

# KEMPER

UNDERWRITTEN BY: AMERICAN ACCESS CASUALTY COMPANY

## ILLINOIS AUTO POLICY

### IMPORTANT NOTICE

This notice is to advise **you** that should any complaints arise regarding this insurance, **you** may contact the following:

American Access Casualty Company  
2211 Butterfield Rd., Suite 200  
Downers Grove, Illinois 60515  
1-630-570-7181

Illinois Department of Insurance  
Consumer Division  
122 S. Michigan Ave., 19<sup>th</sup> Floor  
Chicago, Illinois 60603

Illinois Department of Insurance  
Public Services Division  
320 West Washington Street  
Springfield, Illinois 62767

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## ILLINOIS AUTO POLICY

This policy is a contract between **you** and **us**. This contract, the **declarations page**, **your** application, and any endorsements that apply to this policy contain all of the agreements between **you** and **us**. If **you** pay the required premium when due, **we** will provide the insurance described in this policy.

### YOUR DUTIES

#### **WHAT YOU MUST DO IN CASE OF AN ACCIDENT OR LOSS**

Coverage will not apply unless **you** have paid the required premium when due and there is full compliance with the duties stated in this policy.

##### **Notify Us As Soon As Practicable**

If a person or **auto** insured by this policy is involved in an **accident** or **loss** for which this insurance may apply, the **accident** or **loss** must be reported to **us** within 24 hours or as soon as practicable. This applies even if **you** or the person insured are not at fault. **We** must receive all of the following information as soon as it is available:

- A. The time and place of the **accident** or **loss**.
- B. All facts and circumstances, including the driving conditions, who was involved, and all injury, damage and witness information.
- C. The names and addresses of all persons involved.
- D. The names and addresses of any injured persons and witnesses.
- E. The license plate numbers of the vehicles involved.

**You** or the person insured must also notify the police or civil authority within 24 hours or as soon as practicable if:

- A. **you** cannot identify the owner or operator of the vehicle involved in the **accident**; or
- B. theft or vandalism has occurred.

**You** or a person claiming coverage under this policy must promptly do all of the following:

- A. Cooperate with **us** in the investigation, settlement, and defense of any claim or lawsuit.
- B. Provide any written proof of **loss** and **bodily injury we** may reasonably require.
- C. Submit to medical exams and tests at **our** expense by physicians **we** select as often as **we** reasonably require.
- D. Allow **us** to take signed and recorded statements, including sworn statements and examinations under oath, and answer all questions **we** reasonably ask, as often as **we** may reasonably require.
- E. Provide **us** with all photographs and documents the person has related to the **accident** or **loss**.
- F. Send **us** any and all legal papers and notices relating to any claim or lawsuit when received. Such papers and notices must be received by **us** no later than 30 days after **you**, or any person claiming coverage under this policy, receive them. **We** have no duty to provide coverage or defense of a claim or action under Part A of this policy unless **we** have received actual notice of a lawsuit before judgment on such suit is entered.
- G. Attend hearings and trials as **we** require.
- H. Take reasonable steps after a **loss** to protect the property from further **loss**.
- I. Allow **us** to inspect, photograph, and appraise any damaged property before any repair or disposal.
- J. Authorize **us** to move the damaged property to a storage facility of **our** choice at **our** expense.

- K. Provide **us** with signed authorization to obtain medical and other health care records, business records, personal records, accident and claim records, earnings and wage loss information, and all other records **we** reasonably require.
- L. Authorize **us** to obtain any information on any device installed in a **covered auto** if the device records information that **we** determine to be relevant to the facts of the **accident** or **loss**, unless prohibited by law.
- M. Notify **us** of all information pertaining to any other policy of insurance and self-insurance that may apply to a driver, vehicle, person, or property involved in the **accident** or **loss**.
- N. Assume no obligation, make no payment, and incur no expense with respect to any **bodily injury, property damage, or loss** without **our** consent, except at that person's own cost without any obligation upon **us**.
- O. Convey title to, and possession of, any damaged, destroyed, or stolen **auto** or other property if **we** pay, subject to any deductible, the actual cash value or the cost to replace it.

### GENERAL DEFINITIONS

These terms, and their plural and possessive forms, will have the following meaning throughout the policy when shown in **bold** typeface, unless otherwise noted.

- A. "**Accident**" means a sudden, unexpected, and unintended occurrence.
- B. "**Auto**" means any licensed and registered self-propelled land motor vehicle of the private passenger type with neither more than, nor less than, four wheels and made for use upon public roads or streets. Auto also means a pickup, sport utility vehicle, or van type motor vehicle rated no greater than US GVWR Class 3 (Max. GVWR 14,000) and not used in any business other than farming or ranching. Auto does not include motorcycles, midget cars, golf carts, any vehicle operated on rails or crawler treads, farm-type tractors, farm implements, any vehicle used as a residence or premises, or any equipment designed for use principally off public roads and streets.
- C. "**Bodily injury**" means bodily harm, sickness, or disease sustained by a person or death resulting therefrom. It does not include mental or emotional injury, suffering, or distress that does not result from physical injury to a person.
- D. "**Business**" means a trade, profession, or occupation, whether engaged in full-time or part-time. It includes, but is not limited to, travel between work locations or offices, whether or not such travel is compensated or reimbursed.
- E. "**Child restraint system**" means any device meeting the standards of the United States Department of Transportation designed to restrain, seat, or position children. This includes a booster seat.
- F. "**Covered auto**" means:
  1. any **auto** shown on the **declarations page**, unless **you** have asked **us** to delete that **auto** from **your** policy;
  2. any additional **auto** on the date **you** become the **owner** if:
    - a. **you** acquire the **auto** during the policy period shown on the **declarations page**;
    - b. **we** insure all **autos owned** by **you**; and
    - c. no other insurance policy provides coverage for that **auto**.

If **we** provide coverage for an **auto you** acquire in addition to any **auto** shown on the **declarations page**, **we** will provide the broadest coverage **we** provide for any **auto** shown on the **declarations page**. **We** will provide that coverage for a period of 30 days after **you** become the **owner**. **We** will not provide coverage after this 30-day period unless, within this period, **you** ask **us** to insure the additional **auto**, **we** agree to insure it, and **you** pay the additional required premium for the **auto**;
  3. any replacement **auto** on the date **you** become the **owner** if:
    - a. **you** acquire the **auto** during the policy period shown on the **declarations page**;
    - b. the **auto** that **you** acquire replaces one shown on the **declarations page**; and
    - c. no other insurance policy provides coverage for that **auto**.

If the **auto** that **you** acquire replaces one shown on the **declarations page**, it will have the same coverage as the **auto** it replaces. **You** must ask **us** to insure a replacement **auto** within 30 days after **you** become the **owner** if **you** want to continue any coverage **you** had under Part D of this policy. If the **auto** replaced did not have coverage under Part D, **you** may add this coverage for the replacement **auto** by paying the required premium for the coverage;

4. in Part A of this policy only, a **"temporary substitute auto"** means an **auto** not **owned** by, or furnished or available for the regular **use** of, **you**, a **relative**, or **your** non-resident spouse, that is **used** as a temporary substitute for an **auto** described in paragraphs 1 – 3 above, while such vehicle is out of service due to breakdown, repair, or maintenance; and
  5. any **trailer** while it is attached to an **auto** described in paragraphs 1-4 above.
- G. **"Declarations page"** means the document from **us** listing:
1. the types of coverage **you** have elected;
  2. the limit for each coverage;
  3. the cost for each coverage;
  4. the specified **autos** covered by this policy;
  5. the types of coverage for each **auto**; and
  6. other information that applies to this policy.
- H. **"Loss"** means sudden, direct, and accidental damage or theft.
- I. **"Non-owned auto"** means any **auto** that is not **owned** by, or furnished or available for the regular use of, **you**, a **relative**, or **your** non-resident spouse.
- J. **"Occupying"** means in, upon, on, entering into, or exiting from.
- K. **"Own"** or **"owned"** means the person:
1. holds legal title to the **auto**;
  2. has legal possession of the **auto** subject to a lien or written security agreement with an original term of six months or more; or
  3. has legal possession of the **auto** that is leased or rented to that person under a written agreement for a continuous period of six months or more.
- L. **"Owner"** means any person who, with respect to an **auto**:
1. holds legal title to the **auto**;
  2. has legal possession of the **auto** subject to a lien or written security agreement with an original term of six months or more; or
  3. has legal possession of the **auto** that is leased or rented to that person under a written agreement for a continuous period of six months or more.
- M. **"Personal Vehicle Sharing Program"** means a system or process, operated by a business, organization, network, group, or individual, that facilitates the sharing of private passenger motor vehicles for use by individuals or other entities for non-commercial use. **Personal Vehicle Sharing Program** does not include **transportation network company services**.
- N. **"Relative"** means a person residing in the same household as **you**, who is related to **you** by blood, marriage, or adoption. If the named insured is not a natural person, however, no insurance is provided for a **relative**.
- O. **"Temporary substitute auto"** is defined in paragraph 4 of the definition of **covered auto** above.
- P. **"Trailer"** means a vehicle that is not self-propelled and designed to be pulled by an **auto**. It also means a farm wagon or farm implement while towed by a **covered auto**. A trailer does not refer to a vehicle:
1. being used in a **business** or for commercial purposes;
  2. being used with an **auto** not shown on the **declarations page**; or
  3. functioning as a home, office store, display, or passenger trailer.
- Q. **"Transportation network company"** or **"TNC"** means an entity operating in Illinois that uses a digital network of software application service to connect passengers to **transportation network company services** provided by **transportation network company drivers**. A **TNC** is not deemed to **own**, control, operate, or manage the vehicles used by **transportation network company drivers**, and is not a taxicab association or a for-hire vehicle owner.
- R. **"Transportation network company driver"** or **"TNC driver"** means an individual who operates a motor vehicle that is:
1. **owned**, leased, or otherwise authorized for **use** by the individual;
  2. not a taxicab or for-hire passenger vehicle; and
  3. used to provide **transportation network company services**.
- S. **"Transportation network company services"** or **"TNC services"** means transportation of a passenger between points chosen by the passenger and prearranged with a **TNC driver** through the use of a **TNC** digital network or software application. **TNC services** shall begin when a **TNC driver** accepts a request for transportation received through the **TNC's** digital network or software application service, continue while the **TNC driver** transports the passenger in the **TNC driver's** vehicle, and end when the passenger exits the **TNC driver's** vehicle. **TNC service** is not a taxicab, for-hire vehicle, or street hail service.

- T. "Use", "used", and "using" mean operating, **occupying**, or maintaining.
- U. "We", "us", and "our" mean the company providing the insurance as shown on the **declarations page**.
- V. "You" and "your" mean:
1. the person shown as the named insured on the **declarations page**; and
  2. the named insured's spouse if the spouse is a resident of the same household as the named insured during the policy period. For purposes of this policy, a "spouse" includes a person with whom the named insured is a party to a civil union under Illinois law.
- W. "**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 **auto**.
- X. "**Regular operator**" means any person who operates an insured **auto** and to whom such **auto** is made available for his/her regular use.

## **PART A - LIABILITY COVERAGE**

### **INSURING AGREEMENT**

Subject to the Limits of Liability and all other terms and conditions under this Part A, if **you** pay the premium for Liability Coverage under this Part A, **we** will pay damages, other than punitive or exemplary damages, for which an **Insured** becomes legally liable to others because of **bodily injury** or **property damage** that results from a motor vehicle **accident**.

**We** will also pay for the replacement of a **child restraint system** that was in use by a child during a motor vehicle **accident** for which Liability Coverage under this Part A applies due to the liability of an **Insured**.

When coverage under this Part A applies, **we** will settle or defend, as **we**, in **our** sole discretion, consider proper and with counsel of **our** choice, any claim for damages covered by this Part A. If a lawsuit is brought against an **Insured** with respect to a claim for acts or alleged acts covered by this Part A, seeking both compensatory and punitive or exemplary damages, **we** will provide a defense to such lawsuit, but without liability for any punitive or exemplary damages. **Our** duty to settle or defend ends when **we** pay **our** Limits of Liability under this Part A for payment of a judgment or settlement. **We** have no duty to settle or defend any claim or action that is not covered by this policy.

**We** have no duty to provide coverage or defense of a claim or action under this Part A unless **we** have received actual notice of a lawsuit before judgment on such suit is entered.

### **ADDITIONAL DEFINITIONS**

When used in this Part A:

A. "**Insured**" and "**Insureds**" mean:

1. **you** or a **relative** with respect to an **accident** arising out of the ownership, maintenance or **use** of any **covered auto**, or arising out of the **use** of a **non-owned auto** with the express or implied permission of the **owner**;
2. any person with respect to an **accident** arising out of that person's **use** of a **covered auto** with **your** express or implied permission, but to whom **your covered auto** is not furnished or available for that person's regular use; and
3. any person or organization with respect to vicarious liability for an **accident** arising out of the **use** of an **auto** by a person described in 1 or 2 above.

"**Insured**" does not include:

1. a **relative**, or any other person residing in **your** household, who has not been disclosed to **us**; or
2. the **owner**, or anyone else, from whom **you** lease, hire, or borrow an **auto**, unless the **auto** is specifically shown on the **declarations page**.

- B. "**Property damage**" means physical damage to, or destruction of, tangible property, including **loss** of use of that property caused by an **accident** covered under this policy and occurring while the policy is in force.

## ADDITIONAL PAYMENTS

In addition to the Limits of Liability under this Part A, **we** will pay for an **Insured**:

- A. all expenses that **we** incur in the settlement of any claim or defense of any lawsuit, subject to the terms and conditions of this Part A;
- B. interest accruing after entry of judgment is entered in any suit **we** defend, until **we** have paid or tendered that portion of the judgment that does not exceed **our** Limits of Liability for this coverage. This does not apply if **we** have not been given notice of suit or the opportunity to defend an **Insured**;
- C. the premium on any appeal bond or attachment bond required in any lawsuit **we** defend. **We** have no duty to purchase a bond in an amount exceeding **our** Limits of Liability. **We** have no duty to apply for or furnish these bonds; and
- D. reasonable expenses, not including loss of earnings, incurred at **our** request.

## EXCLUSIONS

**There is no coverage under this Part A if one or more of the following exclusions apply.**

Coverage under this Part A, including **our** duty to defend, does not apply to:

- A. **Bodily injury** or **property damage** arising out of the ownership, maintenance, or **use** of an **auto** or **trailer** while being used to carry persons or property for compensation or a fee. This exclusion applies to, but is not limited to, the wholesale or retail delivery of goods, magazines, newspapers, food, or any other products. This exclusion also applies to the **use** of an **auto** to provide **transportation network company services** or while being operated or **used** by a person while acting as, or engaged in any manner as, a **TNC driver**. This exclusion does not apply to shared-expense car pools.
- B. **Bodily injury** or **property damage** arising out of the ownership, maintenance, or **use** of an **auto** or **trailer** while enrolled in a **personal vehicle sharing program** under the terms of a written agreement; and being used in connection with such **personal vehicle sharing program** by anyone other than an **Insured**.
- C. **Bodily injury** or **property damage** arising out of the ownership, maintenance, or **use** of an **auto** while being used to plow or remove snow for compensation or a fee.
- D. Any liability arising out of the ownership, maintenance, or **use** of a vehicle in the course of any **business**. This exclusion shall not apply to **business** use of a vehicle if, prior to the **accident**:
  - 1. that specific **business** use was declared by **you** to **us**;
  - 2. **we** agreed to cover that **business** use; and
  - 3. **you** paid to **us** the total, additional **business** use charge specified by **us**.
- E. Any liability assumed by an **Insured** under any contract or agreement.
- F. **Bodily injury** to **you**, an **Insured**, a **relative**, or any other person who resides in **your** household. This exclusion does not apply, however, when:
  - 1. a third party acquires a right of contribution against an **Insured**, if that **Insured** is a member of the injured person's family; or
  - 2. any person not in **your** household was driving a **covered auto** involved in the **accident**.
- G. **Bodily injury** to an employee of an **Insured** arising out of, or within the course of, employment. This does not apply to domestic employees if benefits are neither paid nor required to be provided under workers' compensation, disability, or similar laws.
- H. **Bodily injury** or **property damage** arising out of an **accident** involving an **auto** while being used by a person while employed or engaged in the **business** of:
  - 1. selling;
  - 2. leasing;
  - 3. repairing;



4. parking;
  5. storing;
  6. servicing
  7. towing;
  8. delivering;
  9. road testing; or
  10. renting;
- vehicles.
- I. **Bodily injury** or **property damage** resulting from participation in any prearranged or organized racing, speed, or demolition contest, stunting activity, or practice or preparation for any such contest or activity.
  - J. **Bodily injury** or **property damage** due to nuclear reaction, exposure, radiation, or contamination.
  - K. **Bodily injury** or **property damage** for which insurance is afforded under a nuclear energy liability insurance contract or would be afforded under any such policy but for its termination upon exhaustion of its limit of liability.
  - L. **Bodily injury** or **property damage** resulting from the operation, maintenance, or **use** of an **auto**, other than a **covered auto**, that is **owned** by, or furnished or available for the regular use of, **you**, a **relative**, or a person who resides with **you**.
  - M. Any obligation for which the United States Government is liable under the Federal Tort Claims Act.
  - N. **Bodily injury** or **property damage** that is intended or is caused intentionally by a willful act of, or at the direction of, an **Insured**.
  - O. Punitive damages or an award of attorney fees based on punitive damages. If, however, a lawsuit is brought against an **Insured** with respect to a claim for acts or alleged acts covered by this Part A, seeking both compensatory and punitive or exemplary damages, **we** will provide a defense to such lawsuit, but without liability for any punitive or exemplary damages.
  - P. **Property damage** to any property:
    1. owned by;
    2. rented to;
    3. used by;
    4. transported by; or
    5. in the care, custody, or control of:  
an **Insured**, an employee of an **Insured**, or a person residing in **your** household.  
This exclusion does not apply to a **child restraint system** that was in use by a child during a motor vehicle **accident** to which this Part A applies.
  - Q. **Bodily injury** or **property damage** arising out of the operation, maintenance, or **use** of a **covered auto** while leased or rented to others.
  - R. **Bodily injury** or **property damage** arising out of the operation, maintenance, or **use** by any person of an **auto** without a reasonable belief that he or she is entitled to do so. This exclusion shall not apply, however, to the operation of a **covered auto** by **you** or a **relative**.
  - S. **Bodily injury** or **property damage** arising out of the **use** of an **auto** to push, pull, or tow another **auto** except for a trailer rented or **owned** by an **Insured**.
  - T. **Bodily injury** or **property damage** arising out of the operation or **use** of a rented **auto** while being used by a person not authorized by, or excluded under, the terms of the rental agreement.
  - U. Any intentional discharge, dispersal, or release of radioactive, pathogenic, poisonous, or hazardous material for any purpose other than its safe and useful purpose.
  - V. **Bodily injury** or **property damage** arising out of the ownership, maintenance, or **use** of an **auto** while it is parked and being used:
    1. as a residence or premises; or
    2. as premises for an office, store, or for display purposes.
  - W. **Bodily injury** or **property damage** that results from, or that occurs in the course of, a criminal act or omission of an **Insured**, or while attempting to elude law enforcement. This includes, but is not limited to, **bodily injury** or **property damage** that results from, or that occurs in the course of, leaving the scene of a crime. For purposes of this exclusion, "crime" does not include a traffic violation.
  - X. **Bodily injury** or **property damage** caused by, or as a consequence of, war (declared or undeclared), civil war, insurrection, civil commotion, rebellion, usurpation of power, or revolution. This includes any warlike action by any military force, government, sovereign, or other authority using military personnel or agents and any action taken to hinder or defend against an actual or expected attack.

- Y. **Bodily injury** or **property damage** arising out of the use of a rented or leased **auto** by the **Insured** where other valid or 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.
- Z. **Bodily injury** resulting from the discharge of any weapon or firearm used in connection with any vehicle.
- AA. **Bodily injury** or **property damage** arising out of the loading or unloading of any vehicle.
- BB. **Bodily injury** or **property damage** incurred while any vehicle is used for towing a **trailer** not designed to be towed by that vehicle.

## LIMITS OF LIABILITY

- A. The Limits of Liability for this Part A are shown on the **declarations page**.
  - 1. The amount shown for "per person" is the most **we** will pay for all damages due to a **bodily injury** sustained by one person in any one **accident**.
  - 2. Subject to the "per person" limit, the amount shown for "each accident" is the most **we** will pay for all damages due to **bodily injury** sustained by two or more persons in any one **accident**.
  - 3. The amount shown for "property damage" is the most **we** will pay for all damages due to **property damage** sustained in any one **accident**.
- B. The "per person" limit of liability applies to:
  - 1. the total of all claims made for **bodily injury** to a person and all claims of others derived from the **bodily injury**, including but not limited to:
    - a. loss of consortium;
    - b. loss of services;
    - c. loss of society;
    - d. loss of companionship; and
    - e. wrongful death;
  - 2. all claims and lawsuits for emotional distress and mental anguish due to witnessing the occurrence of the **accident** or **bodily injury**.
- C. **We** will not pay more than the Limits of Liability for this Part A regardless of the number of:
  - 1. claims made;
  - 2. **covered autos**;
  - 3. **Insureds**;
  - 4. lawsuits filed;
  - 5. vehicles involved in an **accident**;
  - 6. heirs or survivors of persons with **bodily injury**; or
  - 7. premiums paid.
- D. The stacking or combining of coverage or limits under this policy is not allowed even if separate premiums are shown on the **declarations page** for each **covered auto**.
- E. Any amount paid or payable to a person for **bodily injury** under this Part A shall reduce, or be reduced by, any amount paid or payable to such person for **bodily injury** under Part B or Part C of this policy.
- F. Any amount paid or payable for **property damage** under this Part A shall reduce, or be reduced by, any amount paid or payable under Part C or Part D of this policy for such **property damage**.
- G. No one will be entitled to duplicate payments for any elements of damages under this policy or any other source.
- H. A **covered auto** and attached **trailer** are considered one vehicle. Therefore, the limits of liability are not increased for an **accident** involving a **covered auto** with an attached **trailer**.

## OTHER INSURANCE

If any other liability insurance policies, bonds, or self-insurance apply to any **accident** covered under this Part A, the maximum limit of liability under all policies (including any other policy issued by **us** or an affiliate) shall not exceed the highest applicable limit of liability that applies to any one policy. Any insurance **we** provide for an **auto**, other than a **covered auto** that is not a **temporary substitute auto**, shall be excess over all other collectible insurance, self-insurance, or bonds applicable to that **auto**.

Subject to the other terms of this Other Insurance clause, if **we** provide coverage under this Part A on a primary basis, **we** shall not pay more than **our** share of the damages that must be paid under policies or terms of coverage that apply on a primary basis. **Our** share is the proportion that **our** Limit of Liability bears to the total of all applicable limits of liability for coverage provided on a primary basis.

Similarly, if coverage is provided under this Part A on an excess basis, **we** will not pay more than **our** share of the damages that must be paid under policies or terms of coverage that apply on an excess basis. **Our** share is the proportion that **our** Limit of Liability bears to the total of all applicable limits of liability for coverage provided on an excess basis.

## FINANCIAL RESPONSIBILITY

When this policy is certified as proof of financial responsibility, this policy will comply with the law to the extent required. **You** must reimburse **us** if **we** make a payment that **we** would not have made if this policy was not certified as proof of financial responsibility.

## OUT-OF-STATE COVERAGE

If an **accident** to which coverage under **Part A** applies occurs in any state, territory, or possession of the United States of America or any province or territory of Canada, other than the one in which a **covered auto** is principally garaged, and the state, province, territory, or possession has:

- A. a financial responsibility or similar law requiring limits of liability for **bodily injury** or **property damage** higher than the limits shown on the **declarations page**, and it is required by law that this policy conform to those higher limits, this policy will provide the higher liability limit; or
- B. a compulsory insurance or similar law requiring a non-resident to maintain insurance whenever the non-resident uses an **auto** in that state, province, territory or possession, this policy will provide the required minimum amounts and types of coverage.

If **we** make any payment under this policy beyond the terms, conditions, changes, exclusions, endorsements, and limits included in this policy and stated on **your declarations page** resulting from an **accident** occurring outside the State of Illinois, then **you** agree to reimburse **us** for any such payment.

## BANKRUPTCY OF INSURED

The bankruptcy or insolvency of an **Insured** does not release **us** from any liability under this Part A. If an injured person, or another person making a claim under this Part A on the injured person's behalf, is unable, after execution on a final judgement entered against an **Insured**, to recover the full amount of the final judgment, that person may bring an action against **us** under the terms and conditions of this policy. In no case, however, shall **we** be liable for more than **our** Limits of Liability under this Part A.

## PART B - MEDICAL PAYMENTS COVERAGE

### INSURING AGREEMENT

Subject to **our** Limits of Liability, if **you** pay the premium for Medical Payments Coverage, **we** will pay the **usual and customary charge** for reasonable and necessary **medical expenses** incurred within one year from the date of an **accident**, and for reasonable expenses incurred for funeral services:

- A. resulting from **bodily injury**;
- B. sustained by an **Insured**; and
- C. caused by an **accident** that arises out of the ownership, maintenance, or **use** of an **auto**.

**We** have the right to review the **medical expenses** to determine if they are reasonable and necessary for the diagnosis and treatment of the **bodily injury**. **We** may refuse to pay for any portion of a **medical expense** that is unreasonable because the fee for the service is greater than the **usual and customary charge** for that service. **We**

may also refuse to pay for any **medical expense** because the service rendered is unnecessary for the treatment of the **bodily injury** sustained. **We** may use independent sources of information selected by **us** to determine if any **medical expense** is reasonable and necessary. These sources may include, but are not limited to:

- A. exams by physicians **we** select;
- B. review of medical records and test results by persons and services selected by **us**;
- C. computerized programs for the analysis of medical treatment and expenses; and
- D. published sources of medical expense information.

## ADDITIONAL DEFINITIONS

When used in Part B:

- A. "**Insured**" and "**Insureds**" mean:
  - 1. **you** or a **relative** while **occupying** a **covered auto**, or while **occupying** a **non-owned auto** with the express or implied permission of the **owner**; and
  - 2. any other person while **occupying** a **covered auto** with **your** permission.
- B. "**Medical expenses**" mean medical treatment services and products provided by a licensed health care provider, including necessary ambulance, hospital, surgical, medical, dental, x-ray, professional nursing, prosthetic devices, eye glasses, and pharmaceutical services.
- C. "**Usual and customary charge**" means an amount that **we** determine, through the **use** of independent sources of **our** choice, represents a customary charge for services in the geographical area in which the service is rendered.

## EXCLUSIONS

**There is no coverage under this Part B if one or more of the following exclusions apply.**

Coverage under Part B does not apply to **bodily injury**:

- A. Sustained while **occupying** an **auto** while being used to carry persons or property for compensation or a fee. This exclusion applies to, but is not limited to, the wholesale or retail delivery of goods, magazines, newspapers, food, or any other products. This exclusion also applies to the **use** of an **auto** to provide **transportation network company services** or while being operated or **used** by a person while acting as, or engaged in any manner as, a **TNC driver**. This exclusion does not apply to shared-expense car pools.
- B. Sustained while enrolled in a **personal vehicle sharing program** under the terms of a written agreement; and being used in connection with such **personal vehicle sharing program** by anyone other than an **Insured**.
- C. Arising out of the maintenance, ownership, or **use** of a vehicle in the course of any **business**. This exclusion shall not apply to **business** use of a vehicle if, prior to the **accident**:
  - 1. that specific **business** use was declared by **you** to **us**;
  - 2. **we** agreed to cover that **business** use; and
  - 3. **you** paid to **us** the total, additional **business** use charge specified by **us**.
- D. Occurring within the course of employment if workers' compensation benefits are available for the **bodily injury**.
- E. Arising out of an **accident** involving an **auto** while being used by a person while employed or engaged in the **business** of:
  - 1. selling;
  - 2. leasing;
  - 3. repairing;
  - 4. parking;
  - 5. storing;
  - 6. servicing;
  - 7. delivering;
  - 8. testing; or
  - 9. renting;vehicles.

- F. Resulting from an **insured's** participation in any prearranged or organized racing, speed, or demolition contest, stunting activity, or practice or preparation for any such contest or activity.
- G. For which the United States Government is liable under the Federal Tort Claims Act.
- H. Sustained by any person while **occupying a covered auto** without the express or implied permission of **you** or a **relative**.
- I. Sustained by **you** or a **relative** while **occupying a non-owned auto** without the express or implied permission of the **owner** of such **auto**.
- J. Arising out of the **use** of a **covered auto** while leased to, or rented by, others.
- K. When struck by or **using an auto**, other than a **covered auto, owned by**, or furnished or available for the regular **use of, you, a relative, or a person who resides with you**.
- L. Resulting from any intentional discharge, dispersal, or release of radioactive, pathogenic, or hazardous material for any purpose other than its safe and useful purpose.
- M. Arising out of the ownership, maintenance, or **use of an auto** while it is parked and being used:
  - 1. as a residence or premises; or
  - 2. as a premises for an office, store, or for display purposes.
- N. That is intentionally inflicted on an **Insured** or that is self-inflicted. This includes any **bodily injury** sustained by an **Insured** occupant of a **covered auto** who is complicit in the intentional act or acts of the driver of the **covered auto**.
- O. Caused by, or as a consequence of:
  - 1. nuclear reaction, exposure, radiation or radioactive contamination, or for which insurance is afforded under a nuclear energy liability insurance contract;
  - 2. discharge of a nuclear weapon;
  - 3. war;
  - 4. civil war;
  - 5. insurrection or civil commotion; or
  - 6. rebellion, riot, or revolution.
- P. That arises out of **occupying or using** a motor vehicle with:
  - 1. less than four wheels; or
  - 2. four or more wheels if the motor vehicle is not designed for operation principally upon public roads.
- Q. That arises out of the operation, maintenance or **use** by any person of an **auto** without a reasonable belief that he or she is entitled to do so. This exclusion shall not apply, however, to the operation of a **covered auto** by **you** or a **relative**.
- R. That is caused by, or reasonably expected to result from, a criminal act or omission of the **Insured** while attempting to elude law enforcement. This includes, but is not limited to, **bodily injury** that results from, or that occurs in the course of, leaving the scene of a crime. For purposes of this exclusion, "crime" does not include a traffic violation.

## LIMITS OF LIABILITY

- A. The Limit of Liability shown on the **declarations page** for this Part B is the most **we** will pay for each **Insured** sustaining **bodily injury** in any one **accident**, regardless of the number of:
  - 1. claims made;
  - 2. **covered autos**;
  - 3. **Insureds**;
  - 4. lawsuits filed;
  - 5. motor vehicles involved in an **accident**; or
  - 6. premiums paid.
- B. There will be no stacking or combining of coverage afforded to more than one **auto** under this policy.
- C. Any amount paid or payable to an **Insured** under this Part B shall reduce, or shall be reduced by, any amount paid or payable for the same expense under Part A or Part C of this policy.
- D. No one will be entitled to duplicate payments for any elements of **bodily injury**, damages, or expenses under this policy or from any other source.

## OTHER INSURANCE

If there is other applicable **auto** medical payments insurance, **we** will pay only **our** share of **medical expenses**. **Our** share is the proportion that **our** Limit of Liability bears to the total of all applicable limits. Any insurance **we** provide for an **auto**, other than a **covered auto**, shall be excess over all other collectible insurance, self-insurance, or bonds applicable to that **auto**. The insurance provided by this Part B is excess over any other insurance providing benefits for medical expenses including, but not limited to, individual, blanket, or group accident, disability, medical, surgical, or hospitalization insurance.

## PART C - UNINSURED/UNDERINSURED MOTORIST COVERAGE

### INSURING AGREEMENTS

#### A. **Insuring Agreement - Uninsured Motorist Bodily Injury Coverage**

Subject to the Limits of Liability under this Part C, if **you** pay the premium for Uninsured Motorist Bodily Injury Coverage, **we** will pay for damages, other than punitive or exemplary damages, that an **Insured** is legally entitled to recover from the **owner** or operator of an **uninsured motor vehicle** because of **bodily injury**:

1. sustained by an **Insured**;
2. caused by an **accident**; and
3. arising out of the ownership, maintenance, or **use** of the **uninsured motor vehicle**.

#### B. **Insuring Agreement - Underinsured Motorist Bodily Injury Coverage**

Subject to the Limits of Liability under this Part C, if **you** pay the premium for Underinsured Motorist Bodily Injury Coverage, **we** will pay for damages, other than punitive or exemplary damages, that an **Insured** is legally entitled to recover from the **owner** or operator of an **underinsured motor vehicle** because of **bodily injury**:

1. sustained by an **Insured**;
2. caused by an **accident**; and
3. arising out of the ownership, maintenance, or **use** of the **underinsured motor vehicle**.

#### C. **Insuring Agreement - Uninsured Motorist Property Damage Coverage**

Subject to the Limits of Liability under this Part C, if **you** pay the premium for Uninsured Motorist Property Damage Coverage, **we** will pay for **property damage**, less the deductible for this coverage listed on the **declarations page** and excluding any punitive or exemplary damages, that an **insured** is legally entitled to recover from the **owner** or operator of an **uninsured motor vehicle**:

1. caused by an **accident**; and
2. arising out of the ownership, maintenance, or **use** of the **uninsured motor vehicle**.

Subject to the Limits of Liability under this Part C, **we** will also pay for the replacement of a **child restraint system** that was in use by a child during an **accident** to which Uninsured Motorist Property Damage Coverage under this Part C applies due to the liability of the **owner** or operator of an **uninsured motor vehicle**. Any claim made under Uninsured Motorist Property Damage Coverage must include the name and address of the **owner** of the **uninsured motor vehicle**, the registration number and description of the **uninsured motor vehicle**, or any other available information to establish that no motor vehicle property damage liability insurance applies to the **uninsured motor vehicle**.

### ADDITIONAL TERMS AND DUTIES

A. If coverage applies under this Part C, **we** will pay only after the limits of liability under all other applicable liability bonds and policies have been exhausted by payment of judgments or settlements. This shall not apply, however, if **we** and the **Insured** agree, without arbitration:

1. that the **Insured** has suffered **bodily injury** or **property damage** as the result of the negligent ownership, maintenance, or **use** of the **uninsured motor vehicle** or **underinsured motor vehicle**; and

2. as to the amount of damages that, within the Limits of Liability that apply, the **Insured** is legally entitled to collect under this Part C.
- B. If a settlement offer has been made to an **Insured** by or on behalf of the **owner** or operator of an **uninsured motor vehicle** or **underinsured motor vehicle**, **we** must be given:
  1. not less than 30 days written notice of the offer; and
  2. the opportunity to advance payment to the **Insured** in an amount equal to the offer within the 30-day period after **we** receive notice.
- C. **We** may require an **Insured** to file a legal action against the **owner** or operator of an **uninsured motor vehicle** or **underinsured motor vehicle**, before **we** negotiate a claim under this Part C. If a legal action is filed at **our** request, **we** will advance all court costs, jury fees, and sheriff's fees arising from the action.
- D. If a lawsuit is filed without prior notice to **us**, **we** are not bound by any judgment that arises out of that lawsuit as to:
  1. the liability of an **owner** or operator of an **uninsured motor vehicle** or **underinsured motor vehicle**; or
  2. the amount of damages arising from an **accident**.
- E. If a settlement is entered into with the **owner** or operator of an **uninsured motor vehicle** or **underinsured motor vehicle**, but without **our** written consent, **we** are not bound by that settlement.
- F. Any lawsuit or arbitration against **us** concerning Uninsured Motorist Bodily Injury Coverage or Uninsured Motorist Property Damage Coverage under this Part C must be initiated within two years from the date of the **accident**. Any lawsuit or arbitration against **us** concerning Underinsured Motorist Bodily Injury Coverage under this Part C must be initiated within two years from the date of the settlement or judgment against the **owner** or operator of the **underinsured motor vehicle**.

## ADDITIONAL DEFINITIONS

When used in Part C, the following terms have the following meanings:

- A. "**Insured**" and "**Insureds**" mean:
  1. **you** or a **relative**;
  2. any other person operating a **covered auto** with **your** permission, if being operated within the scope of that permission; and
  3. any person who is legally entitled to recover damages covered by Part C because of **bodily injury** sustained by a person described in 1 or 2 above. This will not increase **our** Limits of Liability to an amount more than the limit that applies to the person who has sustained the **bodily injury**.
- B. "**Property damage**" means physical damage to, or destruction of, a **covered auto** for which Uninsured Motorist Property Damage Coverage has been purchased. It does not include:
  1. loss of use of a **covered auto** resulting from its physical damage or destruction; or
  2. loss to, physical damage to, or destruction of personal property in the **covered auto** at the time of the **accident**.
- C. "**Underinsured motor vehicle**" means a land motor vehicle for which one or more **bodily injury** liability bonds or policies apply at the time of the **accident**, but the sum of all limits available under all applicable bonds and policies for **bodily injury** liability is less than the Limits of Liability for Underinsured Motorists Bodily Injury Coverage under this Part C. It does not include any vehicle:
  1. insured under Part A of this policy;
  2. **owned** by, or furnished or available for the regular use of, **you** or any **relative**;
  3. **owned** by any governmental unit or agency;
  4. operated on rails or crawler treads;
  5. not required to be registered as a motor vehicle;
  6. while located for use, or while being **used**, as a residence or premises;
  7. designed mainly for **use** off public roads, while not on public roads;
  8. shown on the **declarations page** of this policy; or
  9. that is an uninsured motor vehicle.
- D. "**Uninsured motor vehicle**" means a land motor vehicle of any type:
  1. to which no liability bond, policy, or form of self-insurance applies at the time of the **accident**;
  2. to which a liability bond or policy applies at the time of the **accident**, but the bonding or insuring company:
    - a. legally denies coverage; or

- b. is unable to make payment because of insolvency;
- 3. that is a hit-and-run vehicle whose operator or **owner** cannot be identified and which physically strikes, or causes an object to physically strike:
  - a. **you** or a **relative**; or
  - b. a vehicle that **you** or a **relative** are **occupying** causing **bodily injury to you** or a **relative**; provided that the injured person, or someone on his or her behalf, reports the **accident** to the police or other proper civil authority within 24 hours or as soon as practicable after the **accident**, and shall have filed with **us** 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 at **our** 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**.

An "**uninsured motor vehicle**" does not include any motorized vehicle or equipment:

- 1. insured under Part A of this policy;
- 2. shown on the **declarations page**;
- 3. that is **owned** by, or furnished or available for the regular use of, **you** or any **relative**;
- 4. **owned** or operated by a self-insured under any applicable vehicle law, except a self-insured that is or becomes insolvent;
- 5. **owned** by any governmental unit or agency;
- 6. operated on rails or crawler treads;
- 7. designed mainly for **use** off public roads, while not on public roads;
- 8. while located for use, or while being **used**, as a residence or premises;
- 9. not required to be registered as a motor vehicle; or
- 10. that is an **underinsured motor vehicle**.

## EXCLUSIONS

**There is no coverage under this Part C if one or more of the following exclusions apply.**

- A. Coverage under Part C is not provided for:
  - 1. **Bodily injury or property damage** that occurs while **you** or a **relative** are **using** a motor vehicle to carry persons or property for compensation or a fee. This exclusion applies to, but is not limited to, the wholesale or retail delivery of goods, magazines, newspapers, food, or any other products. This exclusion also applies to the **use** of an **auto** to provide **transportation network company services** or while being operated or **used** by a person while acting as, or engaged in any manner as, a **TNC driver**. This exclusion does not apply to shared-expense car pools.
  - 2. **Bodily injury or property damage** that occurs while enrolled in a **personal vehicle sharing program** under the terms of a written agreement; and being used in connection with such **personal vehicle sharing program** by anyone other than an **Insured**.
  - 3. **Bodily injury or property damage** arising out of the ownership or **use** of a vehicle in the course of any **business**. This exclusion shall not apply to **business** use of a vehicle if, prior to the **accident**:
    - a. that specific **business** use was declared by **you** to **us**;
    - b. **we** agreed to cover that **business** use; and
    - c. **you** paid to **us** the total, additional **business** use charge specified by **us**.
  - 4. **Bodily injury or property damage** while **you** or a **relative** are **occupying** or **using** any motor vehicle **owned** by, or furnished or available for the regular use of, **you** or a **relative** if that vehicle is not a **covered auto** under this policy.
  - 5. **Bodily injury or property damage** while **occupying** or **using** any:
    - a. **covered auto** without the permission of **you** or a **relative** or outside of the scope of that permission; or
    - b. other vehicle without the permission of its **owner** or outside of the scope of that permission.
  - 6. **Bodily injury or property damage** while **occupying** or **using** any vehicle in the course of a crime or while attempting to elude law enforcement. This includes, but is not limited to, **bodily injury or property damage** that results from, or that occurs in the course of, leaving the scene of a crime. For purposes of this exclusion, "crime" does not include a traffic violation.



7. **Bodily injury** or **property damage** that the **Insured** expected or intended to occur, or that is incurred by an **Insured** occupant of an **auto** who is complicit in the intentional act of the operator of the **auto**.
  8. **Bodily injury** or **property damage** arising out of the operation, maintenance, or **use** by any person of an **auto** without a reasonable belief that he or she is entitled to do so. This exclusion shall not apply, however, to the operation of a **covered auto** by **you** or a **relative**.
  9. **Bodily injury** or **property damage** caused by hazardous materials.
  10. **Bodily injury** or **property damage** resulting from an **Insured's** participation in any prearranged or organized racing, speed, or demolition contest, stunting activity, or practice or preparation for any such contest or activity.
  11. **Property damage** to a **covered auto** that is covered by Part D of this policy.
  12. **Property damage** to a **covered auto** if the **owner** or operator of the **uninsured motor vehicle** cannot be identified.
  13. **Property damage** not caused by actual physical contact with the **uninsured motor vehicle**.
- B. No coverage applies under this Part C for any **Insured** who, directly or through his or her representative, settles any claim without **our** written consent.
- C. Coverage under this Part C shall not benefit, directly or indirectly, any insurer or self-insurer under any workers' compensation law, disability benefits law, or similar law.

## LIMITS OF LIABILITY

- A. The Limits of Liability for this Part C are shown on the **declarations page**.
1. The amount shown for "per person" is the most **we** will pay for all damages due to a **bodily injury** sustained by one person in any one **accident**.
  2. Subject to the "per person" limit, the amount shown for "each accident" is the most **we** will pay for all damages due to **bodily injury** sustained by two or more persons in any one **accident**.
- B. The "per person" limit of liability applies to:
1. the total of all claims made for **bodily injury** to a person and all claims of others derived from the **bodily injury**, including, but not limited to:
    - a. loss of consortium;
    - b. loss of services;
    - c. loss of society;
    - d. loss of companionship; and
    - e. wrongful death;
  2. all claims and lawsuits for emotional distress and mental anguish due to witnessing the occurrence of the **accident** or **bodily injury**.
- C. **We** will not pay more than the Limits of Liability for this Part C regardless of the number of:
1. claims made;
  2. **covered autos**;
  3. **Insureds**;
  4. lawsuits filed;
  5. vehicles involved in an **accident**;
  6. heirs or survivors of persons with **bodily injury**; or
  7. premiums paid.
- D. **Our** Limit of Liability for **property damage** under this Part C shall not exceed the lesser of the Limit of Liability for Uninsured Motorist Property Damage Coverage shown on the **declarations page** or the actual cash value of the **covered auto**. Any amount paid or payable for **property damage** to a **covered auto** under this Part C shall be subject to the deductible for this coverage listed on the **declarations page**.
- E. Except as otherwise stated in this paragraph, **our** Limits of Liability under this Part C shall be reduced by any amount paid or to be paid:
1. by or on behalf of any persons or parties that may be legally responsible, including, but not limited to, all sums paid under Part A of this policy. With respect to any Underinsured Motorist Bodily Injury Coverage under this Part C, **our** Limits of Liability for that coverage shall be reduced by any amounts actually recovered under applicable **bodily injury** insurance policies, bonds, or other security maintained on the **underinsured motor vehicle**;
  2. under Part B of this policy; and

3. under any workers' compensation law, disability benefits law, or similar laws. This does not apply to disability benefits received under the federal Social Security Act.
- F. If **we**, or an affiliate insurer, have issued more than one policy to **you** with uninsured or underinsured motorist coverage, **we** will not pay more than the highest limit of liability for that coverage that applies under one policy. The limit of liability may not be added, combined, or stacked with similar coverage under any other policy issued by **us** or an affiliate insurer.
- G. The stacking or combining of coverage or limits under this policy is not allowed even if separate premiums are shown on the **declarations page** for each **covered auto**.
- H. If there is more than one **covered auto** under this policy, the limits of liability available to a permissive user shall be the limits associated with the **covered auto** used by the permissive user when the **accident** occurred.
- I. Any amount paid or payable to a person for **bodily injury** under this Part C shall reduce, or shall be reduced by, any amount paid or payable to such person for **bodily injury** under Part A or Part B of this policy.
- J. Any amount paid or payable for **property damage** under this Part C shall reduce, or be reduced by, any amount paid or payable under Part A or Part D of this policy for such **property damage**.
- K. No one will be entitled to duplicate payments for any elements of damages under this policy or any other source.
- L. With respect to any **property damage** to a **covered auto**, **we** will reduce any amount payable under this Part C by the amount of depreciation or betterment, provided the repair or replacement improves the condition of the **covered auto**. A betterment deduction may be made for the replacement of batteries, tires, and other parts with a useful life longer than the useful life of the part replaced. A deduction may also be made for any measurable increase in market value from the repair of prior damage or from the poorer condition of the **auto** prior to the **loss**. Betterment deductions for prior wear and tear, missing parts, and rust damage reflective of the general overall condition of the **covered auto** considering its age shall be limited to \$500. Except as otherwise expressly stated in this paragraph, **you** are responsible to pay for any betterment. Any amount paid or payable for **property damage** under this Part C shall also be reduced by the salvage value of the **covered auto** if **you** keep any salvage. If the **covered auto** is to be repaired, **we** will not pay more than the prevailing competitive labor rates charged in the area where the **covered auto** is to be repaired as **we** reasonably determine. Also, **we** will not pay any amount for any diminution of value due to the repair. **We** will prepare a repair estimate that will set forth the amount needed to repair the **covered auto** and any parts needed to be replaced as a result of the **loss**. The repair estimate will be based on the use of new or used original equipment manufacturer parts, recycled parts, or after-market parts, as **we** see fit and specify which parts are new or used original equipment manufacturer parts, recycled parts, or after-market parts. If **you** agree to have window glass repaired at **our** expense after an **accident**, **we** have no duty to also pay the actual cash value of that glass or replace it. As **we** see fit, **we** will pay for **property damage** covered by this Part C in money, or repair or replace the damaged or stolen property. As to salvage, **you** may keep all or part of the salvaged property that has sustained **property damage**. If **we** allow **you** to keep salvage, **we** will reduce the amount to be paid by **us** by the agreed or appraised value of the salvage. **You** may not abandon salvage to **us**. **We** have no duty to preserve salvage.

## OTHER INSURANCE

If other uninsured or underinsured motorist coverage, similar to the coverage provided by this Part C, applies to an **accident**:

- A. the maximum limit of liability under all policies, bonds, or other forms of coverage (including any other policy issued by **us** or an affiliate) shall be no more than the highest applicable limit of liability under one policy, bond, or form of coverage;
- B. any insurance we provide under this Part C for an **Insured** while **occupying** or **using** any vehicle, other than a **covered auto**, will be excess over all other insurance, bonds, or other forms of coverage covering that vehicle;
- C. subject to the other terms of this Other Insurance section, if **we** provide coverage under this Part C, **we** will pay only **our** share of the damages. **Our** share is the proportion that **our** Limit of Liability bears to the total of all available coverage limits with the same priority, either primary or excess; and
- D. **we** will not pay for any damages that would duplicate any payment made for damages under other insurance.

## ARBITRATION

Disputes between an **Insured** and **us** with respect to damages and the coverage under this Part C shall be determined as follows:

- A. If the **Insured** requests arbitration, each party shall select an arbitrator and the two arbitrators shall select a third arbitrator. If such arbitrators are not selected within 45 days from the **Insured's** request, either party may request that the arbitration be submitted to the American Arbitration Association.
- B. Any decision made by the arbitrators shall be binding for the amount of damages not exceeding \$75,000 for **bodily injury** to any one person, \$150,000 for **bodily injury** to two or more persons in any one motor vehicle **accident**, or the corresponding policy limits for **bodily injury**, whichever is less.
- C. All three-person arbitration cases in which the claimant is only seeking **bodily injury** damages up to minimum limits shall be subject to the following rules:
  1. If at least 60 days' written notice of the intention to offer the following documents in evidence is given to every other party, accompanied by a copy of the document, a party may offer in evidence, without foundation or other proof:
    - a. bills, records, and reports of hospitals, doctors, dentists, registered nurses, licensed practical nurses, physical therapists, and other healthcare providers;
    - b. bills for drugs, medical appliances, and prostheses;
    - c. property repair bills or estimates, when identified and itemized setting forth the charges for labor and material used or proposed for use in the repair of the property;
    - d. a report of the rate of earnings and time lost from work or lost compensation prepared by an employer;
    - e. the written opinion of a witness, the deposition of a witness, and the statement of a witness that the witness would be allowed to express if testifying in person, if the opinion or statement is made by affidavit or by certification as provided in Section 1-109 of the Illinois Code of Civil Procedure; or
    - f. any other document not specifically covered by any of the foregoing provisions that is otherwise admissible under the rules of evidence.
  2. Any party receiving a notice under subparagraph 1. directly above may apply to the panel of arbitrators for the issuance of a subpoena directed to the author or maker or custodian of the document that is the subject of the notice, requiring the person subpoenaed to produce copies of any additional documents as may be related to the subject matter of the document that is the subject of the notice. Any such subpoena shall be issued in substantially similar form and served by notice as provided by Illinois Supreme Court Rule 204(a) (4). Any such subpoena shall be returnable not less than five days before the arbitration hearing.
  3. Notwithstanding the provisions of Supreme Court Rule 213(g), a party who proposes to use a written opinion or testimony of an expert or opinion witness at the hearing may do so provided a written notice of that intention is given to every other party not less than 60 days prior to the date of hearing, accompanied by a statement containing:
    - a. the identity of the witness;
    - b. his or her qualifications;
    - c. the subject matter;
    - d. the basis of the witness's conclusions; and
    - e. his or her opinion.
  4. Any other party may subpoena the author or maker of a document admissible under these rules, at that party's expense, and examine the author or maker as if under cross-examination. The provisions of Section 2-1101 of the Illinois Code of Civil Procedure shall be applicable to arbitration hearings. It shall be the duty of a party requesting the subpoena to modify the form to show that the appearance is set before an arbitration panel and to give the time and place set for the hearing.
  5. The provisions of Section 2-1102 of the Illinois Code of Civil Procedure shall be applicable to arbitration hearings under this subparagraph.
- D. Any arbitration proceeding under this Part C seeking recovery for **property damage** shall be subject to the following rules:

1. If at least 60 days' written notice of the intention to offer the following documents in evidence is given to every other party, accompanied by a copy of the document, a party may offer in evidence, without foundation or other proof:
    - a. property repair bills or estimates, when identified and itemized setting forth the charges for labor and material used or proposed for use in the repair of the property;
    - b. the written opinion of an opinion witness, the deposition of a witness, and the statement of a witness that the witness would be allowed to express if testifying in person, if the opinion or statement is made by affidavit or by certification as provided in Section 1-109 of the Illinois Code of Civil Procedure; or
    - c. any other document not specifically covered by any of the foregoing provisions that is otherwise admissible under the rules of evidence.
  2. Any party receiving a notice under subparagraph 1. directly above may apply to the panel of arbitrators for the issuance of a subpoena directed to the author or maker or custodian of the document that is the subject of the notice, requiring the person subpoenaed to produce copies of any additional documents as may be related to the subject matter of the document that is the subject of the notice. Any such subpoena shall be issued in substantially similar form and served by notice as provided by Illinois Supreme Court Rule 204(a) (4). Any such subpoena shall be returnable not less than five days before the arbitration hearing.
  3. Notwithstanding the provisions of Supreme Court Rule 213(g), a party who proposes to use a written opinion or testimony of an expert or opinion witness at the hearing may do so provided a written notice of that intention is given to every other party not less than 60 days prior to the date of hearing, accompanied by a statement containing:
    - a. the identity of the witness;
    - b. his or her qualifications;
    - c. the subject matter;
    - d. the basis of the witness's conclusions; and
    - e. his or her opinion.
  4. Any other party may subpoena the author or maker of a document admissible under these rules, at that party's expense, and examine the author or maker as if under cross-examination. The provisions of Section 2-1101 of the Illinois Code of Civil Procedure shall be applicable to arbitration hearings. It shall be the duty of a party requesting the subpoena to modify the form to show that the appearance is set before an arbitration panel and to give the time and place set for the hearing.
  5. The provisions of Section 2-1102 of the Illinois Code of Civil Procedure shall be applicable to arbitration hearings under this subparagraph.
- E. Unless otherwise agreed by both parties, arbitration will take place in the county in the state in which the **Insured** resides. The arbitrator has no authority to award any amount in excess of **our** Limits of Liability, as punitive damages, as attorney fees, or as other fees, costs or interest. The **Insured** agrees to promptly respond to requests for production, submit to examinations under oath when and as **we** require, promptly respond to interrogatories, and promptly respond to, and otherwise comply with, any other discovery **we** may require during the course of any arbitration.
- F. Each party will pay the expenses it incurs and share in paying the agreed expenses of the arbitration and arbitrator equally.
- G. Nothing in this Arbitration section shall preclude settlement of the claim at any time, upon terms and conditions as agreed to by the parties.

## **PART D – PHYSICAL DAMAGE COVERAGE**

### **INSURING AGREEMENT - COLLISION COVERAGE**

If **you** pay the premium for Collision Coverage then, subject to **our** Limit of Liability and the applicable deductible, **we** will pay for **loss** to a **covered auto** for which Collision Coverage has been purchased when it overturns or has physical impact with another vehicle or object (not including impact with an animal, bird or any falling object).

Subject to **our** Limit of Liability and the applicable deductible, if **you** pay the premium for Collision Coverage, **we** will also pay for the replacement of a **child restraint system** that was in use by a child in a **covered auto** during an **accident** to which Collision Coverage applies when such **child restraint system** is no longer useable because of damage sustained in the **accident**.

#### **INSURING AGREEMENT - COMPREHENSIVE COVERAGE**

If **you** pay the premium for Comprehensive Coverage then, subject to **our** Limit of Liability and the applicable deductible, **we** will pay for a **comprehensive loss** to a **covered auto** for which Comprehensive Coverage has been purchased.

In the event of the theft of an entire **covered auto** for which Comprehensive Coverage applies under this Part D, **we** will pay, in addition to **our** Limit of Liability, up to \$10 per day, not to exceed \$200 in total, for reasonable and necessary transportation expenses incurred beginning 72 hours after the theft has been reported to **us** and to the applicable authorities and ending on the earlier of:

- A. the date and time the location of the stolen **covered auto** becomes known to **you** or **us**; or
- B. the date **we** make a payment for the theft.

Subject to **our** Limit of Liability and the applicable deductible, if **you** pay the premium for Comprehensive Coverage, **we** will also pay for the replacement of a **child restraint system** that was in use by a child in a **covered auto** during an **accident** to which Comprehensive Coverage applies when such **child restraint system** is no longer useable because of damage sustained in the **accident**.

#### **INSURING AGREEMENT – ROADSIDE ASSISTANCE COVERAGE**

If **you** pay the premium for Roadside Assistance Coverage for a **covered auto** as shown on the **declarations page** then, subject to the per occurrence limit shown on the **declarations page**, **we** will pay for up to two occurrences per **covered auto** per policy period for the following emergency roadside assistance services necessitated by the disablement of the **covered auto**:

- A. reasonable towing and labor costs for towing the **covered auto** to the nearest point at which the disablement can be remedied;
- B. reasonable costs for a tire change;
- C. reasonable costs for a battery jump start;
- D. reasonable costs for key lockout services; and
- E. reasonable costs for fuel, oil, and water delivery service limited to the amounts of fuel, oil, and water necessary for the **covered auto** to be driven to the nearest point where fuel and oil may be purchased by the driver or **owner**.

If the **covered auto** must be towed, **you** must arrange necessary towing services through the roadside assistance service authorized by **us**. **We** shall not pay for unreasonable or excessive towing charges assessed by an unauthorized towing or roadside assistance service.

#### **INSURING AGREEMENT – RENTAL REIMBURSEMENT COVERAGE**

Subject to **our** Limit of Liability for this coverage, if **you** pay the premium for Rental Reimbursement Coverage, **we** will reimburse rental charges incurred when **you** rent an **auto** from a rental agency or **auto** repair shop due to a **loss**:

- A. to a **covered auto** for which Rental Reimbursement Coverage has been purchased as shown on the **declarations page**; and
- B. for which Comprehensive Coverage or Collision Coverage applies.

**Our** limits of liability for this coverage are the amount and the number of days shown on the **declarations page**.

If Rental Reimbursement Coverage applies, no other coverage under this policy for rental expenses shall apply.

Rental charges will be reimbursed beginning 48 hours after the **loss**, if timely reported by **you**.

Reimbursement for rental charges will end when **our** Limit of Liability for this coverage has been reached or, if earlier, when the **covered auto** has been:

- A. returned to **you**;
- B. repaired;
- C. replaced; or
- D. if the **covered auto** is deemed by **us** to be a total **loss**, 72 hours after **we** make an offer to pay the applicable Limit of Liability under this Part D.

**You** must provide **us** written proof of **your** rental charges. Duplicate recovery for any expense or charge is not permitted under this policy.

#### **ADDITIONAL DEFINITION**

When used in this Part D:

A "**comprehensive loss**" includes **loss** caused by:

- 1. contact with an animal or a bird;
- 2. explosion or earthquake;
- 3. fire;
- 4. malicious mischief or vandalism;
- 5. missiles or falling objects;
- 6. riot or civil commotion;
- 7. theft or larceny; or
- 8. windstorm, hail, water, or flood.

It does not include a **loss** that is payable under Collision Coverage.

#### **EXCLUSIONS**

**There is no coverage under this Part D if one or more of the following exclusions apply.**

No coverage under this Part D shall apply to **loss**:

- A. To a **covered auto** while being used to carry persons or property for compensation or a fee. This exclusion applies to, but is not limited to, the wholesale or retail delivery of goods, magazines, newspapers, food, or any other products. This exclusion also applies to the **use** of an **auto** to provide **transportation network company services** or while being operated or **used** by a person while acting as, or engaged in any manner as, a **TNC driver**. This exclusion does not apply to shared-expense car pools.
- B. To a **covered auto** while enrolled in a **personal vehicle sharing program** under the terms of a written agreement; and being used in connection with such **personal vehicle sharing program** by anyone other than an **Insured**.
- C. To a **covered auto** while being used to plow or remove snow for compensation or a fee.
- D. Arising out of the ownership, maintenance, or **use** of a vehicle in the course of any **business**. This exclusion shall not apply to **business** use of a **covered auto** if, prior to the **accident**:
  - 1. that specific **business** use was declared by **you** to **us**;
  - 2. **we** agreed to cover that **business** use; and
  - 3. **you** paid to **us** the total, additional **business** use charge specified by **us**.
- E. To a **covered auto** while it is leased or rented to others.
- F. To a **covered auto** while being used or driven by a person while employed or engaged in the **business** of:
  - 1. selling;

2. leasing;
  3. repairing;
  4. parking;
  5. storing;
  6. servicing;
  7. delivering;
  8. road testing; or
  9. renting vehicles.
- G. To a **covered auto** resulting from participation in any prearranged or organized racing, speed or demolition contest, stunting activity, or practice or preparation for any such contest or activity.
- H. Due to nuclear reaction, exposure, radiation, or contamination.
- I. For which insurance is afforded under a nuclear energy liability insurance contract.
- J. To a **covered auto** due to destruction or confiscation by governmental or civil authorities, or due to repossession by a loss payee or lienholder.
- K. To a **covered auto** due to abandonment.
- L. That is intended or is caused intentionally by a willful act of **you** or a **relative**, or at the direction of **you** or a **relative**. This exclusion does not apply to **loss** or damage sustained by an innocent co-insured who did not cooperate in, or contribute to, the creation of the **loss** if the **loss** arose out of a pattern of criminal domestic violence and the perpetrator of the **loss** is criminally prosecuted for the act causing the **loss**. Payment to the innocent co-insured is limited to his or her ownership interest in the property as reduced by any payments to a lienholder or other secured interest.
- M. To a **covered auto** that results from, or occurs in the course of, a criminal act or omission of **you**, a **relative**, or anyone **using** the **covered auto**, or while attempting to elude law enforcement. This includes, but is not limited to, **loss** that results from, or that occurs in the course of, leaving the scene of a crime. For purposes of this exclusion, "crime" does not include a traffic violation.
- N. To a **covered auto** that is due and confined to :
1. wear and tear;
  2. freezing;
  3. mechanical or electrical breakdown or failure; or
  4. road damage to tires.
- This exclusion does not apply if the damage results from the theft of the **covered auto**.
- O. Due to theft or conversion of a **covered auto**:
1. by **you**, a **relative**, or any resident of **your** household;
  2. prior to its delivery to **you** or a **relative**; or
  3. while in the care, custody, or control of anyone engaged in the **business** of selling vehicles.
- P. To equipment, devices, accessories, and any other personal effects that are not permanently installed by the original manufacturer in, or attached by brackets or bolts to, a **covered auto**. This includes, but is not limited to:
1. tapes, compact discs, cassettes, DVDs, and other recording or recorded media;
  2. any case or other container designed for storing or carrying tapes, compact discs, cassettes, or other recording or recorded media;
  3. any device used for the detection or location of radar, laser, or other speed measuring equipment or its transmissions;
  4. mobile phones, navigation devices, computers, DVD players, Internet devices, iPods, MP3 players, satellite radio or receiver devices, entertainment systems, or wireless audio devices;
  5. CB radios, telephones, two-way mobile radios, or televisions;
  6. all other video, audio, computing, navigation and communication devices and accessories; and
  7. any non-original equipment manufacturer, custom furnishings or equipment in or upon any **covered auto**.  
These include, but are not limited to:
    - a. special carpeting and insulation, furniture, bars or television receivers;
    - b. facilities for cooking and sleeping;
    - c. height extending roofs; or
    - d. custom murals, paintings, or other decals or graphics.
- This exclusion does not apply to equipment removable from a housing unit permanently installed in the **covered auto** or to **loss** to a **child restraint system**.

- Q. To a **covered auto** for diminution of value, or any actual or perceived **loss** in market or resale value that results from a **loss**.
- R. Arising out of the operation, maintenance, or **use** by any person of an **auto** without a reasonable belief that he or she is entitled to do so. This exclusion shall not apply, however, to the operation of a **covered auto** by **you** or a **relative**.
- S. To a **covered auto** caused directly or indirectly by mold, mildew or fungus, including any type or form of:
  1. decomposing or disintegrating organic material or micro-organism;
  2. organic surface growth on moist, damp, or decaying matter;
  3. yeast or spore-bearing plant-like organism; or
  4. spores, scents, toxins, bacteria, viruses, or any other by-products produced or released by any mold, mildew, fungus, or other microbes.
- T. To a **covered auto** caused directly or indirectly by:
  1. war (declared and undeclared, including civil war);
  2. warlike action by any military force, government, sovereign, or other authority using military personnel or agents (includes any action taken to hinder or defend against an actual or expected attack);
  3. insurrection, civil commotion, rebellion, revolution, usurped power, or any action taken by a governmental authority to hinder or defend against any of these acts; or
  4. any discharge, dispersal, or release of radioactive, nuclear, pathogenic, flammable, or hazardous material or from the transportation of such materials.
- U. That occurs to a **covered auto** while being used as a primary residence.
- V. That is, or results from, the theft of a **covered auto** if it is determined that, at the time of the theft, the keys were left in the ignition of the **covered auto** or that the wiring or operation of the **covered auto** was not altered or changed to allow the operation of the **covered auto** without keys. This does not apply if the **loss** occurred due to car-jacking or due to other forcible means used to overtake the operation of the **covered auto**.
- W. That occurs while a **covered auto** is being operated or **used** by a **relative**, or any other person residing in **your** household, who has not been disclosed to **us**.
- X. That **you** do not report to **us** within 30 days of the date of **loss**.

**We** shall not pay for breakage of glass if other insurance is afforded for such breakage. **We** have no duty under this Part D to pay for or replace any insignia, stickers, decals, logos, trademarks, or decorative markings on windshields or other glass that is replaced as a result of a covered **loss**.

If the **covered auto** is disabled as a result of an **accident**, **you** must arrange necessary towing services through a towing service authorized by **us**. **We** shall not pay for unreasonable or excessive towing charges assessed by an unauthorized towing service.

## LIMIT OF LIABILITY

- A. **Our** Limit of Liability for **loss** covered under Collision Coverage or Comprehensive Coverage is lesser of the:
  1. actual cash value of the stolen or damaged **covered auto** at the time of the **loss**, reduced by the applicable deductible shown on the **declarations page**, and by its salvage value if **we** allow **you** or the **owner** to retain the salvage;
  2. amount necessary to replace the stolen or damaged **covered auto**, reduced by the applicable deductible shown on the **declarations page** and by its salvage value if **we** allow **you** or the **owner** to retain the salvage; or
  3. amount necessary to repair the **covered auto** to its pre-loss condition, reduced by the applicable deductible shown on the **declarations page**.
- B. Payments for **loss** covered under Collision Coverage or Comprehensive Coverage are subject to the following provisions:
  1. **Our** payment shall not include the amount of the applicable deductible shown on the **declarations page**.
  2. If **loss** occurs to more than one **covered auto** in the same **accident**, a separate deductible shall apply to each **covered auto**.
  3. If **loss** to a **covered auto** is the result of more than one **accident** or **loss**, a separate deductible shall apply to each **accident** or **loss**.



4. Any deductible that applies to a loss payee or lienholder shall not reduce any deductible that applies to **you**.
5. A deduction for depreciation, betterment, wear and tear, or prior damage, will be made in determining **our** Limit of Liability for a **loss**. Betterment deductions may be made for a measurable decrease in market value from the repair of prior damage to, or from the poorer condition of, the **covered auto** prior to the **loss**. Betterment deductions for prior wear and tear, missing parts, and rust damage reflective of the general overall condition of the **covered auto** considering its age shall be limited to \$500. Except as otherwise expressly stated in this paragraph, **you** are responsible to pay for any betterment.
6. In determining the amount necessary to repair damaged property to its pre-loss condition, the amount to be paid by **us**:
  - a. shall not exceed the prevailing competitive labor rates charged in the area where the property is to be repaired, and the cost of repair or replacement parts and equipment, as reasonably determined by **us**; and
  - b. will be based on the cost of repair or replacement parts and equipment which may be new, reconditioned, remanufactured, or used, including, but not limited to:
    - i. original manufacturer parts or equipment; or
    - ii. non-original manufacturer parts or equipment.
7. The actual cash value is determined by the market value, age, and condition of the **covered auto** at the time the **loss** occurs as reasonably determined by **us** using data that **we** reasonably determine to be reliable.
8. No one will be entitled to duplicate payments for any elements of damages under this policy or any other source. Any amount paid or payable for a **loss** under this Part D shall reduce, or be reduced by, any amount paid or payable for that **loss** under Part A or Part C of this policy.

#### **NO BENEFIT TO BAILEE**

Coverage under this Part D shall not directly or indirectly benefit any party handling, caring for, or acting as custodian or bailee of property for a fee or other compensation.

#### **PAYMENT OF LOSS**

For any **loss** covered under this Part D, **we** shall, at **our** option:

- A. pay for the **loss** in money; or
- B. repair or replace the damaged or stolen property.

**We** may make payment for a **loss** to **you**, the **owner**, or the loss payee or lienholder of the **covered auto** as **we** see fit and as the interest of each appears to **us**. **We** may make payment for a partial **loss** covered under this Part D directly to the repair facility with **your** consent.

At **our** expense, **we** may return any recovered stolen property to **you** or to the address shown on the **declarations page**, with payment for any damage resulting from the theft.

**We** may keep all or part of the property at the agreed or appraised value. If **we** allow **you** or the **owner** to keep salvage, **we** will reduce the amount to be paid by **us** for the **loss** by the value of the salvage. **We** have no duty to preserve salvage. There can be no abandonment to **us** of any **covered auto** or salvage.

#### **TRANSFER OF TITLE**

If **we** make a payment due to theft of an **auto** under this Part D and **we** make a demand for title from the **owner** of that **auto**, the **owner** of that **auto** shall transfer that title to **us**.

## LIENHOLDER - LOSS PAYEE AGREEMENT

- A. **We** have no duty to make any payment to a loss payee or lienholder unless the **loss** is payable to **you** and all policy terms and conditions have been met.
- B. If payment is made to a loss payee or lienholder, payment may be made to **you** and the loss payee or lienholder, jointly or separately, at **our** discretion.
- C. Where fraud, misrepresentation, material omission, intentional damage, or conversion, secretion and/or embezzlement of an **auto** has been committed by, or at the direction of, **you** or a **relative**, or where the **loss** is otherwise not covered under the terms of this policy, the loss payee's or lienholder's interest will not be protected.
- D. If this policy is cancelled, nonrenewed, or otherwise terminated, **we** will give notice to a loss payee or lienholder when required by law. Any notice may be delivered electronically.
- E. **We** shall be subrogated to the loss payee's or lienholder's rights of recovery to the extent of **our** payment to the loss payee or lienholder.

## OTHER INSURANCE

If there is other applicable insurance, **we** will pay only **our** share of the **loss**. **Our** share is the proportion that **our** Limit of Liability bears to the total of all applicable limits of liability. Any insurance **we** provide under this Part D for a **temporary substitute auto** shall be excess over all other collectible insurance, self-insurance, or bonds applicable to that **auto**.

## APPRAISAL

If **we** cannot agree with **you** on the amount of a **loss**, then either **we** or **you** may demand an appraisal of the **loss**. If this demand is made, each party shall appoint a competent and impartial appraiser. The appraisers will determine the amount of **loss**. If they fail to agree, the disagreement will be submitted to a qualified and impartial umpire chosen by the appraisers. If the two appraisers are unable to agree upon an umpire within 15 days, either **we** or **you** may request that a judge of a court of record, in the county where **you** reside, select an umpire. The appraisers and umpire will determine the amount of **loss**. The amount of **loss** agreed to by both appraisers, or by one appraiser and the umpire, will be binding. **You** will pay **your** appraiser's fees and expenses. **We** will pay **our** appraiser's fees and expenses. Payment of the umpire and the umpire's expenses of the appraisal will be shared equally between **you** and **us**. Each party will pay any other expenses it incurs, including any costs incurred for legal counsel, witnesses, or experts. Neither party waives any rights under this policy by agreeing to an appraisal.

## GENERAL PROVISIONS

### POLICY PERIOD

This policy applies only to **accidents** and **losses** that occur during the policy period shown on the **declarations page**.

### POLICY TERRITORY

This policy applies only to **accidents** and **losses** that occur within any state, territory, or possession of the United States of America, or within any province or territory of Canada.,

## POLICY CHANGES

- A. This policy, **your** insurance application (which is made a part of this policy), the **declarations page**, as amended, and endorsements to this policy issued by **us** contain all the agreements between **you** and **us**. Subject to the following, the policy terms may not be changed or waived except by an endorsement issued by **us**.
- B. The premium for each **auto** is based upon information **we** have received from **you** or other sources. **You** agree to cooperate with **us** in determining if this information is correct and complete, and **you** will notify **us** if it changes during the policy period. If this information is incorrect, incomplete, or changes during the policy period, **we** may adjust **your** premium during the policy period, or take other appropriate action. To properly insure **your auto**, **you** must promptly notify **us** when:
1. **you** change **your** address;
  2. any **resident operators** or **regular operators** are added or deleted;
  3. **you** acquire an additional or replacement **auto**;
  4. **you** or a **relative** get married or divorced; or
  5. **you** or a **relative** obtains a driver's license or has a driver's license suspended or revoked.
- If a claim is made under the collision or comprehensive coverages of this policy, **we** may at our option deduct the premium adjustment from any settlement amount under these coverages.
- C. Changes that may result in a premium adjustment are contained in **our** rates and rules. These include, but are not limited to, **you** or a **relative** obtaining a driver's license or operator's permit, or changes in:
1. the number, type, or use classification of **covered autos**;
  2. operators **using covered autos**;
  3. an operator's marital status;
  4. the place of principal garaging of any **covered auto**;
  5. coverage, deductibles, or limits of liability; or
  6. rating territory or discount eligibility.

## CONFORMITY WITH STATE LAW

- A. Any provision of this policy that conflicts with a statute of the state shown in **our** records as **your** state of residence at the time **you** applied for this insurance shall be changed to conform to such law, and all remaining provisions shall remain unchanged.
- B. Any disputes as to the coverages provided under, or any other provisions of, this policy shall be governed by the law of the state shown in **our** records as **your** state of residence at the time **you** applied for this insurance.

## TRANSFER

- A. This policy may not be transferred or assigned to another person without **our** written consent.
- B. If the named insured shown on the **declarations page** dies, this policy will provide coverage, subject to all of the duties, limitations and other terms of this policy, until the end of the policy period for:
1. any surviving spouse if a resident in the same household as the named insured at the time of death; and
  2. the legal representative of the deceased named insured, but only with respect to the representative's legal duty to maintain or **use** the **covered auto**.

## FRAUD OR MISREPRESENTATION

- A. To determine **your** eligibility for coverage under this policy and to determine **your** premium, **we** relied upon the statements and representations **you** provided to **us**.
- B. **We** may void this policy for material misrepresentation or fraud in the application and/or endorsements, if:
1. **you**, **your** representative, or anyone acting on **your** behalf, made false or incorrect statements, or concealed or omitted facts in connection with the application or any request for a change for this policy; and

2. the misrepresentation, false statement, or omission was stated in the policy or endorsement or rider attached thereto or in the written application for the policy, endorsement, or rider.
- C. No such misrepresentation or false statement shall void this policy unless it was made with actual intent to deceive or materially affects either **our** acceptance of the risk or the hazard assumed by **us**.
- D. **We** may not rescind this policy for material misrepresentation or fraud in the original application after this policy has been in effect for one year or for one policy term, whichever is less.
- E. **We** have the right to void this policy from its inception, and may do so, if there is any failure to pay the initial premium down payment or any portion of that down payment.
- F. If **we** void this contract:
  1. there is no coverage for any **accident** or **loss**;
  2. any partial premium payment **we** have received from **you** will be returned; and
  3. **you** must repay **us** for any amounts **we** paid to, or on behalf of, any person insured under any part of this policy.
- G. If **you, your** assignee, or **your** representative disputes **our** right to rescind, and **we** prevail in such dispute, **you** must reimburse **us** for all of **our** lawyer fees, costs, and expenses.
- H. Notwithstanding any other provisions of this policy, this policy shall provide no coverage or benefit to any person who makes a fraudulent statement or omission or engages in fraudulent conduct with respect to any **accident** or **loss** for which coverage or a benefit is sought under this policy or any renewal of this policy.

## PAYMENT OF PREMIUM

If **your** initial premium payment is by check, draft, or any remittance other than cash, coverage under this policy is conditioned upon the check, draft, or remittance being honored upon presentment to the bank or other financial institution. If the check, draft, or remittance is not honored upon presentment, this policy may, at **our** option, be deemed void from its inception. This means that **we** will not be liable under this policy for any claims or damages that would otherwise be covered if the check, draft, or remittance had been honored upon presentment.

## CANCELLATION

- A. **You** may cancel this policy by returning it to **us** or by giving **us** written notice of the future effective date of cancellation.
- B. **We** may cancel this policy by mailing notice of cancellation to the named insured shown on the **declarations page** at his or her last known address appearing in **our** records. Notification shall also be sent to the named insured's broker, if known, or the agent of record, if known, and to the mortgagee or lienholder listed on the policy. Notice to any broker, agent of record, mortgagee, or lienholder may be given electronically if such party opts to accept electronic notification.
- C. **We** will mail or deliver a notice of cancellation at least:
  1. 10 days before the effective date of cancellation if due to nonpayment of premium, other than the initial premium; or
  2. 30 days before the effective date of cancellation if this policy is to be cancelled for any other reason.
- D. The effective date and time of cancellation stated in a notice is the end of the policy period.
- E. During the first 60 days of the first policy period, **we** may cancel the policy for any lawful reason.
- F. After this policy has been in effect for 60 days, or if this is a renewal policy, **we** may cancel only for one or more of the following reasons:
  1. Nonpayment of premium.
  2. Material misrepresentation when applying for this policy.
  3. The violation by any insured, or by **your** representative, of any of the terms and conditions of this policy.
  4. **Your** failure to disclose fully **your** motor vehicle accidents and moving traffic violations for the preceding 36 months, if called for in the application.
  5. Any insured made a false or fraudulent claim or knowingly aided or abetted another in the presentation of such a claim.
  6. **You** or any other operator who either resides in the same household or who customarily operates a **covered auto**:

- a. has, within the 12 months prior to the notice of cancellation, had his or her driver's license under suspension or revocation;
  - b. is or becomes subject to epilepsy or heart attacks, and does not produce a certificate from a physician testifying to his or her unqualified ability to operate a motor vehicle safely;
  - c. has an accident record, conviction record (criminal or traffic), physical, or mental condition of such a nature that his or her operation of an automobile might endanger the public safety;
  - d. has, within the 36 months prior to the notice of cancellation, been addicted to the use of narcotics or other drugs; or
  - e. has been convicted, or forfeited bail, during the 36 months immediately preceding the notice of cancellation, for any felony, criminal negligence resulting in death, homicide or assault arising out of the operation of a motor vehicle, operating a motor vehicle while in an intoxicated condition or while under the influence of drugs, being intoxicated while in, or about, an automobile or while having custody of an automobile, leaving the scene of an accident without stopping to report, theft or unlawful taking of a motor vehicle, making false statements in an application for an operator's or chauffeur's license or has been convicted or forfeited bail for 3 or more violations within the 12 months immediately preceding the notice of cancellation, of any law, ordinance, or regulation limiting the speed of motor vehicles or any of the provisions of the motor vehicle laws of any state, violation of which constitutes a misdemeanor, whether or not the violations were repetitions of the same offense or different offenses.
7. A **covered auto** is:
- a. so mechanically defective that its operation might endanger public safety;
  - b. used in carrying passengers for hire or compensation (the use of an automobile for a car pool shall not be considered use of an automobile for hire or compensation);
  - c. used in the **business** of transportation of flammables or explosives;
  - d. an authorized emergency vehicle;
  - e. changed in shape or condition during the policy period so as to increase the risk substantially; or
  - f. subject to an inspection law and has not been inspected or, if inspected, has failed to qualify.
8. Any other reason permitted by law.
- G. With respect to any cancellation of this policy, this policy is not severable or divisible. Any cancellation, whether by **you** or **us**, shall be effective for all persons and all vehicles no matter the reason for the cancellation.
- H. Nothing in this "Cancellation" provision shall waive **our** rights to void this policy to the extent allowed by law.

## CANCELLATION REFUND

- A. Upon cancellation, **you** may be entitled to a premium refund. **Our** making or offering of a refund is not, however, a condition of cancellation.
- B. If this policy is canceled, any refund due will be computed on a daily pro-rata basis, subject to any fully-earned fees.

## NONRENEWAL

- A. If **we** decide not to renew or continue this policy, **we** will mail a notice of nonrenewal to the named insured shown on the **declarations page** at his or her last known address appearing in **our** records. Notification shall also be sent to the named insured's broker, if known, or the agent of record, if known, and to the mortgagee or lienholder listed on the policy. Notice to any broker, agent of record, mortgagee, or lienholder may be given electronically if such party opts to accept electronic notification.
- B. Except as otherwise provided in this Nonrenewal provision, notice will be mailed at least 30 days before the end of the policy period. This does not apply if **we** have manifested **our** willingness to renew directly to the named insured or if this policy is assigned or transferred to one of **our** affiliates. If this policy is assigned or transferred to an affiliate, **we** will notify the named insured of such assignment or transfer at least 60 days prior to the renewal date. If, however, the producer or agent of record for this policy does not have a signed agency contract with the insurer to which this policy is being transferred or assigned, then the nonrenewal notice requirement of this paragraph shall apply.

- C. Nothing in this "Nonrenewal" provision shall waive **our** rights to void this policy to the extent allowed by law.
- D. After this policy has been in effect or renewed continuously for five or more years, **we** will only non-renew or refuse to continue this policy for one of the following reasons:
  - 1. Material misrepresentation when applying for this policy.
  - 2. The violation by any insured, or by **your** representative, of any of the terms and conditions of this policy.
  - 3. **Your** failure to disclose fully **your** motor vehicle accidents and moving violations for the preceding 36 months, if called for in the application.
  - 4. Any insured made a false or fraudulent claim or knowingly aided or abetted another in the presentation of such a claim.
  - 5. **You** or any other operator who either resides in the same household or who customarily operates a **covered auto**:
    - a. has, within the 12 months prior to the notice of non-renewal, had his or her driver's license under suspension or revocation;
    - b. is or becomes subject to epilepsy or heart attacks, and does not produce a certificate from a physician testifying to his or her unqualified ability to operate a motor vehicle safely;
    - c. has an accident record, conviction record (criminal or traffic), physical, or mental condition of such a nature that his or her operation of an automobile might endanger the public safety;
    - d. has, within the 36 months prior to non-renewal, been addicted to the use of narcotics or other drugs; or
    - e. has been convicted, or forfeited bail, during the 36 months immediately preceding the notice of non-renewal, for any felony, criminal negligence resulting in death, homicide or assault arising out of the operation of a motor vehicle, operating a motor vehicle while in an intoxicated condition or while under the influence of drugs, being intoxicated while in, or about, an automobile or while having custody of an automobile, leaving the scene of an accident without stopping to report, theft or unlawful taking of a motor vehicle; making false statements in an application for an operator's or chauffeur's license or has been convicted or forfeited bail for 3 or more violations within the 12 months immediately preceding the notice of non-renewal, of any law, ordinance, or regulation limiting the speed of motor vehicles or any of the provisions of the motor vehicle laws of any state, violation of which constitutes a misdemeanor, whether or not the violations were repetitions of the same offense or different offenses.
  - 6. A **covered auto** is:
    - a. so mechanically defective that its operation might endanger public safety;
    - b. used in carrying passengers for hire or compensation (the use of an automobile for a car pool shall not be considered use of an automobile for hire or compensation);
    - c. used in the **business** of transportation of flammables or explosives;
    - d. an authorized emergency vehicle;
    - e. changed in shape or condition during the policy period so as to increase the risk substantially; or
    - f. subject to an inspection law and has not been inspected or, if inspected, has failed to qualify.
  - 7. The notice of the intention not to renew is mailed to the insured at least 60 days before the date of nonrenewal.
  - 8. Any other reason permitted by law.

## PROOF OF NOTICE

Proof of mailing of any notice, where the law requires proof, shall be sufficient proof of notice.

## AUTOMATIC TERMINATION

- A. Coverage for a **covered auto** shall terminate automatically when a person other than **you** becomes the **owner** of the **auto**.
- B. Coverage for a **covered auto** shall terminate automatically on the effective date of any other motor vehicle insurance policy covering that **auto**.
- C. If **we** offer to renew **your** policy and **you** do not accept the offer by making payment when due, this policy will terminate automatically at the end of the policy period.

## LEGAL ACTION AGAINST US

- A. **We** may not be sued unless and until there has been full compliance with all terms of this policy.
- B. In any lawsuit against any person or party insured under this policy, **we** shall not be bound by any:
  - 1. stipulated judgment;
  - 2. confessed judgment;
  - 3. default judgment or adverse entry due to failure to appear, respond or plead; or
  - 4. motion granted due to any failure to appear, respond or plead;unless **we** have consented in writing to the entry of that judgment, default, or granting of that motion.
- C. No legal action may be filed against **us** by anyone insured under this policy until **we** receive proof of **loss** and the claim representative assigned to the claim has received 30 days written notice, by certified U.S. mail, return receipt requested, of the intent to file suit and the details of the nature of the dispute.
- D. With respect to Part A of this policy, except to the extent required by law, no one other than an **Insured** under Part A of this policy shall have any interest in this policy prior to the entry of a verdict against an **Insured**. No one shall have any right to make **us** a party to a lawsuit to determine the liability of an **Insured** under Part A. No legal action may be brought against **us** for payment under Part A until:
  - 1. **we** agree in writing that the **Insured** under Part A has an obligation to pay damages; or
  - 2. the amount of the damages due under Part A has been decided by final judgment after trial.
- E. As to Part C of this policy, any lawsuit against **us** by a **person** seeking coverage under Part C must be brought within two years after the date of the **accident**.
- F. As to Part D of this policy, no one may sue **us** due to a dispute over the amount of **loss** payable until after having complied with the Appraisal clause under that Part D.
- G. **We** have no duty to preserve or retain salvage of any sort for any purpose including, but not limited to, as evidence for any type of court or other proceeding.
- H. **We** have no duty to file any appeal. **We** reserve the right, however, to file an appeal, at **our** expense, if any part of a judgment could fall within the scope of coverage provided under this policy. **We** must be given timely notice of any judgment to which this may apply. **We** will not be liable for more than the applicable limit of liability under this policy plus the reasonable lawyer fees and expenses incurred with **our** consent as a result of any appeal **we** file.

## OUR RECOVERY RIGHTS

- A. In the event of any payment under this policy, any person to whom payment was made to, or made on behalf of, must cooperate with **us**. Such person must take all actions necessary to protect **our** rights to recover and avoid doing anything to prejudice or harm such rights.
- B. If **we** make a payment under this policy, **we** shall be subrogated to all rights of recovery that the person or party to whom, or for whom, payment was made, may have against another person or party.
- C. If any person to whom, or for whom, a payment is made under this policy recovers from a liable person or party, or their insurer, such person must hold the proceeds of that recovery in trust for **us** and reimburse **us** to the extent of **our** payment.
- D. If **we** seek to recover from a liable party, **you** authorize **us** to seek recovery of any deductible that may apply, unless the deductible has been otherwise recovered by **you**. **We** will notify **you** if **we** are unable to collect the deductible. **We** reserve the right to compromise or settle any deductible and property damage claims against the responsible parties for less than the full amount. For those sums, **you** agree to be bound by a settlement agreement entered into by **us** and the liable party or the outcome of any arbitration or appraisal. If the total recovery is less than the total of **our** payment and the deductible, **we** will reduce reimbursement of the deductible to **you** based upon the proportion that the actual recovery bears to the total of **our** payment and the deductible. Any reimbursement to **you** by **us** will be reduced by a proportionate share of expenses incurred due to the recovery including, but not limited to attorney's fees, collection fees, and adjuster fees.
- E. If **we** make a payment to, or on behalf of, anyone insured under this policy which is not covered by this policy, but which is compelled by law, **you** must reimburse **us** to the full extent of that payment. **You** must also reimburse **us** for **our** claims adjustment expense.

### NAMED DRIVER EXCLUSION

If **you** have asked **us** to exclude any named person from coverage under this policy, then **we** will not provide coverage under this policy for any claim arising from an **accident** or **loss** involving a motorized vehicle being operated by that excluded person. THIS INCLUDES ANY CLAIM FOR DAMAGES MADE AGAINST **YOU**, A **RELATIVE**, OR ANY OTHER PERSON OR ORGANIZATION THAT IS VICARIOUSLY LIABLE FOR AN **ACCIDENT** ARISING OUT OF THE OPERATION OF A MOTORIZED VEHICLE BY THE EXCLUDED DRIVER.

### NON-OWNER COVERAGE

If **you** have elected Non-Owner Coverage, this policy applies only to the permissive **use** by the **named insured** of an **auto** that is:

- A. not **owned** by or registered to **you**, a **relative**, or any person who resides in **your** household; and
- B. not furnished or made available for the regular **use** of **you**, any **relative**, or any resident of **your household**.

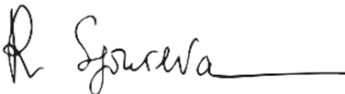
For purposes of this Non-Owner Coverage, the term "**named insured**" means the person shown as the named insured on the **declarations page**.

The following policy changes shall also apply:

- A. The general policy definitions of **you** and **your** are revised to mean only the **named insured**.
- B. No party or person other than the **named insured** is insured under this policy.
- C. The definition of **Insured** is revised in all parts of the policy to mean and only cover the **named insured**. No party or person other than the **named insured** has any insurance under this policy.
- D. No coverage applies under the policy for **use** of any vehicle other than the **use** of an **auto** that is not:
  - 1. **owned** by or registered to **you**, a **relative**, or any person who resides in **your** household;
  - 2. furnished or made available for the regular **use** of **you**, a **relative**, or any person who resides in **your** household; or
  - 3. used for **business** purposes.
- E. No coverage applies under the policy for anyone other than the **named insured**.
- F. The "Other Insurance" clause in each part of this policy is deleted and provides in its place that any insurance **we** provide shall be excess over any other applicable insurance, self-insurance, or bond providing the same or similar insurance or benefits.
- G. No coverage applies under Part D of this policy.

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



Secretary

