



PERSONAL AUTOMOBILE INSURANCE POLICY

INDIANA

IMPORTANT

Notify the Company at 7400 N. Caldwell Ave., Niles, IL 60714, of **EVERY** accident, however slight, immediately upon its occurrence. Delay in giving notice may jeopardize your right. Send a completed report as soon as practicable.

PLEASE READ YOUR POLICY AND APPLICATION AND REPORT, IN WRITING, ANY ERRORS IMMEDIATELY TO THE COMPANY.

NOTICE- This policy has been issued upon the reliance of your statements and representations on the application, which are incorporated herein. **Read it carefully** and notify the Company immediately of any misinformation or changes which have occurred or may occur.



A stock insurance company, herein called the "Company", agrees with the named insured as designated in the Declarations made a part hereof, in consideration of the payment of the premium and in reliance upon the statements and representations in the Application and subject to the Declarations and all of the terms of this policy

PART 1- LIABILITY

A- Bodily Injury Liability; B- Property Damage Liability.

To pay on behalf of the insured, but only to the extent of the applicable limits, all sums which the insured shall become legally obligated to pay as damages because of

- A. Bodily Injury, or
- B. Property Damage, arising out of the ownership, maintenance or use of an owned automobile or a non-owned automobile, and the Company shall defend any suit alleging such bodily injury or property damage and seeking damages which are payable under the terms of this policy, even if any of the allegations of the suit are groundless, false or fraudulent; but the Company may make such investigation and settlement of any claim or suit as it deems expedient.

It is understood and agreed that the Company (1) has no obligation to any insured after applicable limits of the policy have been exhausted by payment; (2) is not obligated to pay, and shall not pay, attorney fees for any legal or investigative work unless such attorneys are specifically selected by the company; and (3) is not obligated to pay, and shall not pay, any sum which the insured may be legally obligated to pay as a result of a lawsuit unless the Company received actual notice of said suit before any judgment has been entered in said suit.

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

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

Persons Insured. The following are insured under Part 1:

- (a) with respect to the owned automobile,
 - (1) the named insured,
 - (2) any other person using such automobile to whom the named insured has given **permission, provided the use is within the scope of such permission**;
- (b) with respect to a non owned automobile,

- (1) the named insured or relative provided he or she has received the permission of its **owner, and the use is within the scope of such permission**
- (c) any other person or organization legally responsible for the use of
 - (1) an owned automobile, or
 - (2) a non-owned automobile, if such automobile is not owned or hired by such person or organization, provided the actual use thereof is by a person who is an insured under (a) or (b) above with respect to such owned automobile or non-owned automobile

Definitions. Under Part 1:

"covered automobile" means an owned automobile for which premium charges shown in the Declarations indicate the specific coverage afforded, or an automobile which is subsequently added or replaced herein by endorsement; "named insured" means the individual named in Item 1 of the Declarations and also includes his/her spouse, if a resident of same household;

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

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

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

"relative" means a person related to the named insured or his/her spouse by blood, marriage or adoption and who is a resident of the same household as the named insured or spouse and is either a non-driver or is listed on the Application for the insurance as a driver, provided neither such relative nor **his/her spouse owns a private passenger automobile**;

"resident" means a person whose legal address is the same as the named insured and who lives full time with the named insured;

"automobile" means a four wheel private passenger, station wagon, sports utility, or jeep type vehicle; or, a truck, pick-up truck, window van, or panel van with a load of capacity of fifteen hundred pounds or less not used for business or commercial purposes, and designed and licensed for use on public roads;

"owned automobile" means:

- (a) an automobile owned by the named insured at the inception of and described in this policy, or
- (b) an automobile ownership of which is acquired by the named insured during the policy period provided that:
 - (1) the acquired automobile replaces an automobile described in this policy; and that neither the named insured nor any resident of his/her household retains ownership of the described replaced automobile
 - (2) the Company insured all automobiles owned by the named insured on the date of such acquisition, and

- (3) the named insured notifies the Company in writing, within 30 days after such acquisition of his/her intention to make this policy applicable to such automobile, or

(c) a temporary substitute automobile;

"temporary substitute automobile" means any automobile not owned by the named insured, or any resident of the same household, while temporarily used as a substitute for an owned automobile when withdrawn, from normal use because of its **breakdown, repair, servicing, loss or destruction;**

"occupying" means in or upon or entering into or alighting from an automobile

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

"trailer" means a trailer designed for use with an automobile not being used for business or commercial purposes and not used as a home, office, store, display or passenger trailer;

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

"use" of an automobile includes the loading and unloading thereof;

"war" means war, whether or not declared, civil war, insurrection, rebellion, or revolution, or any act or condition incident to any of the foregoing;

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

Exclusions. This policy does not apply under part 1:

- (a) to bodily injury to, or damage to property owned by, **the named insured or any relative of the named insured where the person against whom suit is brought is also a resident of that same household.** This exclusion shall not apply when a third party acquires the right of contribution against a member of the insured person's family;
- (b) to any automobile while used as a public or livery **conveyance;**
- (c) to any injury or damage expected or intended on the part of an insured or by the direction of the insured;
- (d) to bodily injury or property damage arising out of the operation of farm machinery;
- (e) to bodily injury or sickness, disease or death of any fellow employee of the insured injured in the course of his/her employment if such injury arise out of the use of an automobile in the business of his/her employer, but this exclusion does not apply to the named insured with respect to Injury sustained by any fellow employee;
- (f) to bodily Injury to any employee of the insured arising out of and in the course of his/her employment by the insured, but this exclusion does not apply to any such injury arising out of and in the course of domestic employment by the insured unless benefits are in whole or in part either payable or required to be **provided under any worker's compensation law;**
- (g) to an owned automobile while used in the automobile **business;**
- (h) to a non-owned automobile while used (1) in the automobile business by the insured, or (2) in any **other business or occupation of the insured except an automobile operated or occupied by the named insured or by his private chauffeur or domestic servant, or a trailer used therewith or with any owned automobile;**

- (i) to injury to or destruction of (1) property owned or transported by the insured, or (2) property rented to or in charge of by the insured other than a residence or **private garage, or (3) property as to which the insured is for any purpose exercising physical control;**

- (j) to any automobile, or any other type of motor vehicle, rented or leased by the insured where other valid and collectible insurance has been purchased by or furnished to the insured in connection with such rental or lease;

- (k) to bodily Injury or property damage with respect to which an insured under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy liability insurance Association, Mutual Atomic Energy liability Underwriters or **Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability;**

- (l) to any automobile designed for racing while being **tested, repaired or serviced, or to any automobile** or any other type of motor vehicle while used, operated, manipulated or maintained in any impromptu, spontaneous, prearranged or organized race or speed test, including 'hot rod' or 'stock car racing;

- (m) to bodily injury or property damage due to war, **whether or not declared, civil war riot insurrection, rebellion, or revolution, or to any act or condition** incidental to any of the foregoing;

- (n) to any automobile while being operated or used in the commission of a crime, other than a traffic violation;

- (o) to the payment of punitive or exemplary damages;

- (p) while the automobile is pushing or pulling another motor vehicle or automobile, or is being pushed or pulled by an automobile or any other type of motor **vehicle;**

- (q) to other than compensatory damages for death, bodily injury, and property damage to make an injured party whole within the limitations of this policy, any additional damages, costs expenses, pecuniary **losses, attorney's fees, penalties, fines, treble** damages, or punitive damages which may be **recoverable or awarded at law or in equity as a result of an insured's criminal conviction;**

- (r) to other than compensatory damages for death, bodily injury, and property damage to make an injured party whole within the limitations of this policy, any additional damages, costs, expenses, attorney's fees, **fines penalties, treble damages, punitive damages, or smart money which may be recoverable or awarded** at law or in equity as a consequence of reckless driving, operating a motor vehicle with a blood or breath alcohol content deemed to be **legally intoxicating, or under the influence of an illegal substance, causing or contributing to operating a motor vehicle while intoxicated; or similarly influenced, or reckless endangerment.**

- (s) while using an automobile or vehicle without a reasonable belief that the insured is entitled to do so;

- (t) to the ownership, maintenance or use of any automobile or vehicle that has fewer than four wheels or is designed mainly for use off public roads.

Non-Owner Policy. If this policy is written as a **Non-Owner Policy as shown on the Declaration page, it is agreed that**

such insurance as is afforded for Bodily Injury and Property Damage only applies with respect to the use of any "non-owned automobile" and not any "owned automobile" by the named insured and his/her spouse, if a resident of the same household subject to the following provisions:

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

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

Limits of Liability. The limit of bodily injury liability stated in the Declarations as applicable to 'each person' is the limit of the Company's liability for all damages, including damages for care and loss of services and loss of consortium, arising out of bodily injury sustained by one person as the result of any one accident; the limit of such liability stated in the Declarations as applicable to 'each accident', is, subject to the above provision respecting each person, the total limit of the Company's liability for all such damages arising out of bodily injury sustained by two or more persons as the result of any one accident.

The limit of property damage liability stated in the Declarations

as applicable to 'each accident' is the total limit of the Company's liability for all damages arising out of injury to or destruction of all property of one or more persons or organizations, including the loss of use thereof, as the result of any one accident.

However, the total limits of the Company's liabilities for all damages, under Part I,- Liability, for any Person Insured, other than the named insured or a relative, shall be the limits of liability required by Section 9-25-4-5 of the Indiana Vehicle Code.

The insurance afforded under Part I applies separately to each insured against whom claim is made or suit is brought, but neither the inclusion herein of more than one insured, nor the application of the policy to more than one automobile shall operate to increase the limits of liability stated in the Declarations for the liability coverage's for any one automobile. Definition of Limits of Liability for multiple vehicles insured by and/or multiple policies issued by the Company. The total limit of the Company's liability to or on behalf of an insured arising out of the ownership, maintenance or use of a vehicle described in the Declarations of this policy or in the Declarations of any other policy issued to such insured by the Company shall be the limit as stated with respect to that vehicle on the declarations of the policy on which that vehicle is described. For a covered claim not arising out of the ownership, maintenance or use of a vehicle described in the Declarations of this or of any other policy issued to the insured by the Company, the limit of the Company's liability shall be the highest limit for any one vehicle as stated on the declarations on any one policy issued by this Company providing such coverage.

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

PART II-UNINSURED MOTORIST COVERAGE (COVERAGE J) AND UNINSURED MOTORIST PROPERTY DAMAGE (COVERAGE L)

J/L Uninsured Motorist Coverage. To pay all sums which the insured or his/her legal representative shall be legally entitled to recover as damages from the owner or operator of an uninsured automobile because of property damage to a automobile or bodily injury, including death resulting therefrom, hereinafter called 'bodily injury', sustained by the insured, caused by accident and arising out of the ownership, maintenance for use of such uninsured automobile, provided, for the purposes of this coverage, determination of whether the insured such representative is legally entitled to recover such damages, and if so the amount thereof, shall be made by agreement between the insured or such representative and the Company or, if they fail to agree, by arbitration as herein provided.

Recovery under this Part for property damage is subject to the payment of a specific separate premium for uninsured motorist property damage liability.

No judgment against any person or organization alleged to be legally responsible for the bodily injury or property damage shall be conclusive, as between the insured and the Company, of the issues of liability of such person or organization or of the amount of damages to which the insured is legally entitled unless such judgment is entered pursuant to an action prosecuted by the insured with the written consent of the company.

Definitions. Under Part I, except the definition of 'persons insured' apply to Part II and under Part II:

"persons insured" means:

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

The insurance afforded under Part II applies to each insured, covered but the inclusion herein of the more than one insured shall not operate to increase the limits of the company's liability.

"insured automobile" means;

- (a) an owned automobile, or
- (b) a temporary substitute automobile for an owned automobile,
- (c) a non-owned automobile while being operated by named insured, but such shall not include any:
 - (1) automobile or trailer owned by a resident of same household as the named insured;
 - (2) automobile while used as public or livery conveyance, or

(3) automobile while being used without the **permission of the owner;** "uninsured automobile" includes a trailer of any type and means:

- (a) an automobile or trailer with respect to the ownership, **maintenance or use for which, there is no bodily injury liability bond or insurance policy applicable at the time of the accident with respect to any person or organization** legally responsible for the use of such automobile, or said bond or insurance policy has limits less than required by Section 9-24-4-5 of the **Indiana Vehicle Code;**
- (b) a hit-and-run automobile;
- (c) **an automobile or trailer with respect to which there is** a bodily injury or property damage liability insurance policy or bond applicable at the time of the accident but the company writing the same denies coverage or becomes insolvent subsequent to the date of the accident.

However the term "uninsured automobile" shall not include:

- (a) an insured automobile or an automobile furnished for the regular use of the named insured or a relative of the named insured who causes bodily injury or property damage in excess of the limit required under the Indiana Financial Responsibility Law;
- (b) an automobile or trailer owned or operated by a self-**insurer within the meaning of any motor vehicle financial responsibility law, motor carrier law or any similar or other law;**
- (c) an automobile or trailer owned by the United States of America, Canada, a state, any political subdivision of any such government or any agency of any of the foregoing;
- (d) a land motor vehicle or trailer if operated on rails or **crawler-treads or while located for use as a residence or premises and not as a vehicle;**
- (e) a farm type tractor or equipment designed for use principally off public roads, except while actually upon **public roads;**
- (f) an insured automobile or an automobile furnished **for the regular use of the named insured or a relative of the named insured** insured under Part I of this policy where coverage is excluded for damages sustained in the accident.

"diminution in value" means the actual or perceived loss in market or resale value which results from an accidental loss.

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

"exclusions" This policy does not apply under Part II to:

- (a) bodily injury to an insured or damage to property owned by an insured with respect to which such

insured, his/her legal representative or any person entitled to payment under this coverage shall, without **written consent of the Company, make any settlement** with any person or organization who may be legally liable therefore;

- (b) inure directly or indirectly to the benefit of any worker's compensation or disability benefits carrier or **any person or organization qualifying as a self insurer under any worker's compensation or disability benefits law or any similar law;**
- (c) any claim for punitive or exemplary damages against the driver of an uninsured automobile;
- (d) any claim against the Company unless the Company **has received actual written notice of said claim within 2 years** of the date of the accident;
- (e) bodily injury to an insured while occupying an automobile (other than an insured automobile), motorcycle or any other motor vehicle, owned by the named insured or a relative, or through being struck by such automobile, motorcycle or other motor **vehicle;**
- (f) bodily injury to any person while occupying any automobile not owned by, or furnished or available for the regular use of the named insured or any relative while used as a public or livery conveyance for a fee; but this exclusion does not apply:
 - (1) a share-the-expense car pool; or
 - (2) the named insured or any relative;
- (g) any damages incurred while an insured automobile is in the control of an excluded operator;
- (h) bodily injury, death, or property damages which are expected or intended, from the point of view of the insured, or which are caused intentionally, by or at the **direction of an insured;**
- (i) other than compensatory damages for death, bodily injury, and property damage to make an injured party whole within the limitations of this policy, any additional damages, costs expenses, pecuniary losses, attorney's fees, penalties, fines, treble damages, or punitive damages which may be recoverable or awarded at law or in equity as a result of **an insured's criminal conviction;**
- (j) other than compensatory damages for death, bodily injury, and property damage to make an injured party whole within the limitations of this policy, any additional damages, costs, expenses, attorney's fees, fines, penalties, treble damages, punitive damages, or smart money which may be recoverable or awarded at law or in equity as a consequence of reckless driving, operating a motor vehicle with a blood or breath alcohol content deemed to be legally intoxicating, causing or contributing to operating a motor vehicle while intoxicated, or reckless **endangerment;**
- (k) property damage when the owned automobile has collision coverage or is described in any other policy of **automobile insurance;**
 - (l) to diminution in value to any vehicle;
- (m) the use of an automobile or vehicle without a reasonable belief that the insured is entitled to do so;
- (n) the use of an automobile or vehicle during the commission of a crime other than a traffic-related offense;
- (o) any automobile or vehicle while used as a public livery conveyance, for delivery of any kind for a fee, or for any commercial purpose.

Limits of Liability.

- (a) The Limit of Liability stated in the Declarations as applicable to 'each person' is the limit of the

Company's maximum liability for all damages, **including claims for loss of consortium or services**, because of bodily injury sustained by one person as a result of any one accident. The Limit of Liability stated in the Declarations as applicable to each accident is the total limit of the Company's maximum liability for all damages, including claims for loss of consortium **or services, because of bodily injury** sustained by two or more persons as a result of any one accident.

- (b) Any amount payable under the terms of Part II because of bodily injury sustained in an accident by a person who is an insured under Part II shall be reduced by:
 - (1) all sums paid on account of such bodily injury by or on behalf of (a) the owner or operator of the uninsured automobile and (b) **any other person or organization jointly or** severally liable together with such owner or operator for such bodily injury including all sums paid under coverage A bodily injury of Part I, and
 - (2) the amount paid and the present value of all amounts payable on account of such bodily injury under any worker's compensation law, disability benefits law or any similar law
- (c) Any payment made under Part II to or for any insured shall be applied in reduction of the amount for **damages which the insured may be entitled to recover** from any person under coverage A bodily injury of Part I.
- (d) The Company shall not be obligated to pay under this coverage that part of the damages which the insured may be entitled to recover from the owner or operator of an uninsured automobile which represents medical payments paid or payable under Part IV.
- (e) If more than one policy issued by this Company applies to Part II, the total limit of this Company's liability under all such policies shall not exceed the amount applicable under any one policy for any one automobile.
- (f) It is agreed between the insured and the Company that in no event shall the total limit of the Company's liability exceed the limits set forth in the Declarations regardless of the number of vehicles insured under the policy or the separated itemization of premiums therefore, and that coverage under this section may not be 'stacked' with any other similar or identical coverage that may be issued under this policy, or any other policy, including Underinsured Motorist Coverage, (Part III).
- (g) Any amount payable under Part II shall be reduced by all sums paid to the insured for property damage on behalf of the owner or operator of the uninsured automobile and any other person or organization jointly or severally liable together with such owner or operator. Property damage losses recoverable hereunder shall be limited to the actual cash value of any damages caused by the direct physical contact of an uninsured automobile with the insured automobile subject to the deductible, if any. However, the deductible shall be waived if the insured automobile was parked and unoccupied at the time of loss.
- (h) There shall be no coverage for loss of use of the insured automobile and no coverage for loss or damage to personal property located in the insured automobile.

- (i) There shall be no liability imposed under the Uninsured Motorist Property Damage Coverage if the owner or the operator of the at fault automobile or the hit-and-run automobile cannot be identified.

Definition of Limits of Liability for multiple vehicles insured by and/or multiple policies issued by the Company. The total limit of the Company's liability to or on behalf of an insured arising out of the ownership, maintenance or use of a vehicle described in the Declarations of this policy or in the Declarations of any other policy issued to such insured by the Company shall be the limit as stated with respect to that vehicle on the Declarations of the policy on which that vehicle is described. For a covered claim not arising out of the ownership, maintenance or use of a vehicle described in the Declarations of this or of any other policy issued to the Insured by the Company, the limit of the Company's liability shall be the highest limit for any one vehicle as stated on the Declarations on any one policy issued by this Company providing such coverage.

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

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

Arbitration.

- (a) If we and an "insured" do not agree:
 - (1) whether that "insured" is legally entitled to recover damages; or
 - (2) as to the amount of damages which are recoverable by that "insured";From the owner or operator of an "uninsured motor vehicle" then the matter may be arbitrated. However, disputes concerning coverage under this part may not be arbitrated. Both parties must agree to arbitration. If so agreed, each party will select an arbitrator. The two arbitrators will select a third. If they cannot agree within 30 days, either may request that selection be made by a judge of a court having jurisdiction.
- (b) Each party will:
 - (1) pay the expenses it incurs; and
 - (2) bear the expenses of the third arbitrator equally.
- (c) Unless both parties agree otherwise, arbitration will take place in the county in which the "insured" lives. Local rules of law as to procedure and evidence will apply. A decision agreed to by two of the arbitrators will be binding as to:
 - (1) whether the "insured" is legally entitled to recover damages; and
 - (2) the amount of damages. This applies only if the amount does not exceed the minimum limit for liability specified by the financial responsibility law of Indiana. If the amount exceeds that limit, either party may demand the right to a trial. This demand must be made within 60 days of the

arbitrator's decision. If this demand is not made, the amount of damages agreed to by the arbitrators will be binding.

Trust Agreement. In the event of payment to any person under Part II:

- (a) the Company shall be entitled to the extent of such payment to the proceeds of any settlement or judgment that may result from the exercise of any rights of recovery of such person against any person or organization legally responsible for the damages because of which such payment is made;
- (b) such person shall hold in trust for the benefit of the Company all rights of recovery which he/she shall have against such other person or organization because of the damages which are the subject of the claim made under Part II;
- (c) such person shall do whatever is proper to secure such rights and shall do nothing after loss to prejudice such rights;

PART III – UNDERINSURED MOTORIST COVERAGE

Underinsured Motorist Coverage. To pay all damages which an insured is legally entitled to recover from the owner or operator of an underinsured automobile because of bodily injury sustained by an insured. The owner's or operator's liability for these damages must arise out of the ownership, maintenance or use of the underinsured automobile provided, for the purposes of this coverage, determination as to whether the insured is legally entitled to recover such damages, and if so the amount thereof, shall be made by agreement between the insured and the Company or, if they fail to agree, by arbitration as herein provided.

To pay under this coverage only after the limits of liability under all applicable bodily injury liability bonds or policies have been exhausted by payment of judgments or settlements.

Definitions. The definitions under Part I apply to Part III And under Part III:

"Underinsured automobile" means an automobile or trailer of any type to which a bodily injury liability bond or policy applies at the time of the accident but its limit for bodily injury liability is less than the limit of liability for this coverage. However, "underinsured automobile" does not include any vehicle:

- (1) owned by or furnished or available for the regular use of the insured or any family member or person residing in the insured's household;
- (2) owned by any governmental unit or agency;
- (3) operated on rails or crawler treads;
- (4) which is a farm type tractor or equipment designed mainly for use off public roads while not upon public roads;
- (5) while located for use as a residence or premises;
- (6) owned or operated by a person qualifying as a self-insurer under any applicable motor vehicle law;
- (7) to which a bodily injury liability bond or policy applies at the **time of the accident, and the bonding or insuring company denies coverage or is or becomes insolvent;**
- (8) which is defined as an 'uninsured automobile' under Part II.

Exclusions. This policy does not apply under Part III:

- (a) **to any person while occupying an owned automobile** when it is being used to carry persons or property for a **fee**;
- (b) to any person using any automobile without a reasonable belief that the person is entitled to do so;
- (c) as to inure directly or indirectly to the benefit of any worker's compensation or disability benefits carrier or any person or organization qualifying as a self-insurer under any worker's compensation or disability benefits law or any similar law;

- (d) if requested in writing by the Company or its representative, such person shall take, through any representative designated by the Company, such actions as may be necessary or appropriate to recover such payment as damages from such other person or organization, such action to be taken in the name of such person; in the event of a recovery, the Company shall be reimbursed out of such recovery for expenses, costs and attorneys' fees incurred by it in connection therewith;
- (e) such person shall execute and deliver to the Company such instruments and papers as may be appropriate to secure the rights and obligations of such person and the Company established by these provisions.

- (d) to punitive or exemplary damages;
- (e) if Uninsured Motorist Coverage- Part II applies to the accident;
- (f) if the insured, his/her legal representative or any person entitled to coverage under this provision fail to sue the Company within two years from the date all bodily injury liability insurance policies applicable to all underinsured automobiles and their operators have been exhausted by payment of judgment or settlement;
- (g) any accident while a covered automobile is in the control of an excluded operator;
- (h) to the use of an automobile or vehicle during the commission of a crime other than a traffic-related offense;
- (i) any automobile or vehicle while used as a public livery conveyance, for delivery of any kind for a fee, or for any commercial purpose;
- (j) to expected or intended injury or damages.

Limit of Liability. The limit of Liability as stated in the Declarations for 'each person' for underinsured Motorists Coverage is the Company's maximum limit of liability for all damages for bodily injury sustained by any one person in any one accident. Subject to this limit for 'each person', the limit of liability shown in the Declarations for 'each accident for Underinsured Motorists Coverage is the Company's maximum limit of liability for all damages for bodily injury resulting from any one accident.

The limit of liability shall be reduced by all sums paid because **of bodily injury coverage by or on behalf of persons** or organizations who may be legally responsible. Any amounts otherwise payable for damages under this coverage shall be reduced by all sums paid or payable for bodily injury coverage available under any worker's compensation law, disability benefits law or any similar law.

Any payment under Part III to or for any insured shall be reduced by the amount of damages which the insured may be entitled to recover from any person insured under coverage A of Part I - bodily injury. The Company shall not be obligated to pay under this coverage that part of the damages which the insured may be entitled to recover from the owner or operator of an underinsured motor vehicle which represents expenses for medical services paid or payable under Part IV - medical payments.

If more than one policy issued by this Company applies to Part III, the total limit of this Company's liability under all such policies shall not exceed the amount applicable under only one policy, and in no event shall the total limit of the Company's

liability exceed the limits set forth in the Declarations, **regardless of the number of insureds or covered automobiles** or the separate itemization of premiums therefore and that coverage under this section shall not be "stacked" with any other similar or identical coverage that may be issued under this policy, or any other policy including Uninsured Motorist Coverage (Part II).

Definition of Limits of Liability for multiple vehicles insured by and/or multiple policies Issued by the Company. The total limit of the Company's liability to or on **behalf of an insured arising out of the ownership, maintenance** or use of a vehicle described in the Declarations of this policy or in the Declarations of any other policy issued to such insured by the Company shall be the limit as stated with respect to that vehicle on the Declarations of the policy on which that vehicle is described. For a covered claim not arising out of the ownership, maintenance or use of a vehicle described in the Declarations of this or of any other policy issued to the insured by the Company, the limit of the Company's liability shall be the highest limit for any one vehicle as stated on the Declarations on any one policy issued by this Company providing such coverage.

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

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

the applicable limits of liability of this insurance and such other **insurance.**

Arbitration.

- (a) If we and an insured do not agree:
 - (1) whether that "insured" is legally entitled to recover damages; or
 - (2) as to the amount of damages which are recoverable by that "insured", from the owner or operator of an "underinsured motor vehicle", then the matter may be arbitrated.

Both parties must agree to arbitration. If so agreed, each party will select an arbitrator. The two arbitrators will select a third. If they cannot agree within 30 days, either may request that selection be made by a judge of a court having jurisdiction.

- (b) Each party will:
 - (1) pay the expenses it incurs; and
 - (2) bear the expenses of the third arbitrator equally.
- (c) Unless both parties agree otherwise, arbitration will take place in the county in which the "insured" lives. Local rules of law as to procedure and evidence will apply. A decision agreed to by two of the arbitrators will be binding as to:
 - (1) whether the "insured" is legally entitled to recover damages; and
 - (2) The amount of damages. This applies only if the amount does not exceed the minimum limit for liability specified by the financial responsibility law of Indiana. If the amount exceeds that limit, either party may demand the right to a trial. This demand must be made within 60 days of the arbitrators' decision. If this demand is not made, the amount of damages agreed to by the arbitrators will be binding.

PART IV – MEDICAL PAYMENTS

Medical Payments. To pay all reasonable expenses incurred within one year from the date of accident for necessary medical, surgical, X-ray and dental services, including prosthetic devices, and necessary ambulance, hospital, professional nursing and funeral services.

Division 1. To or for the named insured and each relative who sustains bodily injury, sickness or disease, including death resulting therefrom, hereinafter called 'bodily injury', caused by accident, while occupying or through being struck by an automobile;

Division 2. To or for any other person who sustains bodily injury, caused by accident, while occupying:

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

Definitions The definitions under Part I apply to Part IV.

Exclusions. This policy does not apply under Part IV to bodily injury, sickness, disease or death:

- (a) sustained while occupying (1) a covered automobile **while used as a public or livery conveyance**, or (2) any other vehicle while located for use as a residence **or premises**

- (b) sustained by the named Insured or a relative (1) while occupying an automobile owned by or furnished for the regular use of either the named insured or any relative, other than an automobile defined herein as a '**covered automobile**', or (2) **while occupying** or as a result of being struck by (i) a farm type tractor or other equipment designed for use principally off public roads, while not upon public roads, or (ii) a vehicle operated on rails or crawler-treads;
- (c) sustained by any person other than the named insured or a relative, resulting from use of (1) a non-owned automobile while used in the automobile business or as a public or livery conveyance, or (2) a **non-owned automobile in any other business or occupation except operation or occupancy of such automobile by the named insured or by his/her private** chauffeur or domestic servant;
- (d) sustained by any person who is employed in the automobile business, if the accident arises out of the operation thereof and if benefits therefore are in whole or in part either payable or required to be provided under any workers compensation law;
- (e) to injury, sickness, disease, death or loss due to war;
- (f) to the extent any medical expense is paid or payable to or on behalf of the injured person under the provisions of any other (i) insurance affording benefits for medical expenses, (ii) individual, blanket group accident, disability or hospitalization insurance, (iii) medical or surgical reimbursement

plan, or (iv) worker's compensation or disability benefits law **or any similar law;**

- (g) resulting from the hazardous properties of nuclear material and arising out of the operation of a nuclear facility by any person or organization;
- (h) to any automobile or any other type of motor vehicle designed for racing while being tested, repaired or serviced, or while used, operated, manipulated or **maintained in any impromptu, spontaneous,** prearranged or organized race or speed test, including 'hot rod' or stock car racing;
- (i) while a covered automobile is in the control of an excluded operator;
- (j) arising out of the use of an automobile or vehicle without a reasonable belief that the insured is entitled to do so;
- (k) arising out of the ownership, maintenance or use of any automobile or vehicle that has fewer than four wheels or is designed mainly for use off public roads;
- (l) arising out of injury expected or intended from the standpoint of the insured;
- (m) arising out of the use of an automobile or vehicle during the commission of a crime other than a traffic-related offense.

Limit of Liability. The limit of liability for medical payments stated in the Declarations as applicable to 'each person' is the limit of the Company's liability for all expenses incurred by or on behalf of each person who sustains bodily injury as the **result of any one accident. If more than one policy issued**

PART V – PHYSICAL DAMAGE

Comprehensive (excluding Collision). At the Company's option to have repaired or to pay for loss caused by other than collision to a covered automobile or to a non-owned **automobile but only for the amount of each such loss in excess** of the deductible amount stated in the Declarations as applicable hereto. For the purpose of this coverage, breakage of glass and loss caused by missiles, falling objects, fire, theft, or larceny, explosion, earthquake, windstorm, hail, war, flood, malicious mischief or vandalism, riot or civil commotion shall not be deemed to be loss caused by collision.

Supplementary payments. In addition to the applicable limit of liability, to:

- (a) reimburse the insured for transportation expenses not exceeding \$5 per day or totaling more than \$150 incurred during the period commencing 72 hours after a theft covered by this policy of the entire automobile has been reported to the Company and the police, and terminating on the date the whereabouts of the **automobile becomes known to the named insured** or Company or on such earlier date as the Company tenders settlement for such theft;
- (b) pay average general and salvage charges for which the insured becomes legally liable as to the automobile being transported.

Collision. At the Company's option to have repaired or to pay for loss caused by collision to a covered automobile or to a non-owned automobile but only for the amount of each such loss in excess of the deductible amount stated in the Declarations as applicable hereto.

Coverage I Towing - the Company will pay for reasonable towing and labor charges, necessitated by the disablement of an owned automobile not to exceed the coverage limit for towing stated in the Declarations, provided, that towing is to the nearest point at which the disablement can be remedied and the labor is performed at the place of disablement.

Rental Reimbursement - Collision coverage. It is agreed commencing 48 hours after direct or accidental loss or damage

by the Company applies to this part, the total limit of this Company's liability under all such policies shall not exceed the amount applicable under only one policy.

Definition of Limits of Liability for multiple vehicles insured by and/or multiple policies issued by the Company. The total limit of the Company's liability to or on behalf of an insured arising out of the ownership, maintenance or use of a vehicle described in the Declarations of this policy or in the Declarations of any other policy issued to such insured by the Company shall be the limit as stated with respect to that vehicle on the Declarations of the policy on which that vehicle is described. For a covered claim not arising out of the ownership, maintenance or use of a vehicle described in the Declarations of this or of any other policy issued to the insured by the Company, the limit of the Company's liability shall be the highest limit for any one vehicle as stated on the Declarations on any one policy issued by this Company providing such coverage.

Other Insurance. If there is other automobile medical payments insurance against a loss covered by Part IV of this policy the Company shall not be liable under this policy for a greater proportion of such loss than the applicable limit of liability of all valid and collectible automobile medical **payments insurance; provided, however, the insurance with respect to a temporary substitute automobile or non owned automobile** shall be excess insurance over any other valid and collectible automobile payments insurance.

to the insured automobile (hereinafter called loss), caused by collision of the automobile which is timely reported to the Company and covered by the Company, the expense incurred with a maximum daily reimbursement benefit as specified on the Declarations for a maximum period of fifteen (15) days (excluding mileage charge) for the rental of a substitute automobile while the insured automobile is in the custody of a licensed business, garage or facility for repairs.

Exclusions. Rental reimbursement does not apply:

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

1. Reimbursement: is limited to expenses incurred during a period commencing at 12:01 AM on the day following the date the named insured delivers the owned automobile to the garage for repairs.
2. Coverage Terminates: on the date of reasonably satisfactory completion or repairs or the date the Company and the named insured agree the automobile is a total loss but in no event later than 12:01AM of the fifteenth day including the first date of reimbursement.

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

Definitions. The definitions of 'named insured', 'relative', 'owned automobile', 'non-owned automobile', 'covered

automobile, 'automobile business', 'war', 'trailer In Part I apply to Part V and under Part V;

"Insured" means (a) with respect to a covered automobile (1) the named insured and (2) any person or organization, other than a person or organization engaged in the automobile **business or as a carrier of as the bailee for hire, maintaining**, using or having custody of said automobile with the permission of the named insured; (b) with respect to a non-owned automobile, the named insured and any relative provided the actual use thereof is with the permission of the owner;

"loss" means direct and accidental loss of or damage to (a) the automobile including its equipment, or (b) other insured property;

"**collision**" means **collision of an automobile with another object**, with a vehicle to which it is attached, or by upset of such **automobile**;

"forcible entry" means entry by actual force and violence **evidenced by visible marks on the exterior of the automobile** or the premises on which the automobile is garaged at the point of entry;

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

"diminution in value" means the actual or perceived loss in market or resale value which results from an accidental loss. Exclusions. This policy does not apply under this Part:

- (a) to any automobile or vehicle while used as a public livery conveyance, for delivery of any kind for a fee, or for any commercial purpose;
- (b) to loss of equipment which is not available from the manufacturer of the automobile for that make, model, and model year;
- (c) to loss of equipment which is available from the manufacturer of the automobile for that make, model, and model year, but which is not permanently installed in the dash or console opening specified by the manufacturer of the automobile for the installation of such equipment;
- (d) to loss to a non-owned automobile arising out of its **use by the insured in the automobile business**;
- (e) to loss to an automobile owned by the named insured and not described in this policy or to any temporary substitute automobile therefore, or to a non-owned automobile if the insured has other valid and collectible insurance against such loss;
- (f) to damage which is due and confined to wear and tear, freezing, mechanical or electrical breakdown or failure, unless such damage results from a theft covered by this policy;
- (g) to tires, unless damaged by fire, malicious mischief, vandalism, stolen or unless loss is coincident with and **from same cause as other loss covered by this policy**;
- (h) to loss due to radioactive contamination;
- (i) under coverage E - collision of this Part to breakage of glass if insurance with respect to such breakage is otherwise afforded;
- (j) to loss to any automobile designed for racing while **being tested; repaired or serviced or being used,**

operated, manipulated or maintained in any impromptu, spontaneous, prearranged or organized race or speed test, including 'hot rod' or 'stock car' racing;

- (k) to loss of or damage to any device or instrument designed for the recording, reproduction, receiving, **or transmittal of sound, radio waves, microwaves** or television signals unless such device or instrument is permanently installed in the dash or console opening specified by the manufacturer of the automobile for the installation of such equipment;
- (l) to loss of or damage to any tape, wire, record disc or any other medium for use with any device or instrument designed for the recording, reproduction, or recording and reproduction of sound;
- (m) to loss with respect to an automobile, ownership of which is acquired by the named insured during the policy period when the named insured has not notified the Company in writing within 30 days of such **acquisition of his election to make Part V of this policy** applicable to such automobile;
- (n) to loss to any custom furnishings or equipment in or **upon any pick-up, panel truck, or van such as, but not limited to, special carpeting, insulation, furniture, bars**, television receivers, facilities for cooking or sleeping, height-extending roofs, custom murals, paintings or other decals or graphics;
- (o) to damage caused intentionally by or at the direction of the insured;
- (p) to any loss arising out of or during use for the transportation of hazardous substance, flammable liquid, or similarly hazardous material;
- (q) loss due to war, declared or undeclared;
- (r) while an automobile is in control of an excluded driver;
- (s) to diminution in value to any vehicle;
- (t) to theft where there are no signs or evidence of forcible entry;
- (u) to the use of an automobile or vehicle during the commission of a crime other than a traffic-related offense;
- (v) to the ownership, maintenance or use of any automobile or vehicle that has fewer than four wheels or is designed mainly for use off public roads;
- (w) to the use of an automobile or vehicle without a reasonable belief the insured is entitled to do so.

Limits of Liability. The Company's liability for all losses under this Part shall not exceed the lesser of the following:

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

Other Insurance. This insurance with respect to a temporary substitute automobile or non-owned automobile shall be excess insurance over any other valid and collectible insurance.

PART VI – CONDITIONS (Unless otherwise noted, conditions apply to all Parts)

1. Policy Period, Territory. This policy applies only to accidents, occurrences and losses during the policy period, as stated in the Declarations, while the automobile is within the United States of America, its territories or possessions, or to Canada or is being transported between ports thereof. This

policy may be renewed for successive policy periods by payment of the required premium to the Company on or before the effective date of each successive policy period. If such **premium is not paid when due, the policy shall terminate as of that date** and such date shall be the end of

the policy period. Such premium shall be computed in accordance with the manuals **then in use by the Company**. **Each policy period shall begin and end at 12:01 AM standard time at the address of the named insured.**

2. Premium. If the named insured disposed of or replaces an automobile, he/she shall inform the Company in writing within 30 days of such change. If the named insured acquired ownership of an additional automobile or replacement automobile, he/she shall inform the Company in writing within 30 days following the date of its delivery of his/her election to make this policy and no other applicable to such automobile. Any premium adjustment necessary shall be made as of the date of such change or acquisition in accordance with the manuals in use by the company.

The named insured shall, upon request, furnish reasonable proof of the number of such automobiles or trailers owned by the named insured and a description thereof.

If, at any time, the Company becomes aware of any operator residing in the insured's household, and is not an excluded driver or operator, and is not named on the declaration page as a named insured or operator, and the inclusion of such person as an insured or operator under the policy would require a higher rate class, the policy will be endorsed to the correct rate class effective:

- (1) The inception date of the policy if such person was a resident driver as of the inception date of the policy, or
- (2) The date such person became a resident driver if such person became a resident driver during the policy period, and the named insured will be liable for the difference between total premium he/she has been charged for the coverage and the total amount of premium he/she would have been charged for coverage had such person been disclosed to the company as an insured or operator when such person became resident driver. There will also be a surcharge equal to two-hundred percent (200%) of the premium that would have been charged for the coverage had such person been disclosed to the company as an insured or operator when such person **became a resident driver less the total amount of premium** originally charged.

For purposes of the foregoing, "resident driver" means any **person, licensed or otherwise, who resides in the insured's household** and who at any time during the policy period uses or operates an insured vehicle.

3. **Notice. In the event of an accident, occurrence or loss,** written notice containing particulars sufficient to identify the **insured and also reasonably obtainable information with respect to the time, place and circumstances thereof,** (and the names and addresses of any injured persons) of available witnesses, shall be given to the Company by or on behalf of the insured as soon as practicable. In the event of theft, the insured shall also promptly notify the police.

If claim is made or suit is brought against an insured, he/she shall immediately forward to the company every demand, notice, summons or other process received by him/her, his/her representative or agent. The company will not be obligated to pay and shall not pay under Part I, unless the **Company received actual notice of a lawsuit before a judgment had been entered** in said suit. A suit seeking recovery against the Company under Parts II and III must be filed within two (2) years of the accident.

If, before the Company makes a payment of loss under part II, the insured or his/her legal representative shall institute any legal action for bodily injury against any person or organization legally responsible for the use of an automobile involved in the accident, a copy of the summons and

complaint or other process served in connection with such legal action shall be forwarded immediately to the Company by the insured or his/her legal representative. All notices which may be required by this policy shall be in writing and shall be served personally or by certified mail, return receipt requested. For the purpose of all time limitations, notice shall be deemed to have given on the date when so placed in the United States mail, postage prepaid.

Notice shall be given as follows:

To The Company
Viva Seguros Insurance Company
7400 N. Caldwell Ave.
Niles, IL 60714

To The Insured(s):

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

4. **Fraud and Misrepresentation.** All statements contained in the application are deemed to be representations relied upon by the Company. In the event any such representation contained in the application is false, misleading or materially affects the acceptance or rating of this risk by the Company, by either direct misrepresentation, omission, concealment of facts or incorrect statements, this policy shall be null and void and of no benefit whatsoever from its inception. In the event any representation contained in any notification of change is false, misleading or materially affects the acceptance or rating of this risk by the Company, by either direct misrepresentation, omission, concealment of facts or incorrect statements, this policy shall be null and void and of no benefit whatsoever from the effective date of change. This paragraph shall also apply to misstatement of use and omissions of fact. This policy shall not provide coverage for any insured who has made fraudulent statements or engaged in fraudulent conduct in connection with a claim or loss for which coverage is sought under this policy.
5. **Two or More Automobiles - Parts I, IV and V.** When two or more automobiles are insured hereunder, the terms of this policy shall apply separately to each, but an automobile and a trailer attached thereto shall be held to be one automobile as respects limits of liability under Parts I and IV of this policy, and separate automobiles under Part V of this policy, including any deductible provisions applicable thereto.
6. **Assistance and Cooperation of the Insured.** The insured shall cooperate with the Company and, upon the Company's request, attend hearings and trials and assist in making settlements, securing and giving evidence, obtaining the attendance of witnesses and in the conduct of any legal proceedings in connection with the subject matter of this insurance. The insured shall not, except at his/her own cost voluntarily make any payment, assume any obligation or incur any expense other than for such immediate medical and surgical relief to others as shall be imperative at the time of accident. After the notice of claim under any part of this policy, the Company may require the insured to take such actions as may be necessary or appropriate to preserve his/her right to recover damages from any person or organization alleged to be legally responsible for the bodily injury. In any action against the Company, the Company may require the insured to join such person or organization as a party defendant.
7. **Action Against Company - Part I.** No action shall lie against the Company unless, as a condition precedent thereto, the insured shall have fully complied with all terms of this policy, nor until the amount of the insured's obligation to pay shall have been finally determined either by judgment against the

insured after actual trial or by written agreement of the insured, the claimant and the Company.

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

Bankruptcy or insolvency of the insured or the insured's estate shall not relieve the Company of any of its obligations hereunder.

Parts II, III, IV, and V. No action shall lie against the company unless, as a condition precedent thereto, there shall have been full compliance with all the terms of this policy and also under Part V until 30 days after proof of loss is filed and the amount of loss is determined as provided in this policy.

8. Insured Duties in Event of Loss - Parts II and V. In the event of loss the insured or someone on his/her behalf shall:

- (a) protect the automobile, whether or not the loss is covered by this policy, and any further loss due to the insured's failure to protect shall not be recoverable under this policy. Reasonable expenses incurred in affording such protection shall be deemed incurred at the Company's request;
- (b) file with the Company, within 91 days after loss, his/her sworn proof of loss in such form and including such information as the Company may reasonably require and shall, upon the Company's request, exhibit the damaged property and submit to examination under oath;
- (c) report the loss within twenty-four (24) hours of its occurrence or reasonable knowledge thereof, to police, peace or judicial officers, or the Commission of Motor Vehicles;
- (d) report the loss, in the event of a hit-and-run or theft and the discovery thereof, within 24 hours of such to police, peace, or judicial officers, or the Commission of Motor Vehicles.

9. Medical report; Proof and Payment of Claim - Parts II, III and IV. As soon as practicable the injured person or someone on his/her behalf making claim shall give to the Company written proof of claim, under oath if required, including full particulars of the nature and extent of the injuries, treatment, and other details entering into the determination of the amount payable under the policy.

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

If required, the insured and every other person making claim shall submit to examinations under oath by any person named by the Company and subscribe the same, as often as may reasonably be required. Proof of claim shall be made upon forms furnished by the Company unless the Company shall have failed to furnish such forms within 15 days after receiving notice of claim.

The injured person(s) shall submit to physical examinations by physicians selected by the Company when and as often as the Company may reasonably require. He/she, or in the event of his/her incapacity his/her legal representative, or in the event of his/her death, his/her legal representative or the person or person entitled to sue therefore, shall upon each request from the Company execute authorization(s) to enable the Company to obtain medical reports and copies of any and all records.

10. Appraisal- Part V. If the Insured and the Company fail to agree as to the amount of loss, either may, within 60 days after proof of loss is filed, demand an appraisal of the loss. In such event the insured and the Company shall each select a competent appraiser, and the appraisers shall select a competent and disinterested umpire. The appraisers shall state separately the actual cash value and the amount of loss and failing to agree shall submit their differences to the umpire. An award in writing of any two shall determine the amount of loss. The insured and the Company shall each pay his/her chosen appraiser and shall bear equally the other expenses of the appraisal and umpire.

The Company shall not be held to have waived any of its rights by any act relating to appraisal.

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

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

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

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

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

14. Changes. Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this policy or stop the Company from asserting any right under the terms of this policy; nor shall the terms of this policy be waived or changed, except by endorsement issued by the Company to for a part of this policy.

15. Assignment. Assignment of interest under this policy shall not bind the Company until its consent is endorsed hereon; if, however, the named insured or his/her spouse, if a resident of the same household, shall die, this policy shall cover (1) the survivor as named insured, (2) his/her legal representative as named insured but only while acting within the scope of his/her duties as such, (3) any person having proper temporary custody of a covered automobile, as an insured, until the appointment and qualification of such

legal representative, and (4) under Division 1 of Part IV any person who was a relative at the time of such death.

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

This policy may be canceled by the Company by mailing to the named insured at the last mailing address known by the Company written notice stating when not less than twenty (20) days thereafter such cancellation shall be effective, however, if the cancellation is for non-payment of premium, ten (10) days notice shall be given.

The Company shall not exercise its right to cancel such policy after it has been in effect for sixty (60) days or any policy which has been renewed except for one or more of the following reasons:

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

The Company shall not fail to renew any policy of insurance unless it shall mail notice of same to the named insured at least twenty (20) days prior to the date of expiration. This provision shall not apply if the Company has manifested its willingness to renew directly to the named insured or in the case of non-payment.

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

In the event of the cancellation of this policy earned premiums shall be computed pro-rata to the date of cancellation. Any refund of the premium shall be without prejudice to any claim arising prior to the cancellation, and such refund shall be made to the named insured or his/her representative by the Company within 30 days from (1) the date of the notice of cancellation if by the Company, or (2) the date the Company received the request for cancellation from the named insured or his/her representative, but payment or tender of unearned premium is not a condition of cancellation.

17. Declarations. By acceptance of this policy, the named insured agrees that the statements and representations contained in the Application, a copy of which is incorporated herein and forms a part of this policy, have been made by him/her or on his/her behalf. Said statements and representations in the Declarations and in any subsequent Application accepted by the Company are offered as an inducement to the Company to issue or continue this policy. This policy is issued and continued in reliance upon the truth

of such statements and representations and embodies all agreements existing between himself/herself and the Company or any of its agents relating to this insurance.

LOSS PAYEE. Loss under this policy shall be payable as their interest may appear to the person or organization named in the Declarations as loss payee, provided this insurance as to such interest for any bailment lessor, conditional vendor, mortgagee or assignee of bailment lessor, conditional vendor or mortgagee (herein called the lienholder) has not been invalidated by any act or neglect of the insured owner of the covered automobile nor by any change in the title of ownership of the same. Further, that in the event of conversion, embezzlement, or secretion by the insured owner of the covered automobile, interest under the said bailment lease, conditional sale, mortgage or other encumbrance is not covered under this policy unless specifically insured against and premium paid therefore, and provided, also, that in case the named insured has neglected to pay any premium due under this policy, the lienholder has paid the same.

The lienholder shall notify the Company of any change of ownership or increase of hazard which shall come to the knowledge of said lienholder and, if accepted by the Company, it shall be endorsed herein and the lienholder shall, on demand, pay the premium for any such increased hazard for the term of the use thereof; otherwise this policy shall be null and void.

The company reserves the right to cancel this policy at any time as provided by its terms. In such case the company shall notify the lienholder when not less than ten (10) days thereafter such cancellation shall be effective as to the interest of said lienholder therein and the company shall have the right, on like notice, to cancel this agreement.

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

The interest of the loss payee is protected by these provisions subject to all terms, conditions, and exclusions contained in this policy, which policy is available to the loss payee upon request.

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



David S. Mirza
President

IN COMPLIANCE WITH THE REQUIREMENTS OF THE FAIR CREDIT REPORTING ACT (PUBLIC LAW 91-508), WE ADVISE THAT AS PART OF OUR ROUTINE PROCEDURE IN REVIEWING APPLICATIONS FOR INSURANCE OR RENEWALS OF INSURANCE POLICIES, THIS INSURANCE COMPANY MAY PROCURE AN INVESTIGATION CONSUMER REPORT INCLUDING INFORMATION AS TO THE CONSUMER'S CHARACTER, GENERAL REPUTATION, PERSONAL CHARACTERISTICS OR MODE OF LIVING, IF SUCH INSURANCE IS FOR AN INDIVIDUAL AND IS PRIMARILY FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES SUCH INFORMATION MAY, WITHOUT LIMITATION BE OBTAINED THROUGH PERSONAL INTERVIEWS WITH NEIGHBORS, FRIENDS OR OTHERS WITH WHOM THE CONSUMER IS ACQUAINTED.

UPON WRITTEN REQUEST TO THIS INSURANCE COMPANY, MADE WITHIN A REASONABLE PERIOD OF TIME AFTER RECEIPT OF THIS NOTICE, THIS COMPANY WILL PROVIDE IN WRITING A COMPLETE AND ACCURATE DISCLOSURE OF THE NATURE AND SCOPE OF THE INVESTIGATION REQUESTED, IF ONE WAS REQUESTED, OR ADVISE THAT NONE WAS REQUESTED.

COVERAGE UNDER THIS POLICY IS CONDITIONAL ON THE PAYMENT OF THE PREMIUM CHARGED. THEREFORE, A CHECK GIVEN IN PAYMENT OF ANY PREMIUM REQUIRED FOR EFFECTIVE PAYMENT OF THIS POLICY WHICH IS NOT HONORED BY THE PAYOR'S BANK UPON PRESENTATION FOR PAYMENT SHALL BE CONSTRUED UNDER THE PROVISIONS OF THIS POLICY AS NON-PAYMENT OF PREMIUM AND NO COVERAGE IS AFFORDED FOR ANY TIME PERIOD OR TERM OF THIS POLICY FOR WHICH SUCH CHECK WAS WRITTEN.

NOTICE TO POLICYHOLDERS INFORMATION CONCERNING QUESTIONS, PROBLEMS AND CLAIMS

We are here to serve you...

As our policyholder, your satisfaction is very important to us. If you have a question about your policy, if you need assistance with a problem, or if you have a claim, you should first contact your insurance agent, or us by telephone at: (877) 807-8482. Should you have a valid claim, we fully expect to provide a fair settlement in a timely fashion.

Should you feel you are not being treated fairly with respect to a claim, you may contact the Indiana Department of Insurance with your complaint.

To contact the Department, write or call:

Consumer Services Division
Indiana Department of Insurance
311 West Washington Street
Suite 300
Indianapolis, IN 46204-2787
317-232-2395 OR 1-S00-622-4461

OPTIONAL PROVISIONS

LEGAL EXPENSE REIMBURSEMENT

This coverage is addition to other coverage under this policy and applies only if a premium for this coverage is shown on the declarations

Coverage for Legal Expense Reimbursement. The Company will reimburse the **named insured**, up to \$500.00, for attorney's fees and expenses incurred by the **named insured** for services rendered by an attorney to defend the **named insured** against citations(s) alleging a moving violation of the Illinois Vehicle Code (625 ILCS 5/*et seq.*), or any such similar code of a municipality within the State of Illinois, while driving the **owned automobile**. The maximum benefit payable under this coverage is \$500.00 during the policy period stated in the declarations.

Definitions. Except as defined herein, the definitions under Part I of the policy apply to this coverage. The following additional definitions apply to this coverage:

"moving violation" means any traffic violation committed while an automobile is in motion;

"punitive or exemplary damages" means sums awarded by a court of competent jurisdiction against the **named insured** as a punishment or deterrent.

Exclusions. This coverage does not apply to:

1. any citation alleging violation of the Criminal Code of 1961 (720 ILCS 5/*et seq.*), Cannabis Control Act (720 ILCS 550/*et seq.*), Illinois Controlled Substances Act (720 ILCS 570/*et seq.*), Liquor Control Act of 1934 (234 ILCS 5/*et seq.*), or Illinois Identification Card Act (15 ILCS 335/*et seq.*);
2. any citation alleging a violation other than a moving violation;
3. any citation issued outside the State of Illinois;
4. any citation issued to anyone other than the **named insured**;
5. any citation issued to the **named insured** while not driving his or her **owned automobile**;
6. expenses or fees incurred with an attorney unlicensed to practice law in Illinois;
7. any fine, penalty or assessment payable on a citation;
8. any punitive or exemplary damages payable on a citation or otherwise; or
9. the **named insured's** out-of-pocket expenses regardless of whether incurred by the **named insured** or his or her attorney, including but not limited to, court costs, towing charges, impound fees, travel expenses or any other incidental expenses related to the citation.

Proof of Loss. Written proof of loss must be given to the Company within ninety (90) days of the date of the citation(s). Proof of loss must include a copy of the citation(s) and a copy of any bills or invoices incurred by the **named insured** for services rendered by his or her attorney to defend the **named insured** against citation(s) alleging a moving violation while driving an **owned automobile**. Failure to furnish such proof of loss within the time required shall invalidate the coverage provided by this coverage. However, failure to provide copies of bills or invoices for attorney's fees or expenses incurred after proof of loss has been provided hereunder shall not invalidate or reduce this, provided such bills or invoices are furnished as soon as reasonably possible and in no event later than one (1) year from the time proof of loss is initially required to be furnished hereunder. All bills or invoices for attorney's fees and expenses submitted hereunder shall provide an itemization of the attorney's fees and expenses by citation. Following receipt of proof of loss, the Company shall have the right to request additional documentation to support the claim for coverage hereunder.

Action Against Company. Notwithstanding anything to the contrary stated in the policy to which this coverage is attached, no action at law or in equity shall be brought to recover under this coverage prior to the expiration of sixty (60) days after written proof of loss has been received by the Company. No such action shall be brought after the expiration of one (1) year after the time proof of loss is initially required to be furnished hereunder, except that the time for bringing such action shall be tolled from the date proof of loss is filed with the Company, in the form required above, until the claim is denied in whole or in part.

Selection of Attorney. Notwithstanding the Company's right to select counsel and control the defense of suits against an **insured**

as described in Part I of this policy, the Company is not obligated to select and will not select an attorney for the **named insured** and shall not control the attorney the **named insured** selects for purposes of the coverage described herein. The **named insured** has the right to choose his or her own attorney under the coverage provided herein and the **named insured** shall be solely responsible to choose and retain his or her own attorney. The choice of attorney and the attorney's fees and expenses charged by that attorney shall not expand or enlarge the Company's obligation under this coverage and the **named insured** shall be solely responsible to his or her own attorney for attorney's fees and expenses in excess of the Company's limit of liability under this coverage.

ACCIDENTAL DEATH COVERAGE

This coverage is addition to other coverage under this policy and applies only if a premium for this coverage is shown on the declarations

Accidental Death. This coverage provides indemnity for loss of life resulting from **bodily injury** caused solely by an accident, to the extent herein limited and provided, and in consideration of your payment of the premium, in reliance upon your statements in any application forms relevant hereto (all of which are incorporated herein), and subject to all limits, exclusions, conditions, and other terms of this coverage, the Company does hereby agree to insure the **named insured** against death occurring within ninety (90) days of **Injury** and resulting from **Injury** sustained by the named insured during the policy period applicable hereto, in the amount of \$5,000.00 for the policy period applicable hereto, to the extent herein limited and provided. The maximum benefit payable under this coverage is \$5,000.00 during the policy period stated in the Declarations of the policy to which this coverage is attached or the policy period applicable hereto if this coverage is added after the inception date of said policy regardless of the number of owned automobiles or the number of persons insured hereunder.

"**Injury**" wherever used in this coverage means accidental bodily injuries sustained by the **named insured** which are the direct cause of loss, independent of disease, sustained as a result of operating, driving, or riding in the **named insured's** owned automobile, or as a result of the burning or exploding of the **named insured's** owned automobile while this coverage is in force.

This coverage shall be effective during the policy period set forth in the Declarations of the policy to which this coverage is attached or if this coverage is added after the inception date of said policy, coverage shall be effective as of the effective date of the amended Declarations adding this coverage. All periods of insurance begin and end at 12:01 a.m. Standard Time, at the place of residence of the named insured.

Definitions. The definitions under Part I of the policy apply to this coverage.

EXCLUSIONS AND LIMITATIONS

- (A) This coverage shall not cover death caused by **Injury** arising out of the use by any person of an owned automobile without a reasonable belief that the person is entitled to do so.
- (B) This coverage shall not cover death caused by (1) **Injury** arising out of the operation of an owned automobile in any pre-arranged or organized race or speed contest; (2) suicide or any suicide attempt, while sane or insane; (3) war or any act of war, or service in any military, naval or air force of any country; (4) participation in any civil disorder or riot; (5) participation in a crime, attempt to commit a crime, or commission of a crime; or (6) **Injury** sustained while engaging in an illegal occupation.
- (C) This coverage shall not cover death from an **Injury** occurring outside the continental United States.
- (D) This coverage shall not cover death from an **Injury** occurring while the named insured is operating, driving or riding in a non-owned automobile.

UNIFORM PROVISIONS

Entire Contract: This coverage, including any further endorsements and the attached papers, if any, constitutes the entire contract of insurance with respect to the coverage provided hereunder. No change to this coverage shall be valid until approved by an executive officer of the Company and reflected by amended Declarations issued by the Company. No agent has authority to change this coverage or waive any of its provisions.

Proof of Loss: Written proof of loss must be given to the Company within ninety (90) days of the named insured's death. Failure to furnish such proof within the time required shall not invalidate nor reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the case of legal incapacity, later than one year from the time proof is otherwise required. The Company shall have the right, within thirty (30) days of receipt of the written proof of loss, to request additional documentation to support the claim.

Time of Payment of Claims: The Company shall pay claims payable under this coverage within thirty (30) days of receipt of due written proof of loss. If payment is not made within such thirty (30)-day period, the Company shall also pay nine (9%) percent per annum interest from the thirtieth (30th) day after receipt of due written proof of loss until payment is made, unless such interest payment is less than One (\$1) Dollar.

Payment of Claims: Claims payable under this policy shall be made to the estate of the named insured. Notwithstanding this, the Company shall have the right to pay, up to One Thousand (\$1,000) Dollars per person, to any relative by blood or connection by marriage to the named insured whom the Company deems is equitably entitled to the payment. Any such payment made by the Company in good faith shall fully discharge the Company to the extent of such payment.

Physical Examination and Autopsy: The Company, at its own expense, shall have the right and opportunity to make an autopsy where it is not forbidden by law.

Assignment: The Company will not assume responsibility for determining the validity of an assignment of the named insured's benefits to a provider of services. No such assignment of benefits will be recognized until the Company has received notice of it at its offices.

Legal Actions: No action at law or in equity shall be brought to recover on this coverage prior to the expiration of sixty (60) days after written proof of loss has been furnished in accordance with the requirements of this coverage. No such action shall be brought after the expiration of three years after the time proof of loss is required to be furnished, except that the running of such period shall be tolled from the date proof of loss is filed with the Company, in whatever form is required by the Company, until the date the claim is denied in whole or in part.

Reimbursement Provision: If a covered person incurs expenses for **Injury** that occurred due to the negligence of a third party, A) we have the right to reimbursement for all benefits we paid from any and all damages collected from the third party for those same expenses whether by action at law, settlement, or compromise, by the covered person, covered person's parents, if the covered person is a minor, or covered person's legal representative as a result of that **Injury**; and B) we are assigned the right to recover from the third party, or his or her insurer, to the extent of the benefits we paid for that **Injury**. We shall have the right to reimbursement out of all funds the covered person, the covered person's parents, if the covered person is a minor, or the covered person's legal representative, is or was able to obtain for the same expenses we have paid as a result of that **Injury**. You are required to furnish any information or assistance or provide any documents that we may reasonably require in order to obtain our rights under this provision. This provision applies whether or not the third party admits liability.