon as practical. **You** should report each accident or **loss** even if an **insured** person is not at fault.

**Please Read the Following Carefully:**

This policy has been issued based upon and reliant on the statements in the application. Read the Declarations Page carefully and immediately notify the Company (through **your** insurance producer/broker) of any misinformation, omissions, or changes that may or have occurred, as **your** coverage may be affected. In addition to the above, the policy itself states in "Personal Automobile Insurance Policy Provisions" that the Company is issuing this policy and basing its premium upon the statements in the application. The policy, in Part F, "Conditions", 4., states also that in the event any of the representations contained in the application are false, misleading, or materially affects the acceptance or rating of the risk, the Company will null and void the policy.

**PLEASE READ YOUR POLICY**

## American Access Casualty Co.

1S450 Summit Avenue, Suite 230

Oakbrook Terrace, Illinois 60181

### PERSONAL AUTOMOBILE INSURANCE POLICY PROVISIONS

#### AMERICAN ACCESS CASUALTY COMPANY

Oak Brook, Illinois

(A stock company herein called the Company) agrees with the **named insured**, shown in the Declarations made a part hereof, in consideration of the payment of the premium and in reliance upon the statements and representations in the Application and subject to the Declarations and all of the terms of the policy, the Company agrees to insure **you** for the coverages and limits shown in the Declarations.

#### PART A - BODILY INJURY LIABILITY AND PROPERTY DAMAGE LIABILITY COVERAGE

**Coverage 1 - Bodily Injury Liability; Coverage 2 - Property Damage Liability.** To pay on behalf of the **insured**, but only to the extent of the applicable limits, all sums which the **insured** shall become legally obligated to pay as compensatory damages only and not for any punitive or exemplary damages because of:

1. **bodily injury**, or
2. **property damage** caused by accident arising out of the ownership, maintenance or use of the **owned automobile** or any **non-owned automobile**. Further, the Company shall defend any suit alleging such **bodily injury** or **property damage** covered under this policy seeking compensatory damages only and not seeking any punitive or exemplary damages which are payable under the terms of this policy with attorneys hired and paid by the Company, even if any of the allegations of the suit are groundless, false or fraudulent. However, the Company may make such investigation and settlement of any claim or suit as it deems expedient without admitting liability or waiving any of its rights that it may have under the terms of this policy. It is understood and agreed the Company has no obligation to any **insured** after the applicable limits of the policy have been exhausted by payment for the accident which is the subject of the claims or suits. Further, the Company will no longer have any obligation at all to defend any claims or suits against any **insured**. It is further understood and agreed the Company is not obligated to pay, and shall not pay, attorney fees for any legal or investigative work unless such attorneys are specifically selected by the Company. It is further understood and agreed the Company is not obligated to pay, and shall not pay, any sum which the **insured** may be legally obligated to pay as a result of a lawsuit unless the Company received actual notice of said suit before any judgment had been entered in said suit.

**Supplementary Payments.** To pay, in addition to the applicable limits of liability:

- (a) all expenses incurred by the Company, all costs taxed against the **insured** in any such suit and all interest on the entire amount of any judgment therein which accrues after entry of the judgment and before the Company has paid or tendered or deposited in court that part of the judgment which does not exceed the limit of the Company's liability thereon;
- (b) premiums on appeal bonds required in any such suit, premiums on bonds to release attachments for an amount not in excess of the applicable limit of liability of this policy and the cost of bail bonds required of the **insured** because of accident or traffic law violation arising out of the use of an automobile insured hereunder, not to exceed \$100 per bail bond, but without any obligation to apply for or furnish any such bonds;
- (c) expenses incurred by the **insured** for such immediate medical and surgical relief to others as shall be imperative at the time of an accident involving an automobile insured hereunder;
- (d) all reasonable expenses, other than loss of earnings, incurred by the **insured** at the Company's request.

**Persons Insured.** The following are insureds under Part A - "Bodily Injury Liability and Property Damage Liability" Coverages:

- (a) With respect to the **owned automobile**;
  - (1) the **named insured**, or any person named as a driver on the insurance application, or by endorsement, or
  - (2) any other person using such automobile to whom the **named insured** has given permission, provided the use is within the scope of such permission;
- (b) With respect to a **non-owned automobile**;
  - (1) the **named insured**, or any person named as a driver on the insurance application, or by endorsement, provided the **insured** received the permission of its owner, and the use is within the scope of such permission, or
  - (2) a **relative**, but only with respect to a **private passenger automobile**, provided the person using such automobile has received the permission of its owner and the use is within the scope of such permission;
- (c) Any other person or organization legally responsible for the use of:
  - (1) an **owned automobile**, or
  - (2) a **non-owned automobile**, if such automobile is not owned or hired by such person or organization, provided the actual use thereof is by a person who is an **insured** under (a) or (b) above with respect to such **owned automobile** or **non-owned automobile**.

**Definitions.** Under Part A - "Bodily Injury Liability and Property Damage Liability" Coverage:

"**we**", "**us**", and "**our**" mean the Company providing this insurance;

"**you**" and "**your**" mean the "**named insured**";

"**bodily injury**" means **bodily injury** to a person and sickness, disease or death which results from it;

"**property damage**" means injury to or destruction of property including loss of use thereof;

"**named insured**" means the individual named in the Declarations and also includes his/her spouse, if a resident of the same household;

"**occupying**" means in or upon or entering into or alighting from;

"**insured**" means a person or organization described under "Persons Insured";

"**resident relative**" means a person who is a resident of your household and related to you by blood, marriage, or adoption. The definition includes a ward or foster child who is a resident of your household. and is either a non-driver or is listed on the Application for this insurance as a driver, provided neither such **resident relative** nor his/her spouse owns a **private passenger automobile**, unless that automobile is inoperable, a stored vehicle, a vehicle which is ineligible to be licensed, an off- road vehicle, the insured vehicle when the **resident relative** is a co- owner, a vehicle used solely for racing, vehicles used for implements of husbandry, or a classic or antique vehicle.

"**relative**" means a person related to the **named insured** or his/her spouse by blood, marriage or adoption and who is a resident of the same household as the **named insured** or spouse and is either a non-driver or is listed on the Application for this insurance as a driver, provided neither such **relative** nor his/her spouse owns a **private passenger automobile**, unless that automobile is inoperable, a stored vehicle, a vehicle which is ineligible to be licensed, an off- road vehicle, the insured vehicle when the **relative** is a co- owner, a vehicle used solely for racing, vehicles used for implements of husbandry, or a classic or antique vehicle; "**owned automobile**" means:

(a) a private passenger, farm, or utility automobile described in this policy;

(b) a private passenger, farm, or **utility automobile**, ownership of which is acquired by the **named insured** during the policy period provided:

(1) the acquired automobile replaces an automobile described in this policy; neither the **named insured** nor any resident of his/her household retains ownership of the described replaced automobile, and the **named insured** notified the Company in writing, within 30 days after the date of acquisition of his/her decision to make this policy applicable to such acquired replacement automobile, or

- (2) the Company insures all private passenger, farm, and **utility automobiles** owned by the **named insured** on the date of such acquisition and the **named insured** notifies the Company in writing within 30 days after the date of such acquisition of his/her decision to make this and no other policy issued by the Company applicable to such automobile, or

(c) a **temporary substitute automobile**;

**“temporary substitute automobile”** means an automobile not owned by the **named insured**, or any resident of the same household, while temporarily used as a substitute for the **owned automobile** when withdrawn from normal use because of its breakdown, repair, servicing, **loss** or destruction and is not a **non-owned automobile**; **“non-owned automobile”** means a private passenger, farm, or **utility automobile** not owned by or furnished for the regular use of either the **named insured** or any **relative** of the **named insured** other than a **temporary substitute automobile** while said automobile is in the possession or custody of the **insured** or is being operated by him/her;

**“private passenger automobile”** or **“automobile”** means a four wheel private passenger, station wagon or jeep type automobile designed solely for public road use and designed solely to carry persons;

**“farm automobile”** means an automobile of the truck type with a load capacity of fifteen hundred pounds or less not used for business or commercial purposes other than farming;

**“utility automobile”** means an automobile, other than a **farm automobile**, with a load capacity of fifteen hundred pounds or less of the pick-up body, sedan delivery or panel truck type not used for business or commercial purposes;

**“trailer”** means a **trailer** designed for use with a **private passenger automobile**, if not being used for business or commercial purposes with other than a private passenger, farm or **utility automobile**, or a farm wagon or farm implement while used with a **farm automobile**, and if not a home, office, store, display or passenger **trailer**;

**“automobile business”** means the business or occupation of selling, repairing, servicing, washing, storing or parking automobiles;

**“use”** of an automobile includes the loading and unloading thereof;

**“war”** means war, whether or not declared, civil war, insurrection, rebellion or revolution, or any act or condition incident to any of the foregoing.

**Exclusions.** This policy does not apply to and does not provide coverage under Part A - “Bodily Injury Liability and Property Damage Liability” Coverage for:

- (a) **bodily injury** or **property damage** to the **named insured** or any **relative** of the **named insured** related by blood, marriage or adoption residing in the

same household as the **insured**. The term '**insured**' as used in this exclusion means the person against whom the claim is made or suit is brought. This exclusion shall not apply when a third party acquires the right of contribution against a member of the injured person's family;

- (b) any automobile while used in the delivery, or any activity associated with delivery, of food, mail, newspapers, magazines, or packages for an employer or business or in any trade or business;
- (c) **bodily injury** or **property damage** which is either expected or intended by the **insured**;
- (d) **bodily injury** or **property damage** arising out of the operation of farm machinery;
- (e) **bodily injury** to any employee of the **insured** arising out of and in the course of his/her employment by the **insured**, but this exclusion does not apply to any such injury arising out of and in the course of domestic employment by the **insured** unless benefits are in whole or in part either payable or required to be provided under any worker's compensation law;
- (f) an **owned automobile** while used in the **automobile business**;
- (g) a **non-owned automobile** while used (1) in the **automobile business** by the **insured** or (2) in any other business or occupation of the **insured** except a **private passenger automobile** operated or occupied by the **named insured** or by his private chauffeur or domestic servant, or a **trailer** used therewith;
- (h) injury to or destruction of (1) property owned or transported by the **insured** or (2) property, including a rental car, rented to or in charge of the **insured** other than a residence or private garage or (3) property as to which the **insured** is for any purpose exercising physical control;
- (i) any automobile rented or leased by the **insured** where other valid and collectible coverage in the form of an insurance policy, bond or self-insurance has been furnished to the **insured** in connection with such rental or lease;
- (j) any automobile rented or leased to the **named insured** and operated by any other operator unauthorized or excluded under the terms of any rental or lease agreement
- (k) **bodily injury** or **property damage** with respect to which an **insured** under this policy is also an **insured** under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an **insured** under any such policy but for its termination upon exhaustion of its limit of liability;

- (l) any automobile designed for racing while being tested, repaired or serviced, or to any automobile while used, operated, manipulated or maintained in any impromptu, prearranged or organized race or speed test, including hot rod' or 'stock car' racing;
- (M) **bodily injury or property damage** due to **war**; **bodily injury or property damage** caused by any automobile while being operated or used in the commission of a criminal act, other than a traffic violation, and including while fleeing and eluding the police or other law enforcement or government authorities;
- (n) any claim, suit, or separate count in any suit alleging punitive or exemplary damages or to the payment of any punitive or exemplary damages which includes, but is not limited to, any award, finding, verdict or judgment of punitive or exemplary damages;
- (o) any automobile while pushing or pulling another automobile or vehicle or being pushed or pulled by another automobile or vehicle except for a **trailer** rented by an **insured**;
- (p) any automobile while in the control of an excluded operator: any automobile rented or leased to and operated by any other operator unauthorized or excluded under the terms of any rental or lease agreement.
- (q) while located for use as a residence or premises and not as a vehicle;
- (r) any automobile titled to any member or resident of the household which is not listed on the declaration page of the policy
- (s) any person operating an automobile without a reasonable belief that he or she is entitled to do so, however, this exclusion does not apply to operation of the owned automobile by the named insured or a relative;

**Non-Owner's Policy** - If this policy is written as a **Non-Owner Filing Policy** as shown on the Declarations, it is agreed that such insurance as is afforded for Bodily Injury and Property Damage only applies with respect to the use of any "**non-owned automobile**" and not any "**owned automobile**" by the **named insured** and his/her spouse if a resident of the same household subject to the following provisions:

1. The definitions of "**non-owned automobile**" and "**insured**" are changed under this Part A "Bodily Injury Liability and Property Damage Liability" Coverage to read: "**non-owned automobile**" means an automobile not owned by or furnished for the regular use of the **named insured** or his or her spouse or any other member of the household: "**insured**" means the **named insured** and his or her spouse.
2. This policy does not apply to any automobile owned by or furnished for the regular use of the **named insured** or his/her spouse or any **relative**.
3. This insurance shall be excess over any other valid and collectible insurance.

**Financial Responsibility Laws.** When this policy is certified as proof of financial responsibility for the future under the provisions of any motor vehicle financial responsibility law, such insurance as is afforded by the policy for **bodily injury** liability or for **property damage** liability shall comply with the provisions of such law to the extent of the coverage and limits of liability required by such law, but in no event in excess of the limits of liability stated in this policy. The **insured** agrees to reimburse the Company for any payment made by the Company which it would not have been obligated to make under the terms of this policy except for the agreement contained in this paragraph.

**Limits of Liability.** The limit of liability for this “1 - Bodily Injury Liability Coverage” as stated in the Declarations as applicable to “each person” is the maximum limit of the Company’s liability for all damages, including damages for care and loss of services and loss of consortium, arising out of **bodily injury** sustained by any one person as the result of any one accident. Subject to this limit for “each person”, the limit of liability as stated in the Declarations as applicable to “each accident” for this “1 - Bodily Injury Liability Coverage” is the maximum limit of the Company’s liability for all damages, including damages for care and loss of services and loss of consortium, arising out of **bodily injury** sustained by two or more persons as the result of any one accident.

The limit of liability for this “2 - Property Damage Liability Coverage” as stated in the Declarations as applicable to “each accident” is the maximum limit of the Company’s liability for all damages arising out of injury to or destruction of all property of one or more persons or organizations, including the **loss** of use thereof, as the result of any one accident.

Therefore, these limits of liability for this “1 - Bodily Injury Liability Coverage” and for this “2 - Property Damage Liability Coverage” are the most the Company will pay under each said coverage regardless of the number of:

- (1) **insured**;
- (2) claims made or suits resulting from **bodily injury** or **property damage**;
- (3) automobiles or separated itemizations of premiums stated in the Declarations;
- (4) automobiles involved in the accident.

Liability, for any Person Insured, other than the **named insured** or a **relative**, shall be the limits of liability required by Section 9-25-4-5 of the Indiana Vehicle Code.

The limits for any coverage for any automobile under this policy may not be aggregated with the limits for any similar coverage, whether provided by the Company or another insurer, applying to other motor vehicles, for purposes of determining the total limit of insurance coverage available for **bodily injury** suffered by a person in any one accident. Therefore, the total limit of liability under all the policies, whether provided by the Company or another insurer shall



not exceed the highest applicable limit of liability under any one policy.

**Other Insurance.** If the **insured** has other insurance against a **loss** covered by Part A - "Bodily Injury Liability and Property Damage Liability" Coverage of this policy the Company shall not be liable under this policy for a greater proportion of such **loss** than the applicable limit of liability stated in the Declarations bears to the total applicable limit of liability of any valid and collectible insurance against such **loss**; provided, however, the insurance with respect to a **temporary substitute automobile** or **non-owned automobile** shall be excess insurance over any other valid and collectible insurance, liability bond or self-insurance.

## **PART B - UNINSURED MOTORIST COVERAGE**

**Coverage 3 - Uninsured Motorist Bodily Injury; Coverage 4 - Uninsured Motorist Property Damage.** To pay all sums which the **insured** or his/her legal representative shall be legally entitled to recover as compensatory damages only and not for any punitive or exemplary damages from the owner or operator of an **uninsured motor vehicle** because of **property damage** to an automobile described in the policy and **bodily injury** sustained by the **insured**, caused by accident and arising out of the ownership, maintenance or use of such **uninsured motor vehicle**, provided, for the purposes of this coverage, determination of whether the **insured** or such representative is legally entitled to recover such damages, and if so the amount thereof, shall be made by agreement between the **insured** or such representative and the Company or, if they fail to agree, by arbitration as herein provided. Recovery under this Part for "**property damage**" is subject to the payment of a specific separate premium for uninsured motorist **property damage** liability. No judgment against any person or organization alleged to be legally responsible for the **bodily injury** or **property damage** shall be admissible in evidence or conclusive, as between the **insured** and the Company, of the issues of liability of such person or organization or of the amount of damages to which the **insured** is legally entitled unless such judgment is entered pursuant to an action prosecuted by the **insured** with the written consent of the company.

**Definitions.** The definitions under Part A -, except the definition of "insured", apply to Part B and under **Part B**. "**insured**" means:

- (a) the **named insured** and any **relative** of the **named insured**;
- (b) any other person while lawfully **occupying** an **insured automobile**;
- (c) any person, with respect to damages he/she is entitled to recover because of **bodily injury** to which this Part applies when sustained by an **insured** under (a) or (b) above.

**“insured automobile”** means:

- (a) an automobile described in the policy for which a specific premium charge indicates coverage is afforded;
- (b) an automobile, ownership of which is acquired by the **named insured** during the policy period, provided:
  - (1) the acquired automobile replaces an **insured automobile** defined in (a) above; neither the **named insured** nor any resident of his/her household retains ownership of the described replaced automobile; and the **named insured** notifies the Company in writing within 30 days after the date of said acquisition of his/her decision to make this policy applicable to such acquired replacement automobile; or
  - (2) the Company insures under this coverage all automobiles owned by the **named insured** on the date of such acquisition and the **named insured** notifies the Company in writing within 30 days after the date of such acquisition of his/her decision to make this and no other policy issued by the Company applicable to such automobile;
- (c) a **temporary substitute automobile** for an **insured automobile** as defined in (a) or (b) above, and
- (d) a **non-owned automobile** while being operated by the **named insured**, but shall not include:
  - (1) any automobile or **trailer** owned by a resident of the same household as the **named insured**;
  - (2) any automobile while used as a delivery or for any other commercial purpose; or
  - (3) any automobile while being used without the permission of the owner.

**“uninsured motor vehicle”** includes a **trailer** of any type and means:

- (a) a motor vehicle or **trailer** with respect to the ownership, maintenance or use for which, there is no **bodily injury** liability bond or insurance policy applicable at the time of the accident with respect to any person or organization legally responsible for the use of such motor vehicle, or said bond or insurance policy has limits less than required by Section 9-24-4-5 of the Indiana Vehicle Code;
- (b) a **hit-and-run motor vehicle**;
- (c) a motor vehicle with respect to which there is a **bodily injury** liability insurance policy applicable at the time of the accident but the Company writing such policy is and is declared insolvent subsequent to the date of the accident. However the term **“uninsured motor vehicle”** does not include any vehicle or **equipment**:

- (1) owned by or furnished or available for the regular use of an **insured** or a **relative** of the **named insured** who causes **bodily injury** or **property damage** in excess of the limit required under the Indiana Financial Responsibility Law;
- (2) owned or operated by a self-insurer within the meaning of any motor vehicle financial responsibility law, motor carrier law or any similar or other law;
- (3) owned by any governmental unit or agency;
- (4) operated on rails or crawler-treads;
- (5) designed for use principally off public roads while not upon public roads; or
- (6) while located for use as a residence or premises and not as a vehicle.

**“hit-and-run motor vehicle”** means a motor vehicle which causes **bodily injury** to an **insured** arising out of physical contact, of such motor vehicle with the **insured** or with an automobile which the **insured** is **occupying** at the time of the accident, provided, (a) there cannot be ascertained the identity of either the operator or the owner of such **‘hit-and-run motor vehicle’**; and (b) the **insured** or someone on his/her behalf shall have reported the accident within 24 hours to a police, peace or judicial officer or to the Commissioner of Motor Vehicles, and shall have filed with the Company within 30 days thereafter a statement under oath that the **insured** or his/her legal representative has a cause or causes of action arising out of such accident for damages against a person or persons whose identity is unascertainable, and setting forth the facts in support thereof; and (c) at the Company’s request, the **insured** or his/her legal representative makes available for inspection the motor vehicle which the **insured** was **occupying** at the time of the accident.

**“state”** includes the District of Columbia, any territory or possession of the United States, and any province of Canada.

**Non-Owners Policy** - If this policy is written as a **Non-Owner Filing Policy** as shown on the Declarations, it is agreed that such insurance as is afforded for Bodily Injury and Property Damage only applies with respect to the use of any **“non-owned automobile”** and not any **“owned automobile”** by the **named insured** and his/her spouse if a resident of the same household subject to the following provisions:

1. The definitions of **“non-owned automobile”** and **“insured”** are changed under this Part B - “Uninsured Motorists” Coverage to read: **“non-owned automobile”** means an automobile not owned by or furnished for the regular use of the **named insured** or his or her spouse or any other member of the household; **“insured”** means the **named insured** and his or her spouse.

2. This policy does not apply to any automobile owned by or furnished for the regular use of the **named insured** or his/her spouse or any **relative**.

3. This insurance shall be excess over any other valid and collectible insurance.

**Exclusions.** This policy does not apply and does not provide coverage under this Part B -“Uninsured Motorist” Coverage:

- (a) to **bodily injury** or **property damage** to an **insured** with respect to which such **insured**, his/her legal representative or any person entitled to payment under this coverage shall, without written consent of the Company, make any settlement with any person or organization who may be legally liable therefore;
- (b) so as to inure directly or indirectly to the benefit of any worker’s compensation or disability benefits carrier or any person or organization qualifying as a self-insurer under any worker’s compensation or disability benefits law or any similar law;
- (c) to any claim alleging punitive or exemplary damages against the owner or operator of an **uninsured motor vehicle** or to the payment of any award, finding, verdict or judgment against the owner or operator of an **uninsured motor vehicle** for punitive or exemplary damages;
- (d) to **property damage** when the **owned automobile** has collision coverage or is described in any other policy of automobile insurance;
- (e) to **bodily injury** to any person while **occupying** any automobile not owned by, or furnished or available for the regular use of the **named insured** or any **relative** while such automobile is used as a public or livery conveyance for a fee; but this exclusion does not apply to:
  - (1) a share-the-expense car pool, or
  - (2) the **named insured** or any **relative**;
- (f) while any covered automobile is in the control of an excluded operator;
- (g) to **bodily injury** to an **insured** while **occupying** an automobile (other than an **insured automobile**), motorcycle or any other motor vehicle owned by the **named insured** or **relative** or by being struck by such automobile;
- (h) to any **bodily injury** or **property damage** which is either expected or intended by the **insured**;
- (i) to any **insured** while **occupying** a vehicle the **named insured** owns which is not insured under this policy;
- (j) to **bodily injury** of an **insured** while **occupying** a motor vehicle owned by, or furnished or available for the regular use of the **insured**, a resident spouse or resident relative, if that motor vehicle is not described in this policy under which a claim is made or is not a newly acquired or replacement automobile covered under the terms of this policy;

- (k) if Underinsured Motorist Coverage applies to the accident.
- (l) arising out of the operation of any automobile designed for racing while being tested, repaired or serviced, or to any automobile while used, operated, manipulated or maintained in any impromptu, pre-arranged or organized race or speed test, including hot rod' or 'stock car' racing;
- (m) other than compensatory damages for death, **bodily injury**, and **property damage** to make an injured party whole within the limitations of this policy, any additional damages, costs, expenses, attorney's fees, fines, penalties, treble damages, punitive damages, or smart money which may be recoverable or awarded at law or in equity as a consequence of reckless driving, operating a motor vehicle with a blood or breath alcohol content deemed to be legally intoxicating, causing or contributing to operating a motor vehicle while intoxicated; or reckless endangerment.
- (n) while located for use as a residence or premises and not as a vehicle:
- (o) any automobile titled to any member or resident of the household which is not listed on the declaration page of the policy

#### **Limits of Liability.**

- (a) The limit of liability as stated in the Declarations for this Uninsured Motorist Coverage as applicable to "each person" is the maximum limit of the Company's liability for all **insureds** for all damages including damages for care and loss of services and loss of consortium arising out of **bodily injury** sustained by any one person as a result of any one accident. Subject to this limit for "each person", the limit of liability as stated in the Declarations for this Uninsured Motorist Coverage as applicable to "each accident" is the maximum limit of the Company's liability for all damages, including damages for care and loss of services and loss of consortium arising out of **bodily injury** sustained by two or more persons as a result of any one accident.

Therefore, these limits of liability for this Uninsured Motorist Coverage are the most the Company will pay under this coverage regardless of the number of:

- (1) **insured**;
- (2) claims made or suits resulting from **bodily injury** or **property damage**;
- (3) automobiles or separated itemizations of premiums stated in the Declarations; or
- (4) automobiles involved in the accident.

The limits for any coverage for any automobile under this policy may not be aggregated with the limits for any similar coverage, whether provided by the Company or another insurer, applying to other motor vehicles, for purposes of

determining the total limit of insurance coverage available for **bodily injury** suffered by a person in any one accident. Therefore, the total limit of liability under all the policies, whether provided by the Company or another insurer shall not exceed the highest applicable limit of liability under any one policy.

- (b) Any amount payable under the terms of Part B - "Uninsured Motorists" Coverage because of **bodily injury** sustained in an accident by a person who is an **insured** under Part B - "Uninsured Motorists" Coverage shall be reduced by:
  - (1) all sums paid for **bodily injury** by or on behalf of
    - (i) the owner or operator of the uninsured automobile and (ii) any other person or organization jointly or severally liable together with such owner or operator for such **bodily injury** including all sums paid under "1 - Bodily Injury Liability" Coverage of Part A - "Bodily Injury Liability and Property Damage Liability" Coverage: and
  - (2) the amount paid and the present value of all amounts payable for **bodily injury** under any worker's compensation law or any similar law.
- (c) Any payment made under Part B - "Uninsured Motorists" Coverage to or for any **insured** shall be applied in reduction of the amount for damages which the **insured** may be entitled to recover from any person under "1 - Bodily Injury Liability" Coverage of Part A - "Bodily Injury Liability and Property Damage Liability" Coverage.
- (d) The Company shall not be obligated to pay under this coverage that part of the damages which the **insured** may be entitled to recover from the owner or operator of an **uninsured motor vehicle** which represents medical payments paid or payable under Part 0 - "Medical Payments" Coverage.
- (e) If more than one policy issued by this Company applies to Part II, the total limit of this Company's liability under all such policies shall not exceed the amount applicable under any one policy for any one automobile.
- (f) Any amount payable under Part B - "Uninsured Motorists" Coverage shall be reduced by all sums paid to the **insured** for **property damage** on behalf of the owner or operator of the **uninsured motor vehicle** and any other person or organization jointly or severally liable together with such owner or operator.
- (g) Any amount payable under Part B - "Uninsured Motorists" Coverage shall be reduced by all sums paid to the **insured** for **property damage** on behalf of the owner or operator of the **uninsured motor vehicle** and any other person or organization jointly or severally liable together with such owner or operator.

- (h) **Property damage** losses recoverable hereunder shall be limited to damages caused by the actual physical contact of an identifiable **uninsured motor vehicle** with the automobile described in the policy.
- (i) There shall be no coverage for loss of use of the **insured automobile** and no coverage for **loss** or damage to personal property located in the insured automobile.
- (j) There shall be no liability imposed under the Uninsured Motorist Property Damage Coverage if the owner or the operator of the vehicle at fault or the **hit-and-run motor vehicle** cannot be identified.

**Other Insurance.** With respect to **bodily injury** to an **insured** while **occupying** an automobile not owned by the **named insured**, the insurance under Part B - Uninsured Motorists" Coverage shall apply only as excess insurance over any other similar insurance available to such **insured** and applicable to such automobile as primary insurance, and this insurance shall then apply only in the amount by which the limits of liability for this coverage exceeds the applicable limit of liability of such other insurance.

Except as provided in the foregoing paragraph, if the **insured** has other similar insurance available to him/her and applicable to the accident, the damages shall be deemed not to exceed the higher of the applicable limits of liability of this insurance and such other insurance, and the Company shall not be liable for a greater proportion of any **loss** to which this coverage applies than the limit of liability hereunder bears to the sum of the applicable limits of liability of this insurance and such other insurance.

**Arbitration.** If any person making claim hereunder and the Company do not agree that both the vehicle(s) and the driver(s) of the vehicle(s) with which any person making claim has had an accident, or do not agree that such person is legally entitled to recover damages from the owner or operator of an **uninsured motor vehicle** because of **bodily injury** to an **insured** or damage to an automobile described in the policy or do not agree to the amount payable hereunder, then these matters shall be submitted to arbitration. Upon the **insured** demanding arbitration and selecting an arbitrator as required under the terms hereof in writing, the Company shall select an arbitrator and the two arbitrators so named shall select a third arbitrator. If such arbitrators are not selected within 45 days from the receipt of such written request, either party may request the arbitration be submitted to the American Arbitration Association. In the event the two selected arbitrators cannot agree upon a third arbitrator either party may petition any Judge in any court of record in the County and State in which the arbitration is pending to select a third arbitrator upon Notice of Motion to the other party or their attorney, if applicable, and without the necessity of filing a law suit or serving the other party with process. The arbitrators shall then hear and determine the questions in dispute and except to the extent herein

provided, the decision in writing of any two arbitrators shall be binding upon the parties.

All arbitration hearings under this policy, including both the tripartite panel and the American Arbitration Association, shall be conducted in the County and State in which the **insured** resides and in accordance with the usual rules governing procedure and admission of evidence in courts of law of that County and not in accordance with any court mandated arbitration or mediation rules. It is agreed that the arbitrator(s) shall not enter an award in excess of the applicable policy limits, and, if an award is entered in excess of the applicable policy limits, that portion of the award which exceeds the policy limits is void and not binding on either the **insured** or the Company. Each party will pay the expenses it incurs and the expenses of its arbitrator; and bear the expenses of the third arbitrator equally.

Any decision made by the arbitrators shall be binding for the amount of damages not exceeding the limits for **bodily injury** or death as set forth in Section 9-25-4-5 of the Indiana Vehicle Code.

**Trust Agreement.** In the event of payment to any person under Part B - "Uninsured Motorists" Coverage:

- (a) the Company shall be entitled to the extent of such payment to the proceeds of any settlement or judgment resulting from the exercise of any rights of recovery of such person against any person or organization legally responsible for the **property damage** or **bodily injury** for which the payment is made, including the proceeds recoverable from the assets of any insolvent insurer;
- (b) such person shall hold in trust for the benefit of the Company all rights of recovery which he/she shall have against any other person or organization because of the damages which are the subject of claim made under Part B - "Uninsured Motorists" Coverage;
- (c) such person shall do whatever is proper to secure such rights and shall do nothing after **loss** to prejudice such rights;
- (d) if requested in writing by the Company or its representative, such person shall take, through any representative designated by the Company, such actions as may be necessary or appropriate to recover such payment as damages from any other person or organization, such action to be taken in the name of such person; in the event of a recovery, the Company shall be reimbursed out of such recovery for expenses, costs and attorneys' fees incurred by it in connection therewith;
- (e) such person shall execute and deliver to the Company such instruments and papers as may be appropriate to secure the rights and obligations of such person and the Company established by these provisions.



**Legal Action Against the Company Under This Part B - “Uninsured Motorists” Coverage.** No suit, action or arbitration proceedings for recovery of any claim may be brought against this Company until the **insured** has fully complied with all the terms of this policy. Further, any suit, action or arbitration will be barred unless commenced within two (2) years after the date of the accident. Arbitration proceedings will not commence until this Company receives at the same time (1) the **insured’s** written demand for arbitration and (2) the **insured’s** written selection of an arbitrator.

## **PART C - UNDERINSURED MOTORIST COVERAGE**

**Coverage 5 - Underinsured Motorist** To pay all sums which an **insured** or his/her legal representative shall be legally entitled to recover as compensatory damages only and not for any punitive or exemplary damages from the owner or operator of an **underinsured motor vehicle** because of **bodily injury** sustained by an **insured** and caused by an accident arising out of the ownership, maintenance or use of the **underinsured motor vehicle** provided, for the purposes of this coverage, determination as to whether the **insured** or his/her legal representative is legally entitled to recover such damages, and if so the amount thereof, shall be made by agreement between the **insured** and the Company or, if they fail to agree, by arbitration as herein provided. To pay under this coverage only after the limits of liability under all **bodily injury** liability bonds or policies applicable to the **underinsured motor vehicle** and its operator have been exhausted by payment of judgments or settlements.

**Definitions.** The definitions under Part A - “Bodily Injury Liability and Property Damage Liability” Coverage apply to Part C - “Underinsured Motorists” Coverage and under Part C - “Underinsured Motorists” Coverage:

**“Underinsured motor vehicle”** means a land motor vehicle or **trailer** of any type to which a **bodily injury** liability bond or policy applies at the time of the accident but its limit for **bodily injury** liability is less than the limit of liability for this Underinsured Motorist Coverage.

However, **“underinsured motor vehicle”** does not include any vehicle or **equipment**:

- (a) owned by or furnished or available for the regular use of an **insured** or any **relative** of the **named insured**;
- (b) owned by any governmental unit or agency;
- (c) operated on rails or crawler-treads;
- (d) designed for use principally off public roads while not upon public roads;
- (e) while located for use as a residence or premises and not as a vehicle;
- (f) owned or operated by a person qualifying as a self-insurer under any applicable motor vehicle law;
- (g) to which a **bodily injury** liability bond or policy applies at the time of the accident, but the bonding or insuring

- (h) company denies coverage or is or becomes insolvent; which is defined as an **“uninsured motor vehicle”** under Part B - “Uninsured Motorists” Coverage;
- (i) which is insured under Part A - “Bodily Injury Liability and Property Damage Liability” Coverage - “1 - Bodily Injury Liability” Coverage and “2 - Property Damage Liability” Coverage; or
- (j) to which a **bodily injury** liability bond or policy applies at the time of the accident but its limit for **bodily injury** liability is less than the minimum limit for **bodily injury** liability specified by the Financial Responsibility Law of Indiana.

**Exclusions.** This policy does not apply and does not provide coverage under this Part C - “Underinsured Motorist” Coverage:

- (a) to any person while **occupying** an automobile when it is being used to carry persons or property for a fee;
- (b) to any person using an automobile without a reasonable belief that the person is entitled to do so;
- (c) so as to inure directly or indirectly to the benefit of any worker’s compensation or disability benefits carrier or any person or organization qualifying as a self-insurer under any worker’s compensation or disability benefits law or any similar law;
- (d) to any claim alleging punitive or exemplary damages against the owner or operator of an **underinsured motor vehicle** or to the payment of any award, finding, verdict or judgment against the owner or operator of an **underinsured motor vehicle** for punitive or exemplary damages;
- (e) if Part B - “Uninsured Motorist” Coverage applies to the accident;
- (f) while any covered automobile is in the control of an excluded operator;
- (g) any **insured** while **occupying** a vehicle the **insured** owns which is insured for this Underinsured Motorist Coverage under another policy; or
- (h) to **bodily injury** of an **insured** while **occupying** a motor vehicle owned by, or furnished or available for the regular use of the **insured**, a resident spouse or resident relative, if that motor vehicle is not described in this policy under which claim is made or is not a newly acquired or replacement automobile covered under the terms of this policy.
- (i) arising out of the operation of any automobile designed for racing while being tested, repaired or serviced, or to any automobile while used, operated, manipulated or maintained in any impromptu, pre-arranged or organized race or speed test, including ‘hot rod’ or ‘stock car’ racing.
- (j) any automobile titled to any member or resident of the household which is not listed on the declaration page of the policy.

### Limits of Liability.

- (a) The limit of Liability as stated in the Declarations for Underinsured Motorist Coverage as applicable to “each person” is the maximum limit of the Company’s liability for all **insureds** for all damages, including damages for care and loss of service and loss of consortium, arising out of **bodily injury** sustained by any one person as the result of any one accident. Subject to this limit for “each person”, the maximum limit of liability stated in the Declarations as applicable to “each accident” for Underinsured Motorists Coverage is the maximum limit of the Company’s liability for all damages including damages for care and loss of services and loss of consortium arising out of **bodily injury** sustained by two or more persons as the result of any one accident.

Therefore, these limits of liability for this “5 - Underinsured Motorist Coverage” are the most the Company will pay under this coverage regardless of the number of:

- (1) **insured**;
  - (2) claims made or suits brought on account of **bodily injury** or **property damage**;
  - (3) automobiles or separated itemizations of premiums stated in the Declarations; or
  - (4) automobiles involved in the accident.
- (b) The limits for any coverage for any automobile under this policy may not be aggregated with the limits for any similar coverage, whether provided by the Company or another insurer, applying to other motor vehicles, for purposes of determining the total limit of insurance coverage available for **bodily injury** suffered by a person in any one accident. Therefore, the total limit of liability under all the policies, whether provided by the Company or another insurer shall not exceed the highest applicable limit of liability under any one policy.
- (c) The limit of liability for “5 - Underinsured Motorist Coverage - Part C” shall be reduced by all sums paid or payable to or for the **insured** because of the **bodily injury** by or on behalf of persons or organizations who may be legally responsible.
- (d) Any amounts otherwise payable for damages under this “5 - Underinsured Motorist Coverage - Part C” shall be reduced by all sums paid or payable to or for the **insured** because of the **bodily injury** under any worker’s compensation law or any similar law.
- (e) Any payment under this “5 - Underinsured Motorist Coverage - Part C” to or for any **insured** shall be reduced by the amount of damages which the **insured** may be entitled to recover from any person insured under “1 - Bodily Injury Coverage” of Part A - “Bodily Injury Liability and Property Damage Liability” Coverage.
- (f) The Company shall not be obligated to pay under this “5 - Underinsured Motorist Coverage - Part C” that

part of the damages which the **insured** may be entitled to recover from the owner or operator of an **underinsured motor vehicle** which represents expenses for medical services paid or payable under any automobile medical payments coverage which also includes all sums paid under “6 - Medical Payments Coverage - Part D” of this policy.

- (g) Any amounts otherwise payable for damages under this “5 - Underinsured Motorist Coverage - Part C” shall be reduced by all sums paid or payable to or for the **insured** because of **bodily injury** by any other Underinsured Motorist insurance.

**Other Insurance.** With respect to **bodily injury** to an **insured** while **occupying** a motor vehicle not owned by the **named insured**, the insurance under Part C - “Underinsured Motorists” Coverage shall apply only as excess insurance over any other similar insurance available to such **insured** and applicable to such motor vehicle as primary insurance, then this insurance shall apply only in the amount by which the limit of liability for Part C - “Underinsured Motorists” Coverage exceeds the applicable limit of liability of such other insurance.

Except as provided in the foregoing paragraph, if the **insured** has other similar insurance available and applicable to the accident, the damages shall be deemed not to exceed the higher of the applicable limits of liability of this insurance and such other insurance, and the Company shall not be liable for a greater proportion of any **loss** to which Part C - “Underinsured Motorists” Coverage applies than the limit of liability hereunder bears to the sum of the applicable limits of liability of this insurance and such other insurance.

**Arbitration.** If any person making claim hereunder and the Company do not agree that such person is legally entitled to recover damages from the owner or operator of an **underinsured motor vehicle** because of **bodily injury** to an **insured** or do not agree as to the amount payable hereunder, then these matters shall be submitted to arbitration. Upon the **insured** demanding arbitration and selecting an arbitrator as required under the terms hereof in writing, the Company shall select an arbitrator and the two arbitrators so named shall select a third arbitrator. If such arbitrators are not selected within 45 days from the receipt of such written request, either party may request the arbitration be submitted to the American Arbitration Association. In the event the two selected arbitrators cannot agree upon a third arbitrator, either party may petition any Judge in any court of record in the County and State in which the arbitration is pending to select a third arbitrator upon Notice of Motion to the other party or their attorney, if applicable, and without the necessity of filing a law suit or serving the other party with process. The arbitrators shall then hear and determine the questions in dispute and except to the extent herein provided, the decision in writing of any two arbitrators shall be binding

upon the parties. All arbitration hearings under this policy, including both the tripartite panel and the American Arbitration Association, shall be conducted in the County and State in which the **insured** resides and in accordance with the usual rules governing procedure and admission of evidence in courts of law of that County and not in accordance with any court mandated arbitration or mediation rules. It is agreed that the arbitrator(s) shall not enter an award in excess of the applicable policy limits, and, if an award is entered in excess of the applicable policy limits then that portion of the award which exceeds the policy limits is void and not binding on either the **insured** or the Company. Each party will pay the expenses it incurs and the expenses of its arbitrator: and bear the expenses of the third arbitrator equally. Any decision made by the arbitrators shall be binding for the amount of damages not exceeding the limits for **bodily injury** or death as set forth in Section 925-4-5 of the Indiana Vehicle Code.

**Trust Agreement.** In the event of payment to any person under Part C - "Underinsured Motorists" Coverage:

- (a) the Company shall be entitled to the extent of such payment to the proceeds of any settlement or judgment resulting from the exercise of any rights of recovery of such person against any person or organization legally responsible for the **property damage** or **bodily injury** for which the payment is made, including the proceeds recoverable from the assets of any insolvent insurer;
- (b) such person shall hold in trust for the benefit of the Company all rights of recovery which he shall have against any other person or organization because of the damages which are the subject of claim made under Part C - "Underinsured Motorists" Coverage:
- (c) such person shall do whatever is proper to secure such rights and shall do nothing after **loss** to prejudice such rights;
- (d) if requested in writing by the Company or its representative, such person shall take, through any representative designated by the Company, such actions as may be necessary or appropriate to recover such payment as damages from any other person or organization, such action to be taken in the name of such person; in the event of a recovery, the Company shall be reimbursed out of such recovery for expenses, costs and attorneys' fees incurred by it in connection therewith;
- (e) such person shall execute and deliver to the Company such instruments and papers as may be appropriate to secure the rights and obligations of such person and the Company established by these provisions.

**Legal Action Against the Company Under This Part C - "Underinsured Motorists" Coverage.** No suit, action or arbitration proceedings for recovery of any claim may be

brought against this Company until the **insured** has fully complied with all the terms of this policy. Further, any suit, action or arbitration will be barred unless commenced within two years after the date of the accident or within one year after the date of any judgment. Arbitration proceedings will not commence until this Company receives at the same time (1) the **insured's** written demand for arbitration and (2) the **insured's** written selection of an arbitrator.

## **PART D - MEDICAL PAYMENTS COVERAGE**

**Coverage 6 – Medical Payments** To pay all reasonable expenses incurred and submitted to the Company within one year from the date of accident for necessary medical, surgical, X-ray and dental services, including prosthetic devices, and necessary ambulance, hospital, professional nursing and funeral services to or for the **named insured** and each **relative** who sustains **bodily injury** caused by accident, while **occupying** an automobile; or to or for any other person who sustains **bodily injury** caused by accident, while **occupying**:

- (a) the **owned automobile**, while being used by an **insured**; or
- (b) a **non-owned automobile**, if the **bodily injury** results from its operation by an **insured** provided no such payment shall be made unless the person to or for whom such payment is made shall have executed a written agreement that the amount of such payment shall (1) be applied toward the settlement of any claim or the satisfaction of any judgment for damages entered in his/her favor, (2) against any **insured** because of **bodily injury** arising out of an accident to which the Part A - "Bodily Injury Liability and Property Damage Liability" Coverage applies.

**Definitions.** The definitions under Part A - "Bodily Injury Liability and Property Damage Liability" Coverage apply to Part D - "Medical Payments" Coverage.

**Exclusions.** This policy does not apply and does not provide coverage under Part D - "Medical Payments" Coverage to **bodily injury**:

- (a) sustained while **occupying** (1) an automobile while used for a delivery purpose during the course of business or for other commercial purpose, or (2) any automobile while located for use as a residence or premises;
- (b) sustained by the **named insured** or a **relative** (1) while **occupying** an automobile owned by or furnished for the regular use of either the **named insured** or any resident of the household of the **named insured**, other than an automobile defined herein as an "**owned automobile**", or (2) while **occupying** or as a result of being struck by (i) a motor vehicle or other **equipment** designed for use principally off public roads while not upon public roads, or (ii) a vehicle operated on rails or crawler-treads;

- (c) sustained by any person other than the **named insured** or a resident of the household of the **named insured**, resulting from use of (1) a **non-owned automobile** while used in the **automobile business**, or (2) a **non-owned automobile** in any other business or occupation except operation or occupancy of **private passenger automobile** by the **named insured** or by his/her private chauffeur or domestic servant or a **trailer** used therewith or with an **owned automobile**;
- (d) sustained by any person who is employed in the **automobile business**, if the accident arises out of the operation thereof and if benefits therefor are in whole or in part either payable or required to be provided under any worker's compensation law;
- (e) from **loss** due to **war**;
- (f) to the extent any medical expense is paid or payable to or on behalf of the injured person under the provisions of any other (i) insurance affording benefits for medical expenses, (ii) individual, blanket group accident, disability or hospitalization insurance, (iii) medical or surgical reimbursement plan, or (iv) worker's compensation or any similar law;
- (g) resulting from the hazardous properties of nuclear material and arising out of the operation of a nuclear facility by any person or organization;
- (h) arising out of the operation of any automobile designed for racing while being tested, repaired or serviced, or to any automobile while used, operated, manipulated or maintained in any pre-arranged or organized racing event;
- (i) while any automobile is in the control of an excluded operator;
- (j) incurred by any person while operating or **occupying** any automobile without a reasonable belief that he or she is entitled to do so, however this exclusion does not apply to the **named insured** or a **relative** with regard to the operation of the **owned automobile**;
- (k) arising out of the operation, occupation or use of a motor vehicle during or in connection with the commission of a crime or while attempting to elude police.;
- (l) arising out of the operation or occupation of a motor vehicle in such circumstances where **bodily injury** is either expected or intended by the **insured** or incurred by an **insured** occupant of a vehicle who is complicit in the intentional act of the driver of that vehicle.

**Arbitration.** If any person making claim hereunder and the Company do not agree that a medical bill submitted for payment is not usual and customary or necessary and reasonable or do not otherwise agree that it is payable under Part D, these matters shall be submitted to arbitration. Upon the **insured** or the Company demanding

arbitration, the **insured** and the Company shall each select a qualified arbitrator and the two arbitrators so named shall select a third arbitrator. The three arbitrators so selected shall hear and determine the questions in dispute. Any decision made by the arbitrators shall be binding for the amount decided by the arbitrators to be payable hereunder not exceeding the limits of liability for Medical Payments as provided in the Declarations of this policy subject to all other terms and conditions of this policy. To the extent that an arbitration decision exceeds the limit of liability, it is void. The authority of the arbitrators is limited to a determination of the amount due for Medical Payments and does not extend to punitive damages or other damages other than Medical Payments covered by this policy. Each party shall bear the cost of his/her own arbitrator and shall share equally the costs of the third arbitrator. No arbitrator shall have authority to hear or decide class or representative claims.

**Limits of Liability.** The limit of liability for this Medical Payments Coverage as stated in the Declarations as applicable to “each person” is the maximum limit of the Company’s liability for all expenses incurred by or on behalf of each person who sustains **bodily injury** as the result of any one accident.

Therefore, this limit of liability for this medical payments coverage is the most the Company will pay under this coverage regardless of the number of:

- (1) **insured**;
- (2) claims made or suits resulting from **bodily injury**;
- (3) automobiles or separated itemizations of premium stated in the Declarations; or
- (4) automobiles involved in the accident.

The limits for any coverage for any automobile under this policy may not be aggregated with the limits for any similar coverage, whether provided by the Company or another insurer, applying to other motor vehicles, for purposes of determining the total limit of insurance coverage available for **bodily injury** suffered by a person in any one accident. Therefore, the total limit of liability under all the policies, whether provided by the Company or another insurer shall not exceed the highest applicable limit of liability under any one policy.

**Other Insurance.** If there is other automobile medical payments insurance against a **loss** covered by Part D - “Medical Payments” Coverage of this policy, the Company shall not be liable under this policy for a greater proportion of such **loss** than the applicable limit of liability stated in the Declarations bears to the highest applicable limit of liability of any valid and collectible automobile medical payments insurance; provided, however, the insurance with respect to a **temporary substitute automobile** or **non-owned automobile** shall be excess insurance over any other valid and collectible automobile medical payments insurance.



**Legal Action Against the Company Under This Part D - “Medical Payments” Coverage.** No suit, action or arbitration for recovery of any claim may be brought against this Company until the **named insured, relative,** or any other person has fully complied with all the terms of this policy. Further, any suit or action will be barred unless commenced within two years after the date of the accident.

## **PART E – PHYSICAL DAMAGE COVERAGE**

**Coverage 7 - Comprehensive or Other than Collision Coverage** (excluding Collision). At the Company’s option to have repaired with aftermarket or like kind and quality property less depreciation or to pay for **loss** other than by **collision** to the owned automobile or **equipment** which is common to the use of the automobile as a motor vehicle. For the purpose of this coverage, breakage of glass and **loss** caused by missiles, falling objects, fire, theft or larceny, explosion, earthquake, windstorm, hail, **war**, flood, malicious mischief or vandalism, riot or civil commotion shall not be deemed to be **loss** caused by **collision**. **Coverage 8 - Collision** At the Company’s option to have repaired with aftermarket or like kind and quality property less depreciation or to pay for **loss** caused by **collision** to the **owned automobile** or **equipment** which is common to the use of the owned automobile as a motor vehicle but only for the amount in excess of the deductible amount stated in the Declarations as applicable thereto.

**Deductible.** The deductible amount stated on the declaration page shall be applicable to each individual **loss**, regardless of whether the **insured** reports the **loss** to the Company or a claim is made for the **loss** under the policy.

**Coverage 9 – Roadside Assistance Coverage.** The Company will pay for the following emergency roadside assistance services necessitated by the disablement of an **owned automobile** listed in the Declarations as carrying this Coverage, but only to the extent of the limits of this Coverage as stated in the Declarations and only two (2) occurrences per vehicle per policy period: a) reasonable towing and labor costs to the nearest point at which disablement can be remedied; b) tire change; (c) battery jump start; (d) key lockout service; and (e) fuel, oil and water delivery service limited to the amounts of fuel, oil and water necessary for the vehicle to travel to the nearest point where fuel and oil is available for purchase by the **insured** or driver.

**Coverage 10 – Rental Reimbursement - Collision Coverage.** It is agreed commencing 48 hours after direct or accidental **loss** or damage to the **insured automobile** (hereinafter called **loss**), caused by **collision** of the automobile which is timely reported to the Company and covered by the Company, the Company will reimburse the **insured** for the rental fee expense incurred with a maximum daily reimbursement benefit as specified on the Declarations for a maximum period as specified on the

Declarations (excluding mileage charge) for the rental of a substitute automobile while the **insured automobile** is in the custody of a licensed business, garage or facility for repairs.

**Exclusions.** Rental reimbursement does not apply:

- (a) if a **collision** occurs while any driver of the **insured automobile** is intoxicated or under the influence of any narcotic unless administered at the advice of a physician;
- (b) if a **collision** occurs while the automobile is rented by or on behalf of **insured**; or
- (c) if the automobile is in control of an excluded operator.

**Reimbursement:** is limited to such expenses incurred during a period commencing at 12:01 AM on the day following the date the **named insured** delivers the **owned automobile** to the garage for repairs.

**Coverage Terminates:** on the date of reasonably satisfactory completion of repairs or the date the Company and the **named insured** agree the automobile is a total loss but in no event more than the maximum number of days as stated on the declaration page.

**Payment of Loss.** At the Company's option, the Company may pay to the **insured** for **loss** in money or provide a substitute form of transportation. In no event shall a claim for rental reimbursement be accepted by the Company unless a verified, itemized statement of rental charges is supplied by the **insured** within thirty (30) days after the date of **loss** from a licensed or recognized automobile rental agency or business. This insurance is applicable in addition to any other valid or collectible collision insurance available to the **insured**.

**Definitions.** The definitions in Part A - Bodily Injury Liability and Property Damage Liability" Coverage, except the definitions of "**insured**" and "**non-owned automobile**", apply to Part E - Physical Damage" Coverage and under Part E - "Physical Damage" Coverage:

"**insured**" means (a) with respect to the **owned automobile** (1) the **named insured** and (2) any person or organization, other than a person or organization engaged in the **automobile business** or as a carrier or other bailee for hire, maintaining, using or having custody of said automobile with the permission of the **named insured**, and within the scope of such permission;

"**non-owned automobile**" means an automobile not owned by or furnished for the regular use of either the **named insured** or any **relative**, other than a **temporary substitute automobile**, while said automobile is in the possession or custody of the **insured** or is being operated by him/her;

**“loss”** means each direct physical damage to or destruction of the **owned automobile** or **equipment** which is common to the use of the **owned automobile** which occurs during the policy period as a result of an accident or happening which is neither expected nor intended by the **named insured** and/or any other person using or having custody of the owned automobile to whom the **named insured** has given permission;

**“collision”** means an upset of the owned automobile or physical contact between the owned automobile and another motor vehicle, physical object or person. Collision does not include (1) breakage of glass or (2) loss caused by missiles, falling objects, fire, theft or larceny, explosion, earthquake, windstorm, hail, **war**, flood, malicious mischief or vandalism, riot or civil commotion;

**“trailer”** means a **trailer** designed for use with a private passenger, farm or **utility automobile**, and is not a home, office, store, display, or passenger **trailer**;

**“forcible entry”** means unauthorized entry and use of actual force and tampering evidenced by marks or damage to the ignition, ignition locks, steering locks, or other security devices installed to prevent operation by unauthorized persons;

**“equipment”** means the standard or optional **equipment** which is available from the manufacturer for that make, model, and model year of automobile and was permanently installed in the automobile in the place designed by the manufacturer at the time of original sale or inception of this policy;

**“hit and run automobile”** means an automobile which causes damage to an **insured automobile** arising out of physical contact of such automobile with the **insured automobile** provided: (a) there cannot be ascertained the identity of either the operator or the owner of such **“hit and run automobile”**, (b) the **insured** or someone on his/her behalf shall have reported the accident promptly to a police, peace, or judicial officer or to the Commissioner of Motor Vehicles and shall have filed with the Company within 30 days thereafter a statement under oath that the **insured** or his legal representative has a cause or causes of action, arising out of such accident for damages against a person or persons whose identity is unascertainable and setting forth the facts in support thereof, and (C) at the Company’s request the **insured** or his/her legal representative makes available for inspection the automobile which the **insured** was **occupying** at the time of the accident.

**“temporary substitute automobile”** means an automobile not owned by the **named insured**, or any resident of the same household, while temporarily used as a substitute for the **owned automobile** when withdrawn from normal use because of its breakdown, repair, servicing, loss or destruction and is not a **non-owned automobile**. There is no coverage under Part 5 - “Physical Damage” Coverage when the owned automobile qualifies as a **temporary substitute automobile**.

**Exclusions.** This policy does not apply to and does not provide coverage under Part E - "Physical Damage" Coverage for:

- (a) any automobile while used for a delivery purpose during the course of business or for any commercial purpose;
- (b) loss of **equipment** which is not available from the manufacturer of the automobile named in the policy for that make, model, and model year;
- (c) loss of **equipment** which is available from the manufacturer of the automobile named in the policy for that make, model, and model year, but which is not permanently installed in the dash or console opening specified by the manufacturer of the automobile for the installation of such **equipment**;
- (d) loss to any automobile arising out of its use by the **insured** in the **automobile business**;
- (e) loss to any automobile owned by the **named insured** and not described in this policy or to any **temporary substitute automobile**, while being used when the vehicle described in the declarations is either being repaired due to a loss or mechanical breakdown, or any other reason that would cause the vehicle described in the declarations to be non-operational;
- (f) damage which is due and confined to wear and tear, freezing, mechanical or electrical breakdown or failure, unless such damage results from a theft covered by this policy;
- (g) tires, unless damaged by fire, malicious mischief, vandalism, stolen or unless the loss is coincident with and from the same cause as other loss covered by this policy;
- (h) loss due to radioactive contamination;
- (i) breakage of glass, under "8 - Collision Coverage" of Part E - "Physical Damage" Coverage, if insurance with respect to such breakage is otherwise afforded;
- (j) loss to any automobile designed for racing while being tested, repaired or serviced or to any automobile used, operated, manipulated or maintained in any impromptu, pre-arranged or organized race or speed test, including 'hot rod' or 'stock car' racing.
- (k) loss of or damage to any device or instrument designed for the recording, reproduction, receiving, or transmittal of sound, radio waves, microwave or television signals unless such device or instrument is permanently installed in the dash or console opening specified by the manufacturer of the automobile for the installation of such **equipment**;
- (l) personal effects or personal property including, but not limited to clothing, luggage, tools, tapes, wire, records, compact discs or other medium for use with any device or instrument designed for the recording, reproduction, or recording and reproduction of sound;

- (m) loss to any automobile not described in this policy if:
  - (1) there is other valid and collectable insurance against such loss available to the **insured**, or (2) with respect to an automobile, ownership of which is acquired by the **named insured** during the policy period if the **named insured** has not notified the Company in writing within 30 days of such acquisition of his/her intention to make Part E - "Physical Damage" Coverage of this policy applicable to such automobile;
- (n) loss to any custom furnishings or **equipment** in or upon any automobile including, but not limited to, special carpeting, insulation, furniture, bars, television receivers, facilities for cooking or sleeping, height-extension roofs, custom murals, custom paint or other decals or graphics;
- (o) loss resulting from the intentional act of any **insured** or a person acting at the direction of any **insured**;
- (p) any loss arising out of or during use of an automobile for the transportation of hazardous substance or flammable liquid;
- (q) loss due to **war**, riot, or civil commotion;
- (r) loss to any **trailer**;
- (s) loss due to confiscation, towing or impounding by a duly constituted government or civil authority, or damages incurred during repossession by loss payee or its agent;
- (t) loss resulting from the alteration of an automobile beyond manufacturer specifications;
- (u) any automobile while in control of an operator excluded by endorsement to this policy or any renewal thereof;
- (v) any automobile while used in the commission of any criminal act, other than a traffic violation, and including while fleeing and eluding the police or other law enforcement or government authorities;
- (w) any automobile while used as a public or livery conveyance;
- (x) theft or conversion by an **insured**, member of the household, or any person using the automobile with permission;
- (y) while located for use as a residence or premises and not as a vehicle;
- (z) any automobile titled to any member or resident of the household which is not listed on the declaration page of the policy.

**Limits of Liability.** The Company's liability for all losses under Part E - "Physical Damage" Coverage shall not exceed the least of the following:

- (a) the actual cash value of stolen or damaged property or part thereof at the time of the loss, less the deductible;
- (b) the amount necessary to repair the damaged property at the time of the loss with aftermarket or like kind and quality property less depreciation and less the deductible;

- (c) the amount necessary to replace the value of the stolen or damaged property at the time of the loss with aftermarket or like kind and quality property less depreciation; or
- (d) the actual cash value of the stolen or damaged property less deductible and salvage value on retained vehicles nine (9) model years or older.

**Supplementary Payments.** In addition to the applicable limit of liability:

- (a) to reimburse the **insured** for transportation expenses not exceeding \$10 per day or totaling more than \$150 incurred during the period commencing 72 hours after a theft covered by this policy of the entire automobile has been reported to the Company and the police, and terminating on the date the whereabouts of the automobile becomes known to the **named insured** or Company or on such earlier date as the Company tenders settlement for such theft;
- (b) to pay general average and salvage charges for which the **insured** becomes legally liable as to the automobile being transported.

**Other Insurance.** If the **insured** has other insurance against a loss covered by Part E - "Physical Damage" Coverage of this policy; the Company shall not be liable under this policy for a greater proportion of such loss than the applicable limit of liability of this policy bears to the total applicable limit of liability of all valid and collectible insurance against such loss, provided, however, the insurance with respect to a **temporary substitute automobile** or **non-owned automobile** shall be excess insurance over any other valid and collectible insurance.

## **PART F - CONDITIONS**

**Unless Otherwise Noted, Conditions Apply To All Parts**

**1. Policy Period, Territory.** This policy applies only to accidents and losses during the policy period, as stated in the Declarations, while the automobile is within the United States of America, its territories or possessions, or Canada or is being transported between ports thereof. This policy may be renewed for successive policy periods by payment of the required premium to the Company on or before the expiration date of each policy period. If the premium is not paid when due, the policy shall terminate as of that date and such date shall be the end of the policy period. Premium shall be computed in accordance with the manuals currently in use by the Company. Each policy period shall begin and end at 12:01 A.M. standard time at the address of the **named insured**.

**2. Premium.** If the **named insured** disposes of an automobile, he/she shall inform the Company in writing within 30 days of such change. If the **named insured** acquires ownership of an additional or replacement automobile he/she shall inform the Company in writing within 30 days following acquisition of his/her decision to make this and no other policy issued by the Company

applicable to such owned automobile. Any premium adjustment necessary shall be effective as of the date of such change or acquisition in accordance with the manuals currently in use by the Company. The **named insured** shall, upon request, furnish reasonable proof of the number of such automobiles or **trailers** and a description thereof. If, at any time, the Company becomes aware of any operator residing in the **insured's** household, "resident operator", other than an excluded operator who is not named on the declaration page as a **named insured** or operator and the inclusion of that person as a **named insured** or operator under the policy would require a higher rate class, the policy will be endorsed to the correct rate class effective:

- a. on the inception date of the policy if such person was a "resident operator" as of the inception date of the policy: or
- b. on the date such person became a "resident operator" if such person became a "resident operator" during the policy period,

and the **named insured** will be liable for the difference between the total premium **you** have been charged for **your** coverage and the total amount of premium **you** would have been charged for that coverage had such person been named on the declaration page as an **insured** or operator or had **you** disclosed such person to the Company as an operator or driver when such person became a resident operator plus **you** will be liable for an additional surcharge equal in amount to two hundred percent (200%) of the total amount of the premium **you** have been charged for **your** coverage had such person been named on the application as an operator or had **you** disclosed such person to the Company as an operator or driver when such person became a resident operator. However, in those instance where the **insured** has made a claim under the collision or comprehensive coverages of this policy and the repair or replacement cost of the insured vehicle minus the deductible shall be less than the additional premium plus two hundred percent (200%) surcharge, as stated above, the Company shall limit the recovery from the **insured** to the cost of the repairs or replacement of the insured vehicle. For purposes of Condition 2, "resident operator" means any person who resides in the **insured's** household and who at any time during the policy period uses or operates an **insured automobile**.

**3. Notice.** In the event of an accident or loss, written notice containing particulars sufficient to identify the **insured** and also reasonably obtainable information with respect to the time, place and circumstances thereof, and the names and address of the injured and of available witnesses, shall be given by or on behalf of the **insured** directly to the Company as soon as practicable. In the event of theft the **insured** shall also promptly notify the police. If claim is made or suit is brought against an

**insured**, he/she shall immediately forward to the Company every demand, notice, summons or other process received by him/her, his/her representative or agent. The Company will not be obligated to pay, and shall not pay under Part A - "Bodily Injury Liability and Property Damage Liability" Coverage, unless the Company received actual notice of a lawsuit before a judgment had been entered in said suit. If, before the Company makes a payment of loss under Parts A - "Bodily Injury Liability and Property Damage Liability", B - "Uninsured Motorists", C - "Underinsured Motorists", D - "Medical Payments", or E - "Physical Damage" Coverages, the **insured** or his/her legal representative shall institute any legal action for **bodily injury** or **property damage** against any person or organization legally responsible for the use of an automobile involved in the accident, a copy of the summons and complaint or other process served in connection with such legal action shall be forwarded immediately to the Company by the **insured** or his/her legal representative.

All notices which may be required by this policy shall be in writing and shall be served personally or by certified mail, return receipt requested. For the purpose of all time limitations, notice shall be deemed to have been given on the date when so placed in the United States mail, postage prepaid.

Notice shall be given as follows:

To The Company  
American Access Casualty Company  
1S450 Summit Avenue, Suite 230  
Oakbrook Terrace, Illinois 60181

To The Insured(s):

Notice shall be given to the person(s) designated as the "**Named Insured(s)**" on the Declarations Page which is a part of this policy as issued, at the last known address for the "**named insured**".

#### **4. Fraud and Misrepresentation.**

(a) Misrepresentation or False Warranty. If there has been a misrepresentation or false warranty, made with actual intent to deceive or which materially affects either the risk or hazard assumed by the Company, made by the **insured** or on his behalf in the negotiation for this policy, and if said misrepresentation or false warranty or breach of condition is stated in the policy or endorsement or rider attached thereto, or in written application for this policy, then this policy shall be null and void and of no benefit.

(b) False Claim. Notwithstanding any other provision of this policy, this policy shall provide no coverage or benefit to any person who directly or through another makes a false claim to the Company or engages in deceptive conduct with respect to coverage or for a benefit or payment for any accident or loss regardless of whether the Company is thereby deceived. "False claim" means any statement made to the Company, a servicing corporation or agent,



insurance broker, or insurance agent, or any agent or employee of the Company, and made as a part of, or in support of, a claim for payment or other benefit under a policy of insurance, or as part of or in support of an application for the issuance of, or the rating of, any insurance policy, when the statement contains any false, incomplete, or misleading information concerning any fact or thing material to the claim, or conceals the occurrence of an event that is material to any person's initial or continued right or entitlement to any insurance benefit or payment, or the amount of any benefit or payment to which the person is entitled. "Statement" means any assertion, oral, written, or otherwise, and includes, but is not limited to, any notice, letter, or memorandum; proof of loss; bill of lading; receipt for payment; invoice, account, or other financial statement; estimate of **property damage**; bill for services; diagnosis or prognosis; prescription hospital, medical or dental chart or other record, x-ray, photograph, videotape, or movie film; test result; other evidence of loss, injury, or expense; computer-generated document; and data in any form.

(c) **Premium Adjustment.** If, at any time, the Company becomes aware of a misrepresentation that would have made the risk ineligible or resulted in a higher premium charge, the Company reserves the right to retroactively endorse the policy to the correct premium charge. In the event that the Company exercises that right, the **named insured** will be liable for the total premium amount charged for the applicable coverage, which shall include any additional premium amounts that the **named insured** would have been charged had such misrepresentation not been made. In addition, a two hundred percent (200%) surcharge, based on the total premium amount the **named insured** would have been charged for the coverage had such misrepresentation not been made, will be assessed against the policy. However, the amount charged shall not exceed the claim amount, in the event that such claim is the reason the Company becomes aware of the misrepresentation. The total premium amount charged will be calculated based on the earlier of (1) the inception date of the policy, or (2) the date the misrepresentation occurred during the policy period. Nothing in this Condition shall preclude the Company from exercising or pursuing any other right or remedy available under law.

**5. Two or More Automobiles.** When two or more automobiles are insured hereunder, an automobile and a **trailer** attached thereto shall be held to be one automobile as respects limits of liability under Parts A - "Bodily Injury Liability and Property Damage Liability", B - "Uninsured Motorists", C - "Underinsured Motorists" and D - "Medical Payments" Coverages of this policy.

**6. Assistance and Cooperation of the Insured.** The **insured** shall cooperate with the Company and, upon the Company's request or through attorneys selected by the Company to represent the **insured** must:

- (a) attend hearings and trials as the Company requires;
- (b) assist in making settlements, securing and giving evidence, obtaining the attendance of witnesses and in the conduct of any legal proceedings in connection with the subject matter of this insurance;
- (c) not voluntarily make any payment, except at his/her own cost, assume any obligation or incur any expense other than for such immediate medical and surgical relief to others as shall be imperative at the time of accident, and shall not make any admissions as to fault;
- (d) notify the Company of any change of his/her address or residence during the pendency of any suit against the **insured**;
- (e) send the Company promptly any legal papers received relating to any claim or suit;
- (f) submit to physical examinations at the Company's expense by doctors **we** choose as often as **we** may reasonably require;
- (g) authorize the Company to obtain medical and any other records **we** deem pertinent to a claim investigation;
- (h) provide any written proofs of loss the Company requires;
- (i) allow the Company to take signed and recorded statements and answer all questions **we** may ask when and as often as **we** may require;
- (j) submit to examinations under oath as often as the Company requires, outside the presence of any other **insured** or person to be examined under oath.

The Company has no duty to provide coverage under this policy unless there has been full compliance with these responsibilities.

After the notice of claim under any part of this policy, the Company may require the **insured** to take such actions as may be necessary or appropriate to preserve his/her right to recover damages from any person or organization alleged to be legally responsible for the **bodily injury**; and in any action against the Company, the Company may require the **insured** to join such person or organization as a party defendant. The Company shall reimburse the **insured** for court costs, jury fees and sheriff's fees arising from this action.

**7. Action Against Company - Part A - "Bodily Injury Liability and Property Damage Liability" Coverage.** No action shall lie against the Company unless, as a condition precedent thereto, the **insured** shall have fully complied with all terms of this policy, nor until the amount of the **insured's** obligation to pay shall have been determined either by final judgment against the **insured** after actual trial or by written agreement of the **insured**, the claimant and the Company.

Any person or organization or the legal representative thereof who has secured such final judgment or written agreement shall thereafter be entitled to recover under this policy to the extent of the insurance afforded by this policy. No person or organization shall have any right under this policy to join the Company as a party to any action against the **insured** to determine the **insured's** liability, nor shall the Company be impleaded by the **insured** or his/her legal representative.

**Parts B - "Uninsured Motorists", C - "Underinsured Motorists", D - "Medical Payments" and E - "Physical Damage" Coverages.** No action shall lie against the Company unless, as a condition precedent thereof, there shall have been full compliance with all the terms of this policy nor under Part E - "Physical Damage" Coverage until 30 days after proof of **loss** is filed and the amount of **loss** is determined as provided in this policy.

**8. Medical Report; Proof and Payment of Claim - Parts B - "Uninsured Motorists", C - "Underinsured Motorists" and D - "Medical Payments" Coverages.** As soon as practicable any injured person or someone on his/her behalf making claim shall give to the Company written proof, under oath if required, including full particulars of the accident or **loss** and the nature and extent of the injuries, treatment, and other details entering into the determination of the amount payable.

The Company may pay the injured person or any person or organization rendering the services and such payment shall reduce the amount payable hereunder for injury, but such payment shall not constitute an admission of liability of any person or of the Company.

If required, the **insured** and every other person making claim shall submit to examinations under oath by any person named by the Company and subscribe the same, as often as may reasonably be required. Proof of claim shall be made upon forms furnished by the Company, unless the Company shall have failed to furnish such forms within 15 days after receiving notice of claim. The injured person shall submit to physical examinations by physicians selected by the Company when and as often as the Company may reasonably require and he/she, or in the event of his/her incapacity, his/her legal representative, or in the event of his/her death, his/her legal representative or the person or persons entitled to sue therefore, shall upon each request from the Company execute authorization to enable the Company to obtain medical reports and copies of any and all records needed to evaluate or assess the claim.

**9. Insured Duties in Event of Loss - Part E - "Physical Damage" Coverage.** In the event of **loss** the **insured** must:

- (a) allow the Company to inspect and appraise the **insured automobile** before its repair or disposal.
- (b) protect the automobile, whether or not the **loss** is covered by this policy, and any further **loss** due to the

**insured's** failure to protect shall not be recoverable under this policy; reasonable expenses incurred in affording such protection shall be deemed incurred at the Company's request;

- (c) report the **loss** to the Company within 31 days after **loss**, and within 60 days thereafter file with the Company his/her sworn proof of **loss** in such form and including such information as the Company may reasonably require;
- (d) upon the Company's request, exhibit the damaged property and submit to examination under oath; and
- (e) report the **loss**, in the event of a hit-and-run or theft and the discovery thereof, within 24 hours of such to police, peace, or judicial officers, or the Commissioner of Motor Vehicles.

The Company has no duty to provide coverage under this policy unless there has been full compliance with these duties.

#### **10. Appraisal - Part E - "Physical Damage" Coverage,**

If the **insured** and the Company fail to agree as to the amount of **loss**, either may, within sixty days after proof of **loss** is filed, at the same time (1) demand in writing an appraisal of the **loss** and (2) demand in writing the name of a qualified appraiser. In such event either party may select a qualified appraiser, and the appraisers shall select a qualified and disinterested umpire. The appraisers shall state separately the actual cash value and the amount of **loss** and failing to agree shall submit their differences to the umpire. An award in writing of any two shall determine the amount of **loss**. The **insured** and the Company shall each pay his/her chosen appraiser and shall bear equally any other expenses of the appraisal and umpire. The Company shall not be held to have waived any of its rights by any act relating to appraisal.

**11. Payment of Loss.** Any amount due is payable (a) to the **insured**, or (b) if the **insured** is a minor to his/her parent or guardian, or (C) if the **insured** is deceased to his/her surviving spouse, otherwise (d) to a person authorized by court order to receive such payment or to a person legally entitled to recover the damages which the payment represents; provided, the Company may at its option pay any amount due in accordance with provision (d) hereof.

**Part E - "Physical Damage" Coverage.** The Company may, at its option, pay for the **loss** in money; or may repair or replace the damaged or stolen property; or may, at any time before the **loss** is paid or the property is so replaced, at its expense return any stolen property to the **named insured**, or at its option to the address shown in the Declarations, with payment for any resultant damage thereto; or may take all or such part of the property at the agreed or appraised value but there shall be no abandonment to the Company. The Company may settle any claim for **loss** either with the **insured** or the owner of the property.

**12. No Benefit to Bailee - Part E - “Physical Damage” Coverage.** The insurance afforded by this policy shall not inure directly or indirectly to the benefit of any carrier or other bailee for hire which is liable for **loss** to the automobile.

**13. Subrogation.** In the event of any payments under this policy, the Company shall be subrogated to all the rights of recovery therefore which the **insured**, an injured person or any other person receiving such payment may have against any person or organization and they shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. Such person shall do nothing after **loss** to prejudice such rights.

In the event of any payment under Part C - “Underinsured Motorists” Coverage, the Company shall not exercise any right of subrogation under a policy providing additional Uninsured Motorist Coverage against an underinsured motorist where the Company has been provided with written notice in advance of a settlement between its **insured** and the underinsured motorist and the Company fails to advance a payment to the **insured**, in an amount equal to the tentative settlement, within 30 days following a receipt of such notice.

**14. Changes.** The terms of this policy shall not be waived or changed, except by endorsement issued by the Company to form a part of this policy. Notice to or knowledge possessed by any person shall not be waived or changed, except by endorsement issued by the Company to form a part of this policy. Notice to or knowledge possessed by any person shall not effect a waiver or a change in any part of this policy or stop the Company from asserting any right under the terms of this policy.

**15. Assignment.** Assignment of interest under this policy shall not bind the Company until its consent is endorsed hereon; if, however, the **named insured**, or his/her spouse, if a resident of the same household, shall die during the policy period, this policy shall cover:

(1) the survivor as **named insured**, (2) his/her legal representative as **named insured** but only while acting within the scope of his/her duties as such, (3) any person having proper temporary custody of an **owned automobile**, as an **insured**, until the appointment and qualification of such legal representative, and (4) under Part D any person who was a **relative** at the time of such death.

**16. Cancellation.** This policy may be canceled by the **named insured** or by a premium finance company by surrender thereof to the Company or any of its authorized agents or by mailing to the Company written notice stating when thereafter the cancellation shall be effective.

This policy may be canceled by the Company by mailing to the **named insured** and the loss payee at their last known addresses written notice stating when not less than

20 days thereafter such cancellation shall be effective, however, where cancellation is for non-payment of premiums at least ten (10) days notice must be given. The Company shall not exercise its right to cancel the policy after it has been in effect for sixty (60) days or in any subsequent renewal period, except for the following reasons:

- (a) nonpayment of premium; or
- (b) the driver's license or motor vehicle registration of the **named insured** or any other operator has been suspended or revoked or the grounds for such suspension or revocation have become known; or
- (c) the **named insured** or any other operator uses drugs or alcohol beverages to excess; or
- (d) the **named insured** or any other operator is under treatment for epilepsy or heart disease and does not provide a physician's certification testifying their unqualified ability to operate a motor vehicle safely; or
- (e) fraud, willful misrepresentation, or concealment by any **insured** relating to the issuance or continuation of the policy or relating to a **loss**; or
- (f) violation of any term or condition of the policy; or
- (g) the place of residence of the **insured** is changed to the **state** or country in which the insurer is not licensed.

The Company shall not fail to renew any policy of insurance unless it shall mail notice of such to the **named insured** at least twenty (20) days prior to the date of expiration. This provision shall not apply if the Company has manifested its willingness to renew directly to the **named insured** or in the case of non-payment. If the Company does not issue a non-renewal notice and renewal is not offered, this policy shall terminate only on the effective date of any similar insurance procured by the **insured** with respect to the same subject or location designated in both policies.

Renewal of a policy does not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of such renewal.

All notices of cancellation or non-renewal shall include a specific explanation of the reason or reasons for cancellation or non-renewal. The mailing of notice as aforesaid on a recognized U.S. Post Office form or a form acceptable to the U.S. Post Office or other commercial mail delivery service shall be sufficient proof of notice, and a copy of such notice shall be sent to the **insured's** producer of record, and loss payee of record, at the last mailing address known to the Company.

In the event of the cancellation of this policy, earned premiums shall be computed pro-rata to the date of cancellation, and if by the **insured**, broker or premium finance company, shall be computed short-rate plus a \$10 processing fee. Any refund of the premium shall be without

prejudice to any claim arising prior to the cancellation, and such refund shall be made to the **named insured** or the **named insured's** producer of record by the Company within 30 days from:

- (1) the date of the notice of cancellation by the Company, or
- (2) the date the Company receives the request for cancellation from the **named insured** or its representatives, but payment or tender of unearned premium is not a condition of cancellation.

**17. Declarations.** By acceptance of this policy, the **named insured** agrees that the statements and representations contained in the Application, have been made by him/her or on his/her behalf and said statements and representations and the statements in the Application and in any subsequent Application or questionnaire accepted by the Company are offered as an inducement to the Company to issue or continue this policy and this policy is issued and continued in reliance upon the truth of such statements and representations and this policy embodies all agreements existing between himself/herself and the Company or any of its agents relating to this insurance.

**18. Authorized Agents.** No person shall be deemed an agent of the Company unless such person is authorized in writing as such agent by an officer of the Company.

**LOSS PAYEE.** Loss under this policy shall be payable as interest may appear to the person or organization named in the Declarations as loss payee, provided this insurance as to such interest for any bailment lessor, conditional vendor, mortgagee or assignee of bailment lessor, conditional vendor or mortgagee (herein called the lien holder) has not been invalidated by any act or neglect of the **insured** owner of the covered automobile nor by any change in the title of ownership of the same. Further, in the event of conversion, embezzlement or secretion by the **insured** owner of the covered automobile, interest under the said bailment lease, conditional sale, mortgage or other encumbrance is not covered under this policy, unless specifically insured against and premium paid therefor; and provided also, in case the **named insured** has neglected to pay any premium due under this policy, the lien holder has paid the same. The lien holder shall notify the Company of any change of ownership or increase of hazard which shall come to the knowledge of said lien holder and, if accepted by the Company, it shall be endorsed herein and the lien holder shall, on demand, pay the premium for any such increased hazard for the term of the use thereof; otherwise this policy shall be null and void. If this Company elects to cancel this policy at any time as provided by its terms, the Company shall notify the lien holder when not less than ten (10) days thereafter such cancellation shall be effective as to the interest of said lien holder therein and the Company shall have the right, on like notice, to cancel this agreement.

Should the **insured** fail to render Proof of Loss within the time granted in the conditions of this policy, the lien holder shall do so within sixty (60) days thereafter, in the form and in the manner as provided by this policy; and further, shall be subject to the provisions of this policy relating to appraisal and time of payment and of bringing suit. Whenever the Company shall pay the lien holder any sum for **loss** under this policy and shall claim that, as to the **named insured**, no liability therefore existed, the Company shall, to the extent of such payment, be thereupon legally subrogated to all the rights of the party to whom such payment shall be made, under securities held as collateral to the debt, or may at its option, pay to the lien holder the whole principal due or to grow due on the mortgage with interest, and shall thereupon receive a full assignment and transfer of the mortgage and of all such other securities; but no subrogation shall impair the right of the lien holder to recover the full amount of its claim. The interest of the lien holder is protected by these provisions subject to all terms, conditions, and exclusions contained in this policy, which policy is available to the lien holder upon request.

IN WITNESS WHEREOF, the Company has caused this policy to be signed by its authorized representatives, but this policy shall not be valid unless completed by the attachment hereto of a Declarations page.

PRESIDENT

A handwritten signature in blue ink, appearing to be "David S. Blum", written over a horizontal line.

VICE - PRESIDENT

A handwritten signature in blue ink, appearing to be "David S. Blum", written over a horizontal line.

American Access Casualty Company maintains a Toll-Free Customer Service phone line during regular business hours 1-888-663-5443.

In compliance with the requirement of the Fair Credit Reporting Act (Public Law 91-508), **we** advise that as part of **our** routine procedure in reviewing applications for insurance or renewals of Insurance policies, this insurance company may procure an investigative consumer report information as to the consumer's character reputation, personal characteristics or mode of living, if such insurance is for an individual and is primarily for personal, family or household purposes such information may, without limitation be obtained through personal interviews with neighbors, friends or others with whom the consumer is acquainted.

Upon written request to this insurance company, made within a reasonable period of time after receipt of this notice, this company will provide in writing a complete and accurate disclosure of the nature and scope of the investigation requested, if one was requested, or advise that none was requested.