

SERFF Tracking Number: PRGS-125314399 State: Arkansas  
First Filing Company: Progressive Casualty Insurance Company, ... State Tracking Number: AR-PC-07-026393  
Company Tracking Number: L060289-AR-AU-A/D  
TOI: 19.0 Personal Auto Sub-TOI: 19.0001 Private Passenger Auto (PPA)  
Product Name: Auto  
Project Name/Number: 9610A AR, 9610D AR, Z194 AR, Z195 AR/L060289-AR-AU-A/D

## Filing at a Glance

Companies: Progressive Casualty Insurance Company, Progressive Classic Insurance Company, Progressive Direct Insurance Company, Progressive Northwestern Insurance Company, Progressive Specialty Insurance Company, United Financial Casualty Company

Product Name: Auto SERFF Tr Num: PRGS-125314399 State: Arkansas  
TOI: 19.0 Personal Auto SERFF Status: Closed State Tr Num: AR-PC-07-026393  
Sub-TOI: 19.0001 Private Passenger Auto (PPA) Co Tr Num: L060289-AR-AU-A/D State Status:  
Filing Type: Form Co Status: Reviewer(s): Alexa Grissom, Betty Montesi, Brittany Yielding  
Author: Pdpq 4 Disposition Date: 12/03/2007  
Date Submitted: 10/10/2007 Disposition Status: Approved  
Effective Date Requested (New): 01/31/2008 Effective Date (New): 01/31/2008  
Effective Date Requested (Renewal): Effective Date (Renewal):  
State Filing Description:

## General Information

Project Name: 9610A AR, 9610D AR, Z194 AR, Z195 AR Status of Filing in Domicile:  
Project Number: L060289-AR-AU-A/D Domicile Status Comments:  
Reference Organization: Reference Number:  
Reference Title: Advisory Org. Circular:  
Filing Status Changed: 12/03/2007 Deemer Date:  
State Status Changed: 10/11/2007  
Corresponding Filing Tracking Number:  
Filing Description:  
The Arkansas Auto Policy - Form 9610A AR (05/07) will be used for our agency business channel under the "Drive Insurance from Progressive" brand. The Arkansas Auto Policy - Form 9610D AR (05/07) will be used for our direct business channel under the "Progressive Direct" brand. Both policies are identical except for the branded logo on the policy jacket.

SERFF Tracking Number: PRGS-125314399 State: Arkansas  
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 TOI: 19.0 Personal Auto Sub-TOI: 19.0001 Private Passenger Auto (PPA)  
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The revised Arkansas Auto Policy is based on a new model auto policy we have developed for use in all states where we do business. This new model was modified to comply with Arkansas law. The changes to the policy involve both increases and decreases in coverage. Overall, we think the net effect of these changes should be neutral or possibly a slight increase in coverage.

Please refer to the attached Summary of Changes document for further details. The Summary of Changes is submitted for informational purposes only and not for review and approval.

The Named Driver Exclusion Endorsement - Form Z195 AR (05/07) will be used with the Arkansas Auto Policy - Form 9610A AR (05/07) and Arkansas Auto Policy - Form 9610D AR (05/07). This endorsement will be issued to any insured with an excluded driver on their policy. This endorsement is identical to the endorsement that was contained in the Arkansas Motor Vehicle Policy, Forms 9608A AR (11/04) and 9608D AR (11/04).

The Named Non-Owner Coverage Endorsement - Form Z194 AR (05/07) will be used with the Arkansas Auto Policy - Form 9610A AR (05/07) and Arkansas Auto Policy - Form 9610D AR (05/07). This endorsement will be issued to any insured purchasing named non-owner coverage.

## Company and Contact

### Filing Contact Information

Emily A. Vlasich, Corporate Counsel emily\_a\_vlasich@progressive.com  
 6300 Wilson Mills Rd, N72B (440) 395-2456 [Phone]  
 Mayfield Village, OH 44143 (440) 395-3791[FAX]

### Filing Company Information

Progressive Casualty Insurance Company	CoCode: 24260	State of Domicile: Ohio
6300 Wilson Mills Road	Group Code: 155	Company Type:
Mayfield Village, OH 44143	Group Name:	State ID Number:
(440) 461-5000 ext. [Phone]	FEIN Number: 34-6513736	
	-----	

Progressive Classic Insurance Company	CoCode: 42994	State of Domicile: Wisconsin
c/o CT Corporation Systems	Group Code: 155	Company Type: Property and Casualty

8025 Excelsior Dr, # 200

SERFF Tracking Number: PRGS-125314399 State: Arkansas  
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Product Name: Auto  
Project Name/Number: 9610A AR, 9610D AR, Z194 AR, Z195 AR/L060289-AR-AU-A/D

Madison, WI 53717 (608) 833-4821 ext. [Phone]	Group Name: FEIN Number: 39-1453002 -----	State ID Number:
Progressive Direct Insurance Company 6300 Wilson Mills Rd, N72 Cleveland, OH 44143 (440) 461-5000 ext. [Phone]	CoCode: 16322 Group Code: 155 Group Name: FEIN Number: 34-1524319 -----	State of Domicile: Ohio Company Type: State ID Number:
Progressive Northwestern Insurance Company 6300 Wilson Mills Road Mayfield Village, OH 44143 (440) 461-5000 ext. [Phone]	CoCode: 42919 Group Code: 155 Group Name: FEIN Number: 91-1187829 -----	State of Domicile: Ohio Company Type: State ID Number:
Progressive Specialty Insurance Company 6300 Wilson Mills Road Mayfield Village, OH 44143 (440) 461-5000 ext. [Phone]	CoCode: 32786 Group Code: 155 Group Name: FEIN Number: 34-1172685 -----	State of Domicile: Ohio Company Type: State ID Number:
United Financial Casualty Company 6300 Wilson Mills Rd, N72 Mayfield Village, OH 44143-2182 (440) 461-5000 ext. [Phone]	CoCode: 11770 Group Code: 155 Group Name: FEIN Number: 36-3298008 -----	State of Domicile: Ohio Company Type: State ID Number:

SERFF Tracking Number: PRGS-125314399 State: Arkansas  
First Filing Company: Progressive Casualty Insurance Company, ... State Tracking Number: AR-PC-07-026393  
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TOI: 19.0 Personal Auto Sub-TOI: 19.0001 Private Passenger Auto (PPA)  
Product Name: Auto  
Project Name/Number: 9610A AR, 9610D AR, Z194 AR, Z195 AR/L060289-AR-AU-A/D

## Filing Fees

Fee Required? Yes  
Fee Amount: \$50.00  
Retaliatory? No  
Fee Explanation:  
Per Company: No

COMPANY	AMOUNT	DATE PROCESSED	TRANSACTION #
Progressive Northwestern Insurance Company	\$0.00	10/10/2007	
Progressive Specialty Insurance Company	\$0.00	10/10/2007	
United Financial Casualty Company	\$0.00	10/10/2007	
Progressive Direct Insurance Company	\$50.00	10/10/2007	16043120
Progressive Casualty Insurance Company	\$0.00	10/10/2007	
Progressive Classic Insurance Company	\$0.00	10/10/2007	

SERFF Tracking Number: PRGS-125314399 State: Arkansas  
 First Filing Company: Progressive Casualty Insurance Company, ... State Tracking Number: AR-PC-07-026393  
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 TOI: 19.0 Personal Auto Sub-TOI: 19.0001 Private Passenger Auto (PPA)  
 Product Name: Auto  
 Project Name/Number: 9610A AR, 9610D AR, Z194 AR, Z195 AR/L060289-AR-AU-A/D

## Correspondence Summary

### Dispositions

Status	Created By	Created On	Date Submitted
Approved	Alexa Grissom	12/03/2007	12/03/2007
Approved	Alexa Grissom	11/01/2007	11/01/2007

### Objection Letters and Response Letters

Objection Letters				Response Letters		
Status	Created By	Created On	Date Submitted	Responded By	Created On	Date Submitted
Pending Industry Response	Alexa Grissom	11/27/2007	11/27/2007	Pdpg 4	11/29/2007	11/29/2007
Pending Industry Response	Alexa Grissom	10/30/2007	10/30/2007	Pdpg 4	11/01/2007	11/01/2007
Pending Industry Response	Alexa Grissom	10/18/2007	10/18/2007	Pdpg 4	10/29/2007	10/29/2007

### Amendments

Item	Schedule	Created By	Created On	Date Submitted
Arkansas Auto Policy	Form	Pdpg 4	11/21/2007	11/21/2007
Arkansas Auto Policy	Form	Pdpg 4	11/21/2007	11/21/2007
Named Driver Form Exclusion Endorsement		Pdpg 4	11/21/2007	11/21/2007

*SERFF Tracking Number:* PRGS-125314399      *State:* Arkansas  
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*Company Tracking Number:* L060289-AR-AU-A/D  
*TOI:* 19.0 Personal Auto      *Sub-TOI:* 19.0001 Private Passenger Auto (PPA)  
*Product Name:* Auto  
*Project Name/Number:* 9610A AR, 9610D AR, Z194 AR, Z195 AR/L060289-AR-AU-A/D

Named Driver Form		Pdpg 4	11/21/2007	11/21/2007
Exclusion				
Election				
Comparison Supporting Document		Pdpg 4	11/21/2007	11/21/2007
Document for				
9610 policy				
Comparison Supporting Document		Pdpg 4	11/21/2007	11/21/2007
Document for				
Form Z195				
Letter for Supporting Document		Pdpg 4	11/21/2007	11/21/2007
Amended				
Forms				

*SERFF Tracking Number:* PRGS-125314399      *State:* Arkansas  
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*TOI:* 19.0 Personal Auto      *Sub-TOI:* 19.0001 Private Passenger Auto (PPA)  
*Product Name:* Auto  
*Project Name/Number:* 9610A AR, 9610D AR, Z194 AR, Z195 AR/L060289-AR-AU-A/D

Cover Letter Supporting Document      Pdpq 4      10/10/2007      10/10/2007

**Filing Notes**

<b>Subject</b>	<b>Note Type</b>	<b>Created By</b>	<b>Created On</b>	<b>Date Submitted</b>
Request to Reopen Filing	Note To Reviewer	Pdpq 4	11/19/2007	11/19/2007

SERFF Tracking Number: PRGS-125314399 State: Arkansas  
First Filing Company: Progressive Casualty Insurance Company, ... State Tracking Number: AR-PC-07-026393  
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TOI: 19.0 Personal Auto Sub-TOI: 19.0001 Private Passenger Auto (PPA)  
Product Name: Auto  
Project Name/Number: 9610A AR, 9610D AR, Z194 AR, Z195 AR/L060289-AR-AU-A/D

## Disposition

Disposition Date: 12/03/2007  
Effective Date (New): 01/31/2008  
Effective Date (Renewal):  
Status: Approved  
Comment:

Rate data does NOT apply to filing.

### Overall Rate Information for Multiple Company Filings

Overall Percentage Rate Indicated For This Filing	0.000%
Overall Percentage Rate Impact For This Filing	0.000%
Effect of Rate Filing-Written Premium Change For This Program	\$0
Effect of Rate Filing - Number of Policyholders Affected	0

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 TOI: 19.0 Personal Auto Sub-TOI: 19.0001 Private Passenger Auto (PPA)  
 Product Name: Auto  
 Project Name/Number: 9610A AR, 9610D AR, Z194 AR, Z195 AR/L060289-AR-AU-A/D

Item Type	Item Name	Item Status	Public Access
Supporting Document	Uniform Transmittal Document-Property & Casualty	Approved	Yes
Supporting Document (revised)	Cover Letter	Approved	Yes
Supporting Document	Cover Letter	Approved	Yes
Supporting Document	Summary of Changes	Approved	Yes
Supporting Document	Response to Objections	Approved	Yes
Supporting Document	Response Letter	Approved	Yes
Supporting Document	Comparison Document for 9610 policy	Approved	Yes
Supporting Document	Comparison Document for Form Z195	Approved	Yes
Supporting Document	Letter for Amended Forms	Approved	Yes
Form (revised)	Arkansas Auto Policy	Approved	Yes
Form	Arkansas Auto Policy	Approved	Yes
Form	Arkansas Auto Policy	Approved	Yes
Form (revised)	Arkansas Auto Policy	Approved	Yes
Form	Arkansas Auto Policy	Approved	Yes
Form	Arkansas Auto Policy	Approved	Yes
Form (revised)	Named Driver Exclusion Endorsement	Approved	Yes
Form	Named Driver Exclusion Endorsement	Approved	Yes
Form	Named Non-Owner Coverage Endorsement	Approved	Yes
Form	Named Driver Exclusion Election	Approved	Yes

*SERFF Tracking Number:* PRGS-125314399      *State:* Arkansas  
*First Filing Company:* Progressive Casualty Insurance Company, ...      *State Tracking Number:* AR-PC-07-026393  
*Company Tracking Number:* L060289-AR-AU-A/D  
*TOI:* 19.0 Personal Auto      *Sub-TOI:* 19.0001 Private Passenger Auto (PPA)  
*Product Name:* Auto  
*Project Name/Number:* 9610A AR, 9610D AR, Z194 AR, Z195 AR/L060289-AR-AU-A/D

## **Disposition**

Disposition Date: 11/01/2007

Effective Date (New): 01/31/2008

Effective Date (Renewal):

Status: Approved

Comment:

Rate data does NOT apply to filing.

SERFF Tracking Number: PRGS-125314399 State: Arkansas  
 First Filing Company: Progressive Casualty Insurance Company, ... State Tracking Number: AR-PC-07-026393  
 Company Tracking Number: L060289-AR-AU-A/D  
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 Product Name: Auto  
 Project Name/Number: 9610A AR, 9610D AR, Z194 AR, Z195 AR/L060289-AR-AU-A/D

Item Type	Item Name	Item Status	Public Access
Supporting Document	Uniform Transmittal Document-Property & Casualty	Approved	Yes
Supporting Document (revised)	Cover Letter	Approved	Yes
Supporting Document	Cover Letter	Approved	Yes
Supporting Document	Summary of Changes	Approved	Yes
Supporting Document	Response to Objections	Approved	Yes
Supporting Document	Response Letter	Approved	Yes
Supporting Document	Comparison Document for 9610 policy	Approved	Yes
Supporting Document	Comparison Document for Form Z195	Approved	Yes
Supporting Document	Letter for Amended Forms	Approved	Yes
Form (revised)	Arkansas Auto Policy	Approved	Yes
Form	Arkansas Auto Policy	Approved	Yes
Form	Arkansas Auto Policy	Approved	Yes
Form (revised)	Arkansas Auto Policy	Approved	Yes
Form	Arkansas Auto Policy	Approved	Yes
Form	Arkansas Auto Policy	Approved	Yes
Form (revised)	Named Driver Exclusion Endorsement	Approved	Yes
Form	Named Driver Exclusion Endorsement	Approved	Yes
Form	Named Non-Owner Coverage Endorsement	Approved	Yes
Form	Named Driver Exclusion Election	Approved	Yes

SERFF Tracking Number: PRGS-125314399 State: Arkansas  
First Filing Company: Progressive Casualty Insurance Company, ... State Tracking Number: AR-PC-07-026393  
Company Tracking Number: L060289-AR-AU-A/D  
TOI: 19.0 Personal Auto Sub-TOI: 19.0001 Private Passenger Auto (PPA)  
Product Name: Auto  
Project Name/Number: 9610A AR, 9610D AR, Z194 AR, Z195 AR/L060289-AR-AU-A/D

## Objection Letter

Objection Letter Status Pending Industry Response

Objection Letter Date 11/27/2007

Submitted Date 11/27/2007

Respond By Date

Dear Emily A. Vlasich,

This will acknowledge receipt of the captioned filing. The named driver exclusion endorsement must have a line for the named insured to sign. Please do not submit amendments such as this to a previously approved filing. If you do not provide a place for the named insured to sign, I will have to disapprove the filing.

Please feel free to contact me if you have questions.

Sincerely,

Alexa Grissom

## Response Letter

Response Letter Status Submitted to State

Response Letter Date 11/29/2007

Submitted Date 11/29/2007

Dear Alexa Grissom,

### Comments:

#### Response 1

Comments: Pursuant to our earlier telephone conversation, I am writing to verify that we do have a separate signature form for named driver exclusions, which the named insured must sign when we issue the Named Driver Exclusion endorsement (form Z195). It explains how the exclusion affects coverage under the policy and references the Named Driver Exclusion endorsement.

Please do not hesitate to call me with any questions,

Emily Vlasich  
440-395-2456

### Changed Items:

*SERFF Tracking Number:* PRGS-125314399                      *State:* Arkansas  
*First Filing Company:* Progressive Casualty Insurance Company, ...      *State Tracking Number:* AR-PC-07-026393  
*Company Tracking Number:* L060289-AR-AU-A/D  
*TOI:* 19.0 Personal Auto                      *Sub-TOI:* 19.0001 Private Passenger Auto (PPA)  
*Product Name:* Auto  
*Project Name/Number:* 9610A AR, 9610D AR, Z194 AR, Z195 AR/L060289-AR-AU-A/D

No Supporting Documents changed.

No Form Schedule items changed.

No Rate/Rule Schedule items changed.

Sincerely,  
Pdpq 4

SERFF Tracking Number: PRGS-125314399 State: Arkansas  
First Filing Company: Progressive Casualty Insurance Company, ... State Tracking Number: AR-PC-07-026393  
Company Tracking Number: L060289-AR-AU-A/D  
TOI: 19.0 Personal Auto Sub-TOI: 19.0001 Private Passenger Auto (PPA)  
Product Name: Auto  
Project Name/Number: 9610A AR, 9610D AR, Z194 AR, Z195 AR/L060289-AR-AU-A/D

## Objection Letter

Objection Letter Status Pending Industry Response  
Objection Letter Date 10/30/2007  
Submitted Date 10/30/2007  
Respond By Date

Dear Emily A. Vlasich,

This will acknowledge receipt of the captioned filing. Your response references arbitration and my objection dealt with appraisal. Please review all appraisal procedures to ensure they do not state that appraisal may be demanded. It also may not be binding.

Please feel free to contact me if you have questions.

Sincerely,  
Alexa Grissom

## Response Letter

Response Letter Status Submitted to State  
Response Letter Date 11/01/2007  
Submitted Date 11/01/2007

Dear Alexa Grissom,

### Comments:

### Response 1

Comments: Our response to your Objection Letter, and our amended policies, are attached.

### Changed Items:

#### Supporting Document Schedule Item Changes

Satisfied -Name: Response Letter

Comment:

#### Form Schedule Item Changes

Form Name	Form Number	Edition Date	Form Type	Action	Action Specific	Readability Score	Attach Document
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SERFF Tracking Number: PRGS-125314399 State: Arkansas  
 First Filing Company: Progressive Casualty Insurance Company, ... State Tracking Number: AR-PC-07-026393  
 Company Tracking Number: L060289-AR-AU-A/D  
 TOI: 19.0 Personal Auto Sub-TOI: 19.0001 Private Passenger Auto (PPA)  
 Product Name: Auto  
 Project Name/Number: 9610A AR, 9610D AR, Z194 AR, Z195 AR/L060289-AR-AU-A/D

Data

Arkansas Auto Policy 9610A AR 05/07 Policy/Coverage Form Replaced AR-PC- 45 96100705  
 04-012538 AR04.pdf

**Previous Version**

Arkansas Auto Policy 9610A AR 05/07 Policy/Coverage Form Replaced AR-PC- 45 96100705  
 04-012538 AR04.pdf

Arkansas Auto Policy 9610D AR 05/07 Policy/Coverage Form Replaced AR-PC- 45 96100705  
 04-012539 AR02.pdf

**Previous Version**

Arkansas Auto Policy 9610D AR 05/07 Policy/Coverage Form Replaced AR-PC- 45 96100705  
 04-012539 AR02.pdf

*SERFF Tracking Number:* PRGS-125314399                      *State:* Arkansas  
*First Filing Company:* Progressive Casualty Insurance Company, ...    *State Tracking Number:* AR-PC-07-026393  
*Company Tracking Number:* L060289-AR-AU-A/D  
*TOI:* 19.0 Personal Auto                      *Sub-TOI:* 19.0001 Private Passenger Auto (PPA)  
*Product Name:* Auto  
*Project Name/Number:* 9610A AR, 9610D AR, Z194 AR, Z195 AR/L060289-AR-AU-A/D

No Rate/Rule Schedule items changed.

Sincerely,  
Pdpj 4

SERFF Tracking Number: PRGS-125314399 State: Arkansas  
First Filing Company: Progressive Casualty Insurance Company, ... State Tracking Number: AR-PC-07-026393  
Company Tracking Number: L060289-AR-AU-A/D  
TOI: 19.0 Personal Auto Sub-TOI: 19.0001 Private Passenger Auto (PPA)  
Product Name: Auto  
Project Name/Number: 9610A AR, 9610D AR, Z194 AR, Z195 AR/L060289-AR-AU-A/D

## Objection Letter

Objection Letter Status Pending Industry Response

Objection Letter Date 10/18/2007

Submitted Date 10/18/2007

Respond By Date

Dear Emily A. Vlasich,

This will acknowledge receipt of the captioned filing. The Appraisal provision must comply with Bulletin No. 19-89. Appraisal may not be demanded or binding.

Additionally, please advise if you are in compliance with Act 373 of 2007 regarding liability coverage.

Lastly, where is the cancellation fee disclosed to the insured?

Please feel free to contact me if you have questions.

Sincerely,

Alexa Grissom

## Response Letter

Response Letter Status Submitted to State

Response Letter Date 10/29/2007

Submitted Date 10/29/2007

Dear Alexa Grissom,

### Comments:

### Response 1

Comments: see response attached

### Changed Items:

### Supporting Document Schedule Item Changes

Satisfied -Name: Response to Objections

Comment:

*SERFF Tracking Number:* PRGS-125314399      *State:* Arkansas  
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*TOI:* 19.0 Personal Auto      *Sub-TOI:* 19.0001 Private Passenger Auto (PPA)  
*Product Name:* Auto  
*Project Name/Number:* 9610A AR, 9610D AR, Z194 AR, Z195 AR/L060289-AR-AU-A/D

No Form Schedule items changed.

No Rate/Rule Schedule items changed.

Sincerely,  
Pdpq 4

SERFF Tracking Number: PRGS-125314399 State: Arkansas  
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 Company Tracking Number: L060289-AR-AU-A/D  
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 Product Name: Auto  
 Project Name/Number: 9610A AR, 9610D AR, Z194 AR, Z195 AR/L060289-AR-AU-A/D

**Amendment Letter**

Amendment Date:  
 Submitted Date: 11/21/2007

**Comments:**

Amended 9610A AR (05/07) and 9610D AR (05/07) attached.

Form Z195 AR (05/07) has been changed to Z195 (07/05)

Form 9330 AR (05/07) has been added to the filing.

Please refer to letter dated 11-21-07 for more information.

**Changed Items:**

**Form Schedule Item Changes:**

Form Name	Form Number	Edition Date	Form Type	Action	Replaced Form #	Previous Filing #	Readability Score	Attachments
Arkansas Auto Policy	9610A AR	05/07	Policy/C overage Form	Replaced	9608A AR (11/04)	AR-PC-04-012538	45	96100705AR04.pdf

Form Name	Form Number	Edition Date	Form Type	Action	Replaced Form #	Previous Filing #	Readability Score	Attachments
Arkansas Auto Policy	9610D AR	05/07	Policy/C overage Form	Replaced	9608D AR (11/04)	AR-PC-04-012539	45	96100705AR02.pdf

Form Name	Form Number	Edition Date	Form Type	Action	Replaced Form #	Previous Filing #	Readability Score	Attachments
Named Driver Exclusion Endorsement	Z195	07/05	Endorsement/Amendment/Conditions	New			44	Z195 - 1c.pdf

Form Name	Form Number	Edition Date	Form Type	Action	Replaced Form #	Previous Filing #	Readability Score	Attachments
Named Driver Exclusion	9330 AR	05/07	Election/ Rejection/Supplement	New			45	9330 AR-1c.pdf

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Product Name: Auto  
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Election mental  
Applicati  
ons

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Company Tracking Number: L060289-AR-AU-A/D  
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Product Name: Auto  
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**Supporting Document Schedule Item Changes:**

**User Added -Name: Comparison Document for 9610 policy**

Comment: This document shows the minor changes made from the previously approved version of this form.  
9610 AR - 4c v. 9610 AR - 3c Comparison Document.pdf

**User Added -Name: Comparison Document for Form Z195**

Comment: This document shows the minor changes made from the previously approved version of this form.  
Z195 - 1r (v. Z195 AR).pdf

**User Added -Name: Letter for Amended Forms**

Comment:  
11-21-07 Letter for Amended 9610 & Z195, added 9330.pdf

*SERFF Tracking Number:* PRGS-125314399      *State:* Arkansas  
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**Note To Reviewer**

**Created By:**

Pdpg 4 on 11/19/2007 12:49 PM

**Subject:**

Request to Reopen Filing

**Comments:**

We have one small clarification that has been made in Form 9610. These forms have not yet become effective. Is it possible that this filing could be reopened so that we may submit the amended 9610?

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Product Name: Auto  
Project Name/Number: 9610A AR, 9610D AR, Z194 AR, Z195 AR/L060289-AR-AU-A/D

**Amendment Letter**

Amendment Date:

Submitted Date: 10/10/2007

**Comments:**

A small change was needed on page 2 of our Cover Letter. The amended letter is attached.

**Changed Items:**

**Supporting Document Schedule Item Changes:**

**User Added -Name: Cover Letter**

Comment:

10-10-07 Initial Cvr Ltr for 9610, Z194, Z195 AR \_amended\_.pdf

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 First Filing Company: Progressive Casualty Insurance Company, ... State Tracking Number: AR-PC-07-026393  
 Company Tracking Number: L060289-AR-AU-A/D  
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 Product Name: Auto  
 Project Name/Number: 9610A AR, 9610D AR, Z194 AR, Z195 AR/L060289-AR-AU-A/D

## Form Schedule

Review Status	Form Name	Form #	Edition Date	Form Type Action	Action Specific Data	Readability	Attachment
Approved	Arkansas Auto Policy	9610A AR	05/07	Policy/Coverage Form	Replaced Form #:44.70 9608A AR (11/04) Previous Filing #: AR-PC-04-012538		96100705AR 04.pdf
Approved	Arkansas Auto Policy	9610D AR	05/07	Policy/Coverage Form	Replaced Form #:44.70 9608D AR (11/04) Previous Filing #: AR-PC-04-012539		96100705AR 02.pdf
Approved	Named Driver Exclusion Endorsement	Z195	07/05	Endorsement/Amendment/Conditions		44.50	Z195 - 1c.pdf
Approved	Named Non-Owner Coverage Endorsement	Z194 AR	05/07	Endorsement/Amendment/Conditions		45.80	Z194AR - 1c.pdf
Approved	Named Driver Exclusion Election	9330 AR	05/07	Election/Rejection/Supplemental Applications		44.60	9330 AR- 1c.pdf

\*9610A AR 0507\*



# ARKANSAS

## AUTO POLICY



Form 9610A AR (05/07)  
version 3.0

***PROGRESSIVE***<sup>®</sup>  
*DRIVE*<sup>®</sup> Insurance



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# ARKANSAS AUTO POLICY

## INSURING AGREEMENT

In return for **your** payment of the premium, **we** agree to insure **you** subject to all the terms, conditions, and limitations of this policy. **We** will insure **you** for the coverages and the limits of liability shown on this policy's **declarations page**. **Your** policy consists of the policy contract, **your** insurance application, the **declarations page**, and all endorsements to this policy.

## GENERAL DEFINITIONS

The following definitions apply throughout the policy. Defined terms are printed in boldface type and have the same meaning whether in the singular, plural, or any other form.

1. **"Additional auto"** means an **auto you** become the owner of during the policy period that does not permanently replace an **auto** shown on the **declarations page** if:
  - a. **we** insure all other **autos you** own;
  - b. the **additional auto** is not covered by any other insurance policy;
  - c. **you** notify **us** within 30 days of becoming the owner of the **additional auto**; and
  - d. **you** pay any additional premium due.

An **additional auto** will have the broadest coverage **we** provide for any **auto** shown on the **declarations page**. If **you** ask **us** to insure an **additional auto** more than 30 days after **you** become the owner, any coverage **we** provide will begin at the time **you** request coverage.

2. **"Auto"** means a land motor vehicle:
  - a. of the private passenger, pickup body, or cargo van type;
  - b. designed for operation principally upon public roads;
  - c. with at least four wheels; and
  - d. with a gross vehicle weight rating of 12,000 pounds or less, according to the manufacturer's specifications.

However, **"auto"** does not include step-vans, parcel delivery vans, or cargo cut-away vans or other vans with cabs separate from the cargo area.

3. **"Auto business"** means the business of selling, leasing, repairing, parking, storing, servicing, delivering, or testing vehicles.
4. **"Bodily injury"** means bodily harm, sickness, or disease, including death that results from bodily harm, sickness, or disease.
5. **"Covered auto"** means:
  - a. any **auto** or **trailer** shown on the **declarations page** for the coverages applicable to that **auto** or **trailer**;
  - b. any **additional auto**;
  - c. any **replacement auto**;
  - d. a **trailer** owned by **you**; or
  - e. a **loaner vehicle**.

6. **"Declarations page"** means the document showing **your** coverages, limits of liability, **covered autos**, premium, and other policy-related information. The **declarations page** may also be referred to as the Auto Insurance Coverage Summary.

7. **“Loaner vehicle”** means an **auto** operated by **you** that is:
  - a. loaned to **you** by a duly licensed automobile dealer:
    - i. as a temporary substitute for a **covered auto** while the **covered auto** is out of use because of breakdown, repair, or servicing; or
    - ii. for use as a demonstrator vehicle; or
  - b. rented or leased from a rental company that is in the business of providing primarily private passenger vehicles to the public under a rental agreement for a period not to exceed 90 days.
8. **“Occupying”** means in, on, entering, or exiting.
9. **“Property damage”** means physical damage to, destruction of, or loss of use of, tangible property.
10. **“Punitive or exemplary damages”** means damages which may be imposed to punish a wrongdoer and to deter others from similar conduct.
11. **“Relative”** means a person residing in the same household as **you**, and related to **you** by blood, marriage, or adoption, and includes a ward, stepchild, or foster child. **Your** unmarried dependent children temporarily away from home will qualify as a **relative** if they intend to continue to reside in **your** household.
12. **“Replacement auto”** means an **auto** that permanently replaces an **auto** shown on the **declarations page**. A **replacement auto** will have the same coverage as the **auto** it replaces if the **replacement auto** is not covered by any other insurance policy. However, if the **auto** being replaced had coverage under Part IV - Damage To A Vehicle, such coverage will apply to the **replacement auto** only during the first 30 days after **you** become the owner unless **you** notify **us** within that 30-day period that **you** want **us** to extend coverage beyond the initial 30 days. If the **auto** being replaced did not have coverage under Part IV - Damage To A Vehicle, such coverage may be added, but the **replacement auto** will have no coverage under Part IV until **you** notify **us** of the **replacement auto** and ask **us** to add the coverage.
13. **“Trailer”** means a non-motorized trailer, including a farm wagon or farm implement, designed to be towed on public roads by an **auto** and not being used:
  - a. for commercial purposes;
  - b. as an office, store, or for display purposes; or
  - c. as a passenger conveyance.
14. **“We”, “us”, and “our”** mean the underwriting company providing the insurance, as shown on the **declarations page**.
15. **“You” and “your”** mean:
  - a. a person shown as a named insured on the **declarations page**; and
  - b. the spouse of a named insured if residing in the same household at the time of the loss.

## **PART I - LIABILITY TO OTHERS**

### **INSURING AGREEMENT**

If **you** pay the premium for this coverage, **we** will pay damages for **bodily injury** and **property damage** for which an **insured person** becomes legally responsible because of an accident.

Damages include prejudgment interest awarded against an **insured person**.

**We** will settle or defend, at **our** option, any claim for damages covered by this Part I.

## **ADDITIONAL DEFINITIONS**

When used in this Part I:

1. **"Insured person"** means:
  - a. **you** or a **relative** with respect to an accident arising out of the ownership, maintenance, or use of an **auto** or **trailer**;
  - b. any person with respect to an accident arising out of that person's use of a **covered auto** with the permission of **you** or a **relative**;
  - c. any person or organization with respect only to vicarious liability for the acts or omissions of a person described in a or b above; and
  - d. any Additional Interest shown on the **declarations page** with respect only to its liability for the acts or omissions of a person described in a or b above.
2. **"Property damage"** means physical damage to, destruction of, or loss of use of, tangible property.

## **ADDITIONAL PAYMENTS**

In addition to **our** limit of liability, **we** will pay for an **insured person**:

1. all expenses **we** incur in the settlement of any claim or defense of any lawsuit;
2. interest accruing after entry of judgment, until **we** have paid, offered to pay, or deposited in court, that portion of the judgment which does not exceed **our** limit of liability. This does not apply if **we** have not been given notice of suit or the opportunity to defend an **insured person**;
3. the premium on any appeal bond or attachment bond required in any lawsuit **we** defend. **We** have no duty to purchase a bond in an amount exceeding **our** limit of liability, and **we** have no duty to apply for or furnish these bonds;
4. up to \$250 for a bail bond required because of an accident resulting in **bodily injury** or **property damage** covered under this Part I. **We** have no duty to apply for or furnish this bond; and
5. reasonable expenses, including loss of earnings up to \$200 per day, incurred at **our** request.

## **EXCLUSIONS - READ THE FOLLOWING EXCLUSIONS CAREFULLY. IF AN EXCLUSION APPLIES, COVERAGE WILL NOT BE AFFORDED UNDER THIS PART I.**

Coverage under this Part I, including **our** duty to defend, will not apply to any **insured person** for:

1. **bodily injury** or **property damage** arising out of the ownership, maintenance, or use of any vehicle or trailer while being used:
  - a. to carry persons or property for compensation or a fee; or
  - b. for retail or wholesale delivery, including, but not limited to, the pickup, transport, or delivery of magazines, newspapers, mail, or food.This exclusion does not apply to shared-expense car pools;

2. any liability assumed under any contract or agreement by **you** or a **relative**;
3. **bodily injury** to an employee of that **insured person** arising out of or within the course of employment. This exclusion does not apply to domestic employees if benefits are neither paid nor required to be provided under workers' compensation, disability benefits, or similar laws;
4. **bodily injury** or **property damage** arising out of an accident involving any vehicle while being maintained or used by a person while employed or engaged in any **auto business**. This exclusion does not apply to **you**, a **relative**, or an agent or employee of **you** or a **relative**, when using a **covered auto**;
5. **bodily injury** or **property damage** resulting from, or sustained during practice or preparation for:
  - a. any pre-arranged or organized racing, stunting, speed, or demolition contest or activity; or
  - b. any driving activity conducted on a permanent or temporary racetrack or race-course;
6. **bodily injury** or **property damage** due to a nuclear reaction or radiation;
7. **bodily injury** or **property damage** for which insurance:
  - a. is afforded under a nuclear energy liability insurance contract; or
  - b. would be afforded under a nuclear energy liability insurance contract but for its termination upon exhaustion of its limit of liability;
8. any obligation for which the United States Government is liable under the Federal Tort Claims Act;
9. **bodily injury** or **property damage** caused by an intentional act of that **insured person**, or at the direction of that **insured person**, even if the actual injury or damage is different than that which was intended or expected;
10. **property damage** to any property owned by, rented to, being transported by, used by, or in the charge of that **insured person**. This exclusion does not apply to a rented residence or a rented garage;
11. **bodily injury** to **you** or a **relative**;
12. **bodily injury** or **property damage** arising out of the ownership, maintenance, or use of any vehicle owned by **you** or furnished or available for **your** regular use, other than a **covered auto** for which this coverage has been purchased;
13. **bodily injury** or **property damage** arising out of the ownership, maintenance, or use of any vehicle owned by a **relative** or furnished or available for the regular use of a **relative**, other than a **covered auto** for which this coverage has been purchased. This exclusion does not apply to **your** maintenance or use of such vehicle;
14. **bodily injury** or **property damage** arising out of **your** or a **relative's** use of a vehicle, other than a **covered auto**, without the permission of the owner of the vehicle or the person in lawful possession of the vehicle;
15. **bodily injury** or **property damage** arising out of the use of a **covered auto** while leased or rented to others or given in exchange for any compensation. This exclusion does not apply to the operation of a **covered auto** by **you** or a **relative**;
16. **punitive or exemplary damages**; or

17. **bodily injury** or **property damage** caused by, or reasonably expected to result from, a criminal act or omission of that **insured person**. This exclusion applies regardless of whether that **insured person** is actually charged with, or convicted of, a crime. For purposes of this exclusion, criminal acts or omissions do not include traffic violations.

## LIMITS OF LIABILITY

The limit of liability shown on the **declarations page** for liability coverage is the most **we** will pay regardless of the number of:

1. claims made;
2. **covered autos**;
3. **insured persons**;
4. lawsuits brought;
5. vehicles involved in the accident; or
6. premiums paid.

If **your declarations page** shows a split limit:

1. the amount shown for “each person” is the most **we** will pay for all damages due to **bodily injury** to one person resulting from any one accident;
2. subject to the “each person” limit, the amount shown for “each accident” is the most **we** will pay for all damages due to **bodily injury** sustained by two or more persons in any one accident; and
3. the amount shown for “property damage” is the most **we** will pay for the total of all **property damage** resulting from any one accident.

The “each person” limit of liability applies to the total of all claims made for **bodily injury** to a person and all claims of others, if allowed by law, derived from such **bodily injury**, including, but not limited to, emotional injury or mental anguish resulting from the **bodily injury** of another or from witnessing the **bodily injury** to another, loss of society, loss of companionship, loss of services, loss of consortium, and wrongful death.

If the **declarations page** shows that “combined single limit” or “CSL” applies, the amount shown is the most **we** will pay for the total of all damages resulting from any one accident. However, without changing this limit of liability, **we** will comply with any law that requires **us** to provide any separate limits.

No one is entitled to duplicate payments for the same elements of damages.

If multiple auto policies issued by **us** are in effect for **you**, **we** will pay no more than the highest limit of liability for this coverage available under any one policy.

An **auto** and attached **trailer** are considered one **auto**. Therefore, the limits of liability will not be increased for an accident involving an **auto** that has an attached **trailer**.

## FINANCIAL RESPONSIBILITY LAWS

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

## OTHER INSURANCE

If there is any other applicable liability insurance or bond, **we** will pay only **our** share of the damages. **Our** share is the proportion that **our** limit of liability bears to the total of all applicable limits. However, any insurance **we** provide for a vehicle or trailer, other than a **covered auto**, will be excess over any other collectible insurance, self-insurance, or bond.

## OUT-OF-STATE COVERAGE

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

1. a financial responsibility or similar law requiring limits of liability for **bodily injury** or **property damage** higher than the limits shown on the **declarations page**, this policy will provide the higher limits; or
2. a compulsory insurance or similar law requiring a non-resident to maintain insurance whenever the non-resident uses an **auto** in that state, province, territory, or possession, this policy will provide the greater of:
  - a. the required minimum amounts and types of coverage; or
  - b. the limits of liability under this policy.

## RIGHT OF DIRECT ACTION

Any person entitled to payment of damages covered under this Part I, or his or her personal representative, shall be subrogated to the right of the person shown as the named insured on the **declarations page** for payment under this Part I. If a judgment against an **insured person** remains unsatisfied after 30 days from the date notice of entry of judgment was served on either the **insured person**, the attorney for the **insured person**, or **us**, the injured person, or his or her personal representative, may maintain an action against **us** for the amount of the judgment not exceeding **our** Limits of Liability.

## PART II - PERSONAL INJURY PROTECTION COVERAGE

### INSURING AGREEMENT - MEDICAL AND HOSPITAL BENEFITS COVERAGE

If **you** pay the premium for this coverage, **we** will pay for reasonable and necessary **medical and hospital benefits** because of **bodily injury**:

1. sustained by an **insured person**;

2. caused by an accident; and
3. arising out of the ownership, maintenance or use of a motor vehicle.

## **INSURING AGREEMENT - INCOME DISABILITY BENEFITS COVERAGE**

If **you** pay the premium for this coverage, **we** will pay for **income disability benefits** because of **bodily injury**:

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

## **INSURING AGREEMENT - ACCIDENTAL DEATH BENEFITS COVERAGE**

If **you** pay the premium for this coverage, **we** will pay the amount stated on the **declarations page** if an **insured person** dies within one year of the date of an accident as a result of **bodily injury**:

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

## **ADDITIONAL DEFINITIONS**

When used in this Part II:

1. **"Income disability benefits"** means loss of income from work the **insured person** would have performed had the **insured person** not sustained **bodily injury**. However if the **insured person** is a non-income earner, **income disability benefits** means expenses reasonably incurred for essential services in lieu of those the **insured person** would have performed without income had the **insured person** not sustained **bodily injury**. **Income disability benefits** apply only to the period beginning eight days after the date of the accident and not exceeding 52 weeks. **Income disability benefits** do not include any loss or expense after the death of the **insured person**.
2. **"Insured person"** and **"insured persons"** mean:
  - a. **you** or any **relative**; and
  - b. any other person:
    - (i) while **occupying a covered auto**; or
    - (ii) when struck by a **covered auto** while a pedestrian, bicyclist, or motorcyclist, or while riding on an animal or in a horse-drawn wagon or cart.
3. **"Medical and hospital benefits"** means all reasonable and necessary expenses for medical, hospital, nursing, dental, surgical, ambulance, funeral and prosthetic services incurred within 24 months after the accident, and may include any non-medical remedial care and treatment rendered in accordance with a recognized religious method of healing. Expenses for hospital charges are limited to semi-private accommodations.

**EXCLUSIONS - READ THE FOLLOWING EXCLUSIONS CAREFULLY. IF AN EXCLUSION APPLIES, COVERAGE WILL NOT BE AFFORDED UNDER THIS PART II.**

Coverage under this Part II will not apply to **bodily injury**:

1. sustained by any person, other than **you** or a **relative**, who is a named insured or additional insured under any other valid and collectible automobile insurance policy providing the minimum personal injury protection coverages required by law;
2. sustained by any person who intentionally caused such **bodily injury**;
3. sustained by any person while in the commission of a felony or while seeking to elude lawful apprehension or arrest by a law enforcement official;
4. to the extent benefits are paid or payable under any workers' compensation law, disability benefits law or similar law. This exclusion does not apply to Accidental Death Benefits Coverage;
5. to any person resulting from, or sustained during practice or preparation for:
  - a. any pre-arranged or organized racing, stunting, speed, or demolition contest or activity; or
  - b. any driving activity conducted on a permanent or temporary racetrack or race-course;
6. sustained by any person while **occupying** or when struck by any vehicle owned by **you** or furnished or available for **your** regular use, other than a **covered auto** for which this coverage has been purchased;
7. sustained by any person while **occupying** or when struck by any vehicle owned by a **relative** or furnished or available for the regular use of a **relative**, other than a **covered auto** for which this coverage has been purchased. This exclusion does not apply to **your** maintenance or use of such vehicle;
8. sustained by any person while **occupying** any vehicle or trailer while located for use as a residence or premises;
9. sustained by any person while **occupying** a **covered auto** while it is being used:
  - a. to carry persons or property for compensation or a fee; or
  - b. for retail or wholesale delivery, including, but not limited to, the pickup, transport, or delivery of magazines, newspapers, mail, or food.This exclusion does not apply to shared-expense car pools;
10. arising out of an accident involving any vehicle while being maintained or used by a person while employed or engaged in any **auto business**. This exclusion does not apply to **you**, a **relative**, or an agent or employee of **you** or a **relative**, when using a **covered auto**;
11. due to a nuclear reaction or radiation;
12. for which insurance:
  - a. is afforded under a nuclear energy liability insurance contract; or
  - b. would be afforded under a nuclear energy liability insurance contract but for its termination upon exhaustion of its limit of liability;
13. caused directly or indirectly by:
  - a. war (declared or undeclared) or civil war;
  - b. warlike action by any military force of any government, sovereign or other authority using military personnel or agents. This includes any action taken to

- hinder or defend against an actual or expected attack; or
  - c. insurrection, rebellion, revolution, usurped power, or any action taken by a governmental authority to hinder or defend against any of these acts;
14. caused directly or indirectly by:
- a. any accidental or intentional discharge, dispersal, or release of radioactive, nuclear, pathogenic, or poisonous biological material; or
  - b. any intentional discharge, dispersal, or release of chemical or hazardous material for any purpose other than its safe and useful purpose; or
15. to **you** or a **relative** while **occupying** any vehicle, other than a **covered auto**, without the permission of the owner of the vehicle or the person in lawful possession of the vehicle.

## LIMITS OF LIABILITY

The limits of liability shown on the **declarations page** for the coverages provided under this Part II - Personal Injury Protection Coverage is the most **we** will pay for each **insured person** in any one accident, regardless of the number of:

1. claims made;
2. **covered autos**;
3. **insured persons**;
4. lawsuits brought;
5. vehicles involved in the accident; or
6. premiums paid.

The limit of liability for Medical and Hospital Benefits is shown on the **declarations page**.

The limit of liability for Accidental Death Benefits is shown on the **declarations page**.

The limit of liability for Income Disability Benefits is:

1. 70% of the loss of gross income per week, not to exceed \$140 per week, if the **insured person** earned income from work at the time of the accident; or
2. \$70 per week, or any fractional part of a week, if the **insured person** did not earn income from work at the time of the accident.

In determining the amount payable under this Part II, the amount of damages sustained by the **insured person** due to **bodily injury** will be reduced by all sums paid or payable for the same elements of damages under:

1. Part I - Liability To Others; and
2. Part III - Uninsured/Underinsured Motorist Coverage.

## OTHER INSURANCE

1. With respect to **bodily injury** sustained by a **relative**, any Medical And Hospital Benefits Coverage or Income Disability Benefits Coverage afforded by this Part II shall be excess over any other similar coverage provided by a motor vehicle insurance policy under which the **relative** is a named insured.

2. If **you** or a **relative** are insured under any other motor vehicle insurance policy providing coverage for income disability benefits or similar coverage, the most that **you** or a **relative** may recover for **income disability benefits** shall not exceed the amount payable under the policy providing the highest limits of liability.
3. No coverage will be provided under this Part II for any person, other than **you** or a **relative**, who is a named insured or additional insured under any other valid and collectible motor vehicle insurance policy providing the minimum personal injury protection coverages required by law.

Subject to 1, 2, and 3 above, if there is other applicable personal injury protection insurance, **we** will pay only **our** share of the loss. **Our** share is the proportion that **our** limit of liability bears to the total of all applicable limits.

No one shall be entitled to recover duplicate payments for **income disability benefits** or **medical and hospital benefits** under this or any other motor vehicle insurance policy.

### **PART III - UNINSURED/UNDERINSURED MOTORIST COVERAGE**

#### **INSURING AGREEMENT - UNINSURED MOTORIST BODILY INJURY COVERAGE**

If **you** pay the premium for this coverage, **we** will pay for damages that an **insured person** is legally entitled to recover from the owner or operator of an **uninsured motor vehicle** because of **bodily injury**:

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

#### **INSURING AGREEMENT - UNDERINSURED MOTORIST BODILY INJURY COVERAGE**

If **you** pay the premium for this coverage, **we** will pay for damages that an **insured person** is legally entitled to recover from the owner or operator of an **underinsured motor vehicle** because of **bodily injury**:

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

**We** will pay under this Part III only after the limits of liability under all applicable bodily injury liability bonds and policies have been exhausted by payment of judgments or settlements.

#### **INSURING AGREEMENT - UNINSURED MOTORIST PROPERTY DAMAGE COVERAGE**

If **you** pay the premium for this coverage, **we** will pay for damages that an **insured person** is legally entitled to recover from the owner or operator of an **uninsured motor vehicle** due to **property damage**:

1. caused by an accident; and

2. arising out of the ownership, maintenance or use of an **uninsured motor vehicle**.

## **NOTICE AND CONSENT REQUIREMENT**

In order for coverage under this Part III to apply, an **insured person** must send to **us**, by certified mail, return receipt requested, written notice of any tentative settlement agreement reached with the owner or operator of an **underinsured motor vehicle**, or that person's liability insurer. However, this notice requirement shall not apply when **we** are making that offer of settlement as insurer of the owner or operator of the **underinsured motor vehicle**. The notice shall include:

1. written documentation of economic losses incurred, including copies of all medical bills;
2. written authorization or a court order allowing **us** to obtain medical reports from all employers and medical providers; and
3. written confirmation from the owner or operator's liability insurer as to the amount of the liability limits and the terms of the settlement agreement. The agreement shall not include any sum representing **punitive or exemplary damages**.

Within 30 days of **our** receipt of written notice of the tentative settlement agreement, **we** may pay the sum offered in settlement to the **insured person**. If **we** do this, **we** are subrogated to the **insured person's** right of recovery against the owner or operator of the **underinsured motor vehicle**, to the extent of **our** payment, and the **insured person** must assign to **us** all rights to any amount subsequently paid from all applicable liability bonds and policies.

Any judgment or settlement for damages against an owner or operator of an **uninsured motor vehicle** or an **underinsured motor vehicle** that arises out of a lawsuit brought without **our** written consent is not binding on **us**.

## **ADDITIONAL DEFINITIONS**

When used in this Part III:

1. "**Insured person**" means:
  - a. **you** or a **relative**;
  - b. any person while operating a **covered auto** with the permission of **you** or a **relative**;
  - c. any person **occupying**, but not operating, a **covered auto**; and
  - d. any person who is entitled to recover damages covered by this Part III because of **bodily injury** sustained by a person described in a, b, or c above.
2. "**Property damage**" means physical damage to, destruction of, or loss of use of, a **covered auto**.
3. "**Underinsured motor vehicle**" means a land motor vehicle or trailer of any type to which a bodily injury liability bond or policy applies at the time of the accident, but its limit of liability for bodily injury is less than the amount of the **insured person's bodily injury** damages.

An **underinsured motor vehicle** does not include any vehicle or equipment:

- a. owned by **you** or a **relative** or furnished or available for the regular use of **you** or a **relative**;
  - b. operated on rails or crawler treads;
  - c. designed mainly for use off public roads, while not on public roads;
  - d. while located for use as a residence or premises;
  - e. that is a **covered auto**; or
  - f. that is an **uninsured motor vehicle**.
4. "**Uninsured motor vehicle**" means a land motor vehicle or trailer of any type:
- a. to which no bodily injury liability bond or policy applies at the time of the accident;
  - b. to which a bodily injury liability bond or policy applies at the time of the accident, but the bonding or insuring company:
    - (i) denies coverage; or
    - (ii) is insolvent, or becomes so within one year of the date of the accident; or
  - c. that is a hit-and-run vehicle whose owner or operator cannot be identified and which strikes:
    - (i) **you** or a **relative**;
    - (ii) a vehicle that **you** or a **relative** are **occupying**; or
    - (iii) a **covered auto**;provided that the **insured person**, or someone on his or her behalf, reports the accident to the police or civil authority within 24 hours or as soon as practicable after the accident.

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

- a. owned by **you** or a **relative** or furnished or available for the regular use of **you** or a **relative**;
- b. owned or operated by a self-insurer under any applicable motor vehicle law, except a self-insurer that is or becomes insolvent;
- c. operated on rails or crawler treads;
- d. designed mainly for use off public roads, while not on public roads;
- e. while located for use as a residence or premises;
- f. that is a **covered auto**; or
- g. that is an **underinsured motor vehicle**.

### **EXCLUSIONS - READ THE FOLLOWING EXCLUSIONS CAREFULLY. IF AN EXCLUSION APPLIES, COVERAGE WILL NOT BE AFFORDED UNDER THIS PART III.**

- A. Coverage under this Part III will not apply:
1. to **bodily injury** sustained by any person while using or **occupying**:
    - a. a **covered auto** while being used:
      - (i) to carry persons or property for compensation or a fee; or
      - (ii) for retail or wholesale delivery, including, but not limited to, the pick-up, transport, or delivery of magazines, newspapers, mail, or food.  
This exclusion does not apply to shared-expense car pools; or
    - b. a motor vehicle that is owned by or available for the regular use of **you** or a **relative**. This exclusion does not apply to a **covered auto** that is insured under this Part III;

2. to **bodily injury** sustained by **you** or a **relative** while using any vehicle, other than a **covered auto**, without the permission of the owner of the vehicle or the person in lawful possession of the vehicle;
  3. directly or indirectly to benefit any insurer or self-insurer under any of the following or similar laws:
    - a. workers' compensation law; or
    - b. disability benefits law;
  4. to any **punitive or exemplary damages**; or
  5. to **bodily injury** sustained by any person if that person or the legal representative of that person settles without **our** written consent.
- B. Coverage under this Part III will not apply to **property damage**:
1. sustained while a **covered auto** is being used:
    - a. to carry persons or property for compensation or a fee; or
    - b. for retail or wholesale delivery, including, but not limited to, the pickup, transport, or delivery of magazines, newspapers, mail, or food.

This exclusion does not apply to shared-expense car pools;
  2. resulting from, or sustained during practice or preparation for:
    - a. any pre-arranged or organized racing, stunting, speed, or demolition contest or activity; or
    - b. any driving activity conducted on a permanent or temporary racetrack or racecourse;
  3. to a **covered auto** for which insurance:
    - a. is afforded under a nuclear energy liability insurance contract; or
    - b. would be afforded under a nuclear energy liability insurance contract but for its termination upon exhaustion of its limit of liability; or
  4. to a trailer.

## LIMITS OF LIABILITY

The limit of liability shown on the **declarations page** for Uninsured/Underinsured Motorist Coverage is the most **we** will pay regardless of the number of:

1. claims made;
2. **covered autos**;
3. **insured persons**;
4. lawsuits brought;
5. vehicles involved in the accident; or
6. premiums paid.

If **your declarations page** shows a split limit:

1. the amount shown for "each person" is the most **we** will pay for all damages due to **bodily injury** to one person;
2. subject to the "each person" limit, the amount shown for "each accident" is the most **we** will pay for all damages due to **bodily injury** sustained by two or more persons in any one accident; and
3. the amount shown for "**property damage**" is the most **we** will pay for the aggregate of all **property damage** caused by any one accident.

The “each person” limit of liability includes the total of all claims made for **bodily injury** to an **insured person** and all claims of others derived from such **bodily injury**, including, but not limited to, emotional injury or mental anguish resulting from the **bodily injury** of another or from witnessing the **bodily injury** to another, loss of society, loss of companionship, loss of services, loss of consortium, and wrongful death.

If the **declarations page** shows that “combined single limit” or “CSL” applies, the amount shown is the most **we** will pay for the total of all damages resulting from any one accident. However, without changing this total limit of liability, **we** will comply with any law that requires **us** to provide any separate limits.

In determining the amount payable under this Part III, the amount of the damages sustained by the **insured person** due to **bodily injury** will be reduced by all sums:

1. paid by or on behalf of any persons or organizations that may be legally responsible;
2. paid under Part I - Liability To Others; and
3. paid or payable because of **bodily injury** under any of the following or similar laws:
  - a. workers’ compensation law; or
  - b. disability benefits law.

The limit of liability for **property damage** to a **covered auto** is the lowest of:

1. the actual cash value of the **covered auto** at the time of the accident;
2. the amount necessary to replace the **covered auto**;
3. the amount necessary to repair the **covered auto** to its pre-loss condition; or
4. the limit of liability shown on the **declarations page** for Uninsured Motorist Property Damage.

The limit of liability for **property damage** under this Part III will be reduced by all sums paid because of **property damage** by or on behalf of any persons or organizations that may be legally responsible, including, but not limited to, all sums paid under Part I - Liability To Others.

Payments for **property damage** under this Part III are subject to the following provisions:

1. any amount payable under this Part III for **property damage** shall be subject to the deductible shown on the **declarations page**;
2. no more than one deductible shall be applied to any one accident;
3. the deductible under this Part III shall not apply if:
  - a. the operator of the **uninsured motor vehicle** has been positively identified and is solely at fault; and
  - b. the **covered auto** is insured for Collision Coverage under Part IV - Damage To A Vehicle; and
4. IN THE REPAIR OF **YOUR** COVERED MOTOR VEHICLE UNDER THE PHYSICAL DAMAGE COVERAGE PROVISIONS OF THIS POLICY, **WE** MAY REQUIRE OR SPECIFY THE USE OF MOTOR VEHICLE PARTS NOT MADE BY THE ORIGINAL MANUFACTURER. THESE PARTS ARE REQUIRED TO BE

AT LEAST EQUAL IN TERMS OF FIT, QUALITY, PERFORMANCE, AND WARRANTY TO THE ORIGINAL MANUFACTURER PARTS THEY REPLACE.

No one will be entitled to duplicate payments for the same elements of damages.

If multiple auto policies issued by **us** are in effect for **you**, **we** will pay no more than the highest limit of liability for this coverage available under any one policy.

## **OTHER INSURANCE**

If there is other applicable uninsured or underinsured motorist coverage, **we** will pay only **our** share of the damages. **Our** share is the proportion that **our** limit of liability bears to the total of all available coverage limits. However, any insurance **we** provide under this Part III with respect to a vehicle that is not a **covered auto** will be excess over any other uninsured or underinsured motorist coverage.

## **ARBITRATION**

If **we** and an **insured person** cannot agree on:

1. the legal liability of the operator or owner of an **underinsured motor vehicle** or **uninsured motor vehicle**; or
  2. the amount of the damages sustained by the **insured person**;
- this will be determined by arbitration if **we** and the **insured person** mutually agree to arbitration prior to the expiration of the bodily injury statute of limitations in the state in which the accident occurred.

In the event of arbitration, each party will select an arbitrator. The two arbitrators will select a third. If the two arbitrators cannot agree on a third arbitrator within 30 days, then on joint application by the **insured person** and **us**, the third arbitrator will be appointed by a court having jurisdiction.

Each party will pay the costs and fees of its arbitrator and any other expenses it incurs. The costs and fees of the third arbitrator will be shared equally.

Unless both parties agree otherwise, arbitration will take place in the county in which the **insured person** resides. Local rules of procedure and evidence will apply.

A decision agreed to by two of the arbitrators will determine:

1. the legal liability of the operator or owner of an **underinsured motor vehicle** or **uninsured motor vehicle**; and
  2. the amount of the damages sustained by the **insured person**;
- but will not be binding on either the **insured person** or **us**. The arbitrators will have no authority to award an amount in excess of the limit of liability.

**We** and an **insured person** may agree to an alternate form of arbitration.

## PART IV - DAMAGE TO A VEHICLE

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

If **you** pay the premium for this coverage, **we** will pay for sudden, direct, and accidental loss to a:

1. **covered auto**, including an attached **trailer**; or
2. **non-owned auto**;  
and its **custom parts or equipment**, resulting from **collision**.

In addition, **we** will pay the reasonable cost to replace any child safety seat damaged in an accident to which this coverage applies.

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

If **you** pay the premium for this coverage, **we** will pay for sudden, direct, and accidental loss to a:

1. **covered auto**, including an attached **trailer**; or
2. **non-owned auto**;  
and its **custom parts or equipment**, that is not caused by **collision**.

A loss not caused by **collision** includes:

1. contact with an animal (including a bird);
2. explosion or earthquake;
3. fire;
4. malicious mischief or vandalism;
5. missiles or falling objects;
6. riot or civil commotion;
7. theft or larceny;
8. windstorm, hail, water, or flood; or
9. breakage of glass not caused by **collision**.

In addition, **we** will pay for:

1. reasonable transportation expenses incurred by **you** if a **covered auto** is stolen; and
2. loss of use damages that **you** are legally liable to pay if a **non-owned auto** is stolen.

A combined maximum of \$900, not exceeding \$30 per day, will apply to these additional benefits. The additional benefit for transportation expenses will not apply if **you** purchased Rental Reimbursement Coverage for the stolen **covered auto**.

Coverage for transportation expenses and loss of use damages begins 48 hours after **you** report the theft to **us** and ends the earliest of:

1. when the **auto** has been recovered and returned to **you** or its owner;
2. when the **auto** has been recovered and repaired;

3. when the **auto** has been replaced; or
4. 72 hours after **we** make an offer to settle the loss if the **auto** is deemed by **us** to be a total loss.

**We** must receive written proof of transportation expenses and loss of use damages.

### **INSURING AGREEMENT - ADDITIONAL CUSTOM PARTS OR EQUIPMENT COVERAGE**

**We** will pay for sudden, direct, and accidental loss to **custom parts or equipment** on a **covered auto** for which this coverage has been purchased. This coverage applies only if **you** have purchased both Comprehensive Coverage and Collision Coverage for that **covered auto** and the loss is covered under one of those coverages. This coverage applies in addition to any coverage automatically provided for **custom parts or equipment** under Comprehensive Coverage or Collision Coverage.

### **INSURING AGREEMENT - RENTAL REIMBURSEMENT COVERAGE**

**We** will reimburse rental charges incurred when **you** rent an **auto** from a rental agency or auto repair shop due to a loss to a **covered auto** for which Rental Reimbursement Coverage has been purchased. This coverage applies only if **you** have purchased both Comprehensive Coverage and Collision Coverage for that **covered auto** and the loss is covered under one of those coverages.

Additional fees or charges for insurance, damage waivers, optional equipment, fuel, or accessories are not covered.

This coverage is limited to the each day limit shown on the **declarations page** for a maximum of 30 days.

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

Rental charges will be reimbursed beginning:

1. when the **covered auto** cannot be driven due to a loss; or
2. if the **covered auto** can be driven, when **you** deliver the **covered auto** to an auto repair shop or one of **our** Claims Service Centers for repairs due to the loss;

and ending the earliest of:

1. when the **covered auto** has been returned to **you**;
2. when the **covered auto** has been repaired;
3. when the **covered auto** has been replaced;
4. 72 hours after **we** make an offer to settle the loss if the **covered auto** is deemed by **us** to be a total loss; or
5. when **you** incur 30 days worth of rental charges.

**You** must provide **us** written proof of **your** rental charges to be reimbursed.

## INSURING AGREEMENT - LOAN/LEASE PAYOFF COVERAGE

If **you** pay the premium for this coverage, and the **covered auto** for which this coverage was purchased is deemed by **us** to be a total loss, **we** will pay, in addition to any amounts otherwise payable under this Part IV, the difference between:

1. the actual cash value of the **covered auto** at the time of the total loss; and
2. any greater amount the owner of the **covered auto** is legally obligated to pay under a written loan or lease agreement to which the **covered auto** is subject at the time of the total loss, reduced by:
  - a. unpaid finance charges or refunds due to the owner for such charges;
  - b. excess mileage charges or charges for wear and tear;
  - c. charges for extended warranties or refunds due to the owner for extended warranties;
  - d. charges for credit insurance or refunds due to the owner for credit insurance;
  - e. past due payments and charges for past due payments; and
  - f. collection or repossession expenses.

However, **our** payment under this coverage shall not exceed the limit of liability shown on the **declarations page**. The limit of liability is a percentage of the actual cash value of the **covered auto** at the time of the loss.

This coverage applies only if **you** have purchased both Comprehensive Coverage and Collision Coverage for that **covered auto** and the loss is covered under one of those coverages.

## ADDITIONAL DEFINITIONS

When used in this Part IV:

1. **“Collision”** means the upset of a vehicle or its impact with another vehicle or object.
2. **“Custom parts or equipment”** means equipment, devices, accessories, enhancements, and changes, other than those that are offered by the manufacturer specifically for that **auto** model, or that are installed by the auto dealership as part of the original sale of a new **auto**, that:
  - a. are permanently installed or attached; and
  - b. alter the appearance or performance of the **auto**.
3. **“Mechanical parts”** means operational parts on a vehicle that wear out over time or have a finite useful life or duration typically shorter than the life of the vehicle as a whole. **Mechanical parts** do not include external crash parts, wheels, paint, or windshields and other glass.
4. **“Non-owned auto”** means an **auto**:
  - a. that is not a **loaner vehicle**; and
  - b. that is not owned by or furnished or available for the regular use of **you** or a **relative** while in the custody of or being operated by **you** or a **relative** with the permission of the owner of the **auto** or the person in lawful possession of the **auto**.

**EXCLUSIONS - READ THE FOLLOWING EXCLUSIONS CAREFULLY. IF AN EXCLUSION APPLIES, COVERAGE WILL NOT BE AFFORDED UNDER THIS PART IV.**

Coverage under this Part IV will not apply for loss:

1. to any vehicle while being used:
  - a. to carry persons or property for compensation or a fee; or
  - b. for retail or wholesale delivery, including, but not limited to, the pickup, transport, or delivery of magazines, newspapers, mail, or food.This exclusion does not apply to shared-expense car pools;
2. to a **non-owned auto** while being maintained or used by a person while employed or engaged in any **auto business**;
3. to any vehicle resulting from, or sustained during practice or preparation for:
  - a. any pre-arranged or organized racing, stunting, speed, or demolition contest or activity; or
  - b. any driving activity conducted on a permanent or temporary racetrack or race-course;
4. to any vehicle for which insurance:
  - a. is afforded under a nuclear energy liability insurance contract; or
  - b. would be afforded under a nuclear energy liability insurance contract but for its termination upon exhaustion of its limit of liability;
5. to any vehicle caused by an intentional act committed by or at the direction of **you**, a **relative**, or the owner of a **non-owned auto**, even if the actual damage is different than that which was intended or expected;
6. to a **covered auto** while it is leased or rented to others or given in exchange for compensation. This exclusion does not apply to the operation of a **covered auto** by **you** or a **relative**;
7. due to destruction or confiscation by governmental or civil authorities of any vehicle because **you** or any **relative** engaged in illegal activities;
8. to any vehicle that is due and confined to:
  - a. wear and tear;
  - b. freezing;
  - c. mechanical, electrical, or electronic breakdown or failure; or
  - d. road damage to tires.This exclusion does not apply if the damage results from the theft of a vehicle;
9. to portable equipment, devices, accessories, and any other personal effects that are not permanently installed. This includes, but is not limited to:
  - a. tapes, compact discs, cassettes, DVDs, and other recording or recorded media;
  - b. any case or other container designed for use in storing or carrying tapes, compact discs, cassettes, DVDs, or other recording or recorded media;
  - c. any device used for the detection or location of radar, laser, or other speed measuring equipment or its transmissions; and
  - d. CB radios, telephones, two-way mobile radios, DVD players, personal computers, personal digital assistants, or televisions;
10. to any vehicle for diminution of value;
11. to any vehicle caused directly or indirectly by:
  - a. war (declared or undeclared) or civil war;

- b. warlike action by any military force of any government, sovereign or other authority using military personnel or agents. This includes any action taken to hinder or defend against an actual or expected attack; or
  - c. insurrection, rebellion, revolution, usurped power, or any action taken by a governmental authority to hinder or defend against any of these acts;
12. to any vehicle caused directly or indirectly by:
- a. any accidental or intentional discharge, dispersal or release of radioactive, nuclear, pathogenic or poisonous biological material; or
  - b. any intentional discharge, dispersal or release of chemical or hazardous material for any purpose other than its safe and useful purpose; or
13. to any vehicle caused by, or reasonably expected to result from, a criminal act or omission of **you**, a **relative**, or the owner of a **non-owned auto**. This exclusion applies regardless of whether **you**, the **relative**, or the owner of the **non-owned auto** is actually charged with, or convicted of, a crime. For purposes of this exclusion, criminal acts or omissions do not include traffic violations.

## LIMITS OF LIABILITY

1. The limit of liability for loss to a **covered auto**, **non-owned auto**, or **custom parts or equipment** is the lowest of:
- a. the actual cash value of the stolen or damaged property at the time of the loss reduced by the applicable deductible;
  - b. the amount necessary to replace the stolen or damaged property reduced by the applicable deductible;
  - c. the amount necessary to repair the damaged property to its pre-loss condition reduced by the applicable deductible; or
  - d. the Stated Amount shown on the **declarations page** for that **covered auto**.
- However, the most **we** will pay for loss to:
- a. **custom parts or equipment** is \$1,000 unless **you** purchased Additional Custom Parts or Equipment Coverage (“ACPE”). If **you** purchased ACPE, the most **we** will pay is \$1,000 plus the amount of ACPE **you** purchased;
  - b. a **trailer** is the limit of liability shown on the **declarations page** for that **trailer**. If the **trailer** is not shown on the **declarations page**, the limit of liability is \$500.
2. Payments for loss to a **covered auto**, **non-owned auto**, or **custom parts or equipment** are subject to the following provisions:
- a. If coverage applies to a **non-owned auto**, **we** will provide the broadest coverage applicable to any **covered auto** shown on the **declarations page**.
  - b. If **you** have elected a Stated Amount for a **covered auto**, the Stated Amount is the most **we** will pay for all loss to that **covered auto**, including its **custom parts or equipment**.
  - c. Coverage for **custom parts or equipment** will not cause **our** limit of liability for loss to an **auto** under this Part IV to be increased to an amount in excess of the actual cash value of the **auto**, including its **custom parts or equipment**.
  - d. In determining the amount necessary to repair damaged property to its pre-loss condition, the amount to be paid by **us**:
    - (i) will not exceed the prevailing competitive labor rates charged in the area

where the property is to be repaired and the cost of repair or replacement parts and equipment, as reasonably determined by **us**; and

(ii) will be based on the cost of repair or replacement parts and equipment which may be new, reconditioned, remanufactured, or used, including, but not limited to:

(a) original manufacturer parts or equipment; and

(b) nonoriginal manufacturer parts or equipment.

e. To determine the amount necessary to repair or replace the damaged property as referred to in subsection 1, the total cost of necessary repair or replacement may be reduced by unrepaired prior damage. Unrepaired prior damage includes broken, cracked, or missing parts; rust; dents; scrapes; gouges; and peeling paint. The reduction for unrepaired prior damage is the cost of labor, parts, and materials necessary to repair or replace damage, deterioration, defects, or wear and tear on exterior body parts, windshields and other glass, wheels, and paint, that existed prior to the accident and that is eliminated as a result of the repair or replacement of property damaged in the loss.

f. To determine the amount necessary to repair or replace the damaged property as referred to in subsection 1, an adjustment may be made for betterment or depreciation and physical condition on:

(i) batteries;

(ii) tires;

(iii) engines and transmissions, if the engine has greater than 80,000 miles; and

(iv) any other **mechanical parts** that are nonfunctioning or inoperative.

**We** will not make an adjustment for the labor costs associated with the replacement or repair of these parts.

g. The actual cash value is determined by the market value, age, and condition of the vehicle at the time the loss occurs.

3. No deductible will apply to a loss to window glass when the glass is repaired instead of replaced.

4. Duplicate recovery for the same elements of damages is not permitted.

5. Any amount paid or payable under this Part IV shall be reduced by any amount paid for **property damage** to the vehicle under Part III - Uninsured/Underinsured Motorist Coverage.

6. IN THE REPAIR OF **YOUR** COVERED MOTOR VEHICLE UNDER THE PHYSICAL DAMAGE COVERAGE PROVISIONS OF THIS POLICY, **WE** MAY REQUIRE OR SPECIFY THE USE OF MOTOR VEHICLE PARTS NOT MADE BY THE ORIGINAL MANUFACTURER. THESE PARTS ARE REQUIRED TO BE AT LEAST EQUAL IN TERMS OF FIT, QUALITY, PERFORMANCE, AND WARRANTY TO THE ORIGINAL MANUFACTURER PARTS THEY REPLACE.

## **PAYMENT OF LOSS**

**We** may, at **our** option:

1. pay for the loss in money; or
2. repair or replace the damaged or stolen property.

At **our** expense, **we** may return any recovered stolen property to **you** or to the address shown on the **declarations page**, with payment for any damage resulting from the theft. **We** may keep all or part of the property at the agreed or appraised value.

**We** may settle any loss with **you** or the owner or lienholder of the property.

## **NO BENEFIT TO BAILEE**

Coverage under this Part IV will not directly or indirectly benefit any carrier or other bailee for hire.

## **LOSS PAYABLE CLAUSE**

Payment under this Part IV for a loss to a **covered auto** will be made according to **your** interest and the interest of any lienholder shown on the **declarations page** or designated by **you**. At **our** option, payment may be made to both jointly, or to either separately. Either way, **we** will protect the interest of both. However, if the **covered auto** is not a total loss, **we** may make payment to **you** and the repairer of the **auto**.

Protection of the lienholder's financial interest will not be affected by any act or omission by any person entitled to coverage under this policy. However, protection under this clause does not apply:

1. in any case of conversion, embezzlement, secretion, or willful damaging or destruction, of the **covered auto** by or at the direction of **you**, a **relative**, or the owner of the **covered auto**; or
2. to any loss caused by, or reasonably expected to result from, a criminal act or omission of **you**, a **relative**, or the owner of the **covered auto**. This applies regardless of whether **you**, the **relative**, or the owner of the **covered auto** is actually charged with, or convicted of, a crime. For purposes of this clause, criminal acts or omissions do not include traffic violations.

If this policy is cancelled, nonrenewed, or voided, the interest of any lienholder under this agreement will also terminate.

When **we** make payment to a lienholder for loss under this policy, **we** will be subrogated to the rights of the party **we** pay, to the extent of **our** payment. When **we** pay a lienholder for a loss for which **you** are not covered, **we** are entitled to the lienholder's right of recovery against **you** to the extent of **our** payment. **Our** right to subrogation will not impair the lienholder's right to recover the full amount of its claim.

## **OTHER SOURCES OF RECOVERY**

If other sources of recovery also cover the loss, **we** will pay only **our** share of the loss. **Our** share is the proportion that **our** limit of liability bears to the total of all appli-

cable limits. However, any insurance **we** provide for a **non-owned auto**, or **trailer** not shown on the **declarations page**, will be excess over any other collectible source of recovery including, but not limited to:

1. any coverage provided by the owner of the **non-owned auto** or **trailer**;
2. any other applicable physical damage insurance; and
3. any other source of recovery applicable to the loss.

## **APPRAISAL**

If **we** cannot agree with **you** on the amount of a loss, then **we** and the **insured person** may mutually agree to an appraisal of the loss. Within 30 days of any agreement to an appraisal, each party shall appoint a competent appraiser and shall notify the other party of that appraiser's identity. The appraisers will determine the amount of loss. If they fail to agree, the disagreement will be submitted to a qualified umpire chosen by the appraisers. If the two appraisers are unable to agree upon an umpire within 15 days, **we** or **you** may request that a judge of a court of record, in the county where **you** reside, select an umpire. The appraisers and umpire will determine the amount of loss. The amount of loss agreed to by both appraisers, or by one appraiser and the umpire, will determine the amount payable under this Part IV, but will not be binding. **You** will pay **your** appraiser's fees and expenses. **We** will pay **our** appraiser's fees and expenses. All other expenses of the appraisal, including payment of the umpire if one is selected, will be shared equally between **us** and **you**. Neither **we** nor **you** waive any rights under this policy by agreeing to an appraisal.

## **PART V - ROADSIDE ASSISTANCE COVERAGE**

### **INSURING AGREEMENT**

If **you** pay the premium for this coverage, **we** will pay for **our** authorized service representative to provide the following services when necessary due to a **covered emergency**:

1. towing of a **covered disabled auto** to the nearest qualified repair facility; and
2. labor on a **covered disabled auto** at the place of disablement.

If a **covered disabled auto** is towed to any place other than the nearest qualified repair facility, **you** will be responsible for any additional charges incurred.

### **ADDITIONAL DEFINITIONS**

When used in this Part V:

1. "**Covered disabled auto**" means a **covered auto** for which this coverage has been purchased that sustains a **covered emergency**.
2. "**Covered emergency**" means a disablement that is a result of:
  - a. mechanical or electrical breakdown;
  - b. battery failure;
  - c. insufficient supply of fuel, oil, water, or other fluid;
  - d. flat tire;

- e. lock-out; or
- f. entrapment in snow, mud, water, or sand, within 100 feet of a road or highway.

**EXCLUSIONS - READ THE FOLLOWING EXCLUSIONS CAREFULLY. IF AN EXCLUSION APPLIES, COVERAGE WILL NOT BE AFFORDED UNDER THIS PART V.**

Coverage under this Part V will not apply to:

1. the cost of purchasing parts, fluid, lubricants, fuel, or replacement keys, or the labor to make replacement keys;
2. installation of products or material not related to the disablement;
3. labor not related to the disablement;
4. labor on a **covered disabled auto** for any time period in excess of 60 minutes per disablement;
5. towing or storage related to impoundment, abandonment, illegal parking, or other violations of law;
6. assistance with jacks, levelers, airbags, or awnings;
7. towing from a service station, garage, or repair shop;
8. labor or repair work performed at a service station, garage, or repair shop;
9. auto storage charges;
10. a second service call or tow for a single disablement;
11. disablement that occurs on roads not regularly maintained, sand beaches, open fields, or areas designated as not passable due to construction, weather, or earth movement;
12. mounting or removing of snow tires or chains;
13. tire repair;
14. repeated service calls for a **covered disabled auto** in need of routine maintenance or repair;
15. disablement that results from an intentional or willful act or action by **you**, a **relative**, or the operator of a **covered disabled auto**; or
16. a trailer.

**UNAUTHORIZED SERVICE PROVIDER**

When service is rendered by a provider in the business of providing roadside assistance and towing services, other than one of **our** authorized service representatives, **we** will pay only reasonable charges, as determined by **us**, for:

1. towing of a **covered disabled auto** to the nearest qualified repair facility; and
  2. labor on a **covered disabled auto** at the place of disablement;
- which is necessary due to a **covered emergency**.

**OTHER INSURANCE**

Any coverage provided under this Part V for service rendered by an unauthorized service provider will be excess over any other collectible insurance or towing protection coverage.

## **PART VI - DUTIES IN CASE OF AN ACCIDENT OR LOSS**

For coverage to apply under this policy, **you** or the person seeking coverage must promptly report each accident or loss even if **you** or the person seeking coverage is not at fault. **You** or the person seeking coverage must provide **us** with all accident or loss information including time, place, and how the accident or loss happened. **You** or the person seeking coverage must also obtain and provide **us** the names and addresses of all persons involved in the accident or loss, the names and addresses of any witnesses, and the license plate numbers of the vehicles involved.

If **you** or the person seeking coverage cannot identify the owner or operator of a vehicle involved in the accident, or if theft or vandalism has occurred, **you** or the person seeking coverage must notify the police within 24 hours or as soon as practicable.

A person seeking coverage must:

1. cooperate with **us** in any matter concerning a claim or lawsuit;
2. provide any written proof of loss **we** may reasonably require;
3. allow **us** to take signed and recorded statements, including sworn statements and examinations under oath, which **we** may conduct outside the presence of **you** or any other person seeking coverage, and answer all reasonable questions **we** may ask as often as **we** may reasonably require;
4. promptly call to notify **us** about any claim or lawsuit and send **us** any and all legal papers relating to the claim or suit;
5. attend hearings and trials as **we** require;
6. take reasonable steps after a loss to protect the **covered auto**, or any other vehicle for which coverage is sought, from further loss. **We** will pay reasonable expenses incurred in providing that protection. If failure to provide such protection results in further loss, any additional damages will not be covered under this policy;
7. allow **us** to have the damaged **covered auto**, or any other damaged vehicle for which coverage is sought, inspected and appraised before its repair or disposal;
8. submit to medical examinations at **our** expense by doctors **we** select as often as **we** may reasonably require; and
9. authorize **us** to obtain medical and other records.

## **PART VII - GENERAL PROVISIONS**

### **POLICY PERIOD AND TERRITORY**

This policy applies only to accidents and losses occurring during the policy period shown on the **declarations page** and that occur within a state, territory, or possession of the United States of America, or a province or territory of Canada, or while a **covered auto** is being transported between their ports.

## CHANGES

This policy contract, **your** insurance application (which is made a part of this policy as if attached hereto), the **declarations page**, and all endorsements to this policy issued by **us**, contain all the agreements between **you** and **us**. Subject to the following, the terms of this policy may not be changed or waived except by an endorsement issued by **us**.

The premium for this policy is based on information **we** received from **you** and other sources. **You** agree to cooperate with **us** in determining if this information is correct and complete, and to notify **us** if it changes during the policy period. If this information is incorrect, incomplete, or changes during the policy period, **you** agree that **we** may adjust **your** premium accordingly. Changes that may result in a premium adjustment are contained in **our** rates and rules. These include, but are not limited to, **you** or a **relative** obtaining a driver's license or operator's permit, or changes in:

1. the number, type, or use classification of **covered autos**;
2. operators using **covered autos**;
3. an operator's marital status;
4. the place of principal garaging of any **covered auto**;
5. coverage, deductibles, or limits of liability; or
6. rating territory or discount eligibility.

The coverage provided in **your** policy may be changed only by the issuance of a new policy or an endorsement by **us**. However, if during the policy period **we** broaden any coverage afforded under the current edition of **your** policy without additional premium charge, that change will automatically apply to **your** policy as of the date the coverage change is implemented in **your** state.

If **you** ask **us** to delete a vehicle from this policy, no coverage will apply to that vehicle as of the date and time **you** ask **us** to delete it.

## DUTY TO REPORT CHANGES

**You** must promptly notify **us** when:

1. **your** mailing or residence address changes;
2. the principal garaging address for a **covered auto** changes;
3. there is a change with respect to the residents in **your** household or the persons who regularly operate a **covered auto**;
4. an operator's marital status changes; or
5. **you** or a **relative** obtain a driver's license or operator's permit.

## SETTLEMENT OF CLAIMS

**We** may use estimating, appraisal, or injury evaluation systems to assist **us** in adjusting claims under this policy and to assist **us** in determining the amount of damages, expenses, or loss payable under this policy. Such systems may be developed by **us** or a third party and may include computer software, databases, and specialized technology.

## TERMS OF POLICY CONFORMED TO STATUTES

If any provision of this policy fails to conform to the statutes of the state listed on **your** application as **your** residence, the provision shall be deemed amended to conform to such statutes. All other provisions shall be given full force and effect. Any disputes as to the coverages provided or the provisions of this policy shall be governed by the law of the state listed on **your** application as **your** residence.

## TRANSFER OF INTEREST

The rights and duties under this policy may not be transferred to another person without **our** written consent. However, if a named insured shown on the **declarations page** dies, this policy will provide coverage until the end of the policy period for the legal representative of the named insured, while acting as such, and for persons covered under this policy on the date of the named insured's death.

## FRAUD OR MISREPRESENTATION

This policy was issued in reliance upon the information provided on **your** insurance application. **We** may void this policy at any time, including after the occurrence of an accident or loss, if **you**:

1. made incorrect statements or representations to **us** with regard to any material fact or circumstance;
2. concealed or misrepresented any material fact or circumstance; or
3. engaged in fraudulent conduct;

at the time of application. If **we** void this policy, this shall not affect coverage under Part I - Liability To Others for an accident that occurs before **we** notify the named insured that the policy is void. No payment will be made to any person who concealed or misrepresented any material fact or circumstance, or engaged in fraudulent conduct. If **we** void this policy, **you** must reimburse **us** if **we** make a payment.

**We** may deny coverage for an accident or loss if **you** or a person seeking coverage has knowingly concealed or misrepresented any material fact or circumstance, or engaged in fraudulent conduct, in connection with the presentation or settlement of a claim.

## PAYMENT OF PREMIUM AND FEES

If **your** initial premium payment is by check, draft, electronic funds transfer, or similar form of remittance, coverage under this policy is conditioned on payment to **us** by the financial institution. If the financial institution upon presentment does not honor the check, draft, electronic funds transfer, or similar form of remittance, this policy may, at **our** option, be deemed void from its inception. This means **we** will not be liable under this policy for any claims or damages that would otherwise be covered if the check, draft, electronic funds transfer, or similar form of remittance had been honored by the financial institution. Any action by **us** to present the remittance for payment more than once shall not affect **our** right to void this policy.

In addition to premium, fees may be charged on **your** policy. **We** may charge fees for installment payments, late payments, and other transactions. Payments made on **your** policy will be applied first to fees, then to premium due.

## CANCELLATION

**You** may cancel this policy during the policy period by calling or writing **us** and stating the future date **you** wish the cancellation to be effective.

**We** may cancel this policy during the policy period by mailing a notice of cancellation to the named insured shown on the **declarations page** at the last known address appearing in **our** records.

**We** will give at least 10 days notice of cancellation if the policy is cancelled for nonpayment of premium.

**We** will give at least 20 days notice of cancellation in all other cases.

**We** may cancel this policy for any reason if the notice is mailed within the first 59 days of the initial policy period.

After this policy is in effect for more than 59 days, or if this is a renewal or continuation policy, **we** may cancel only for one or more of the following reasons:

1. nonpayment of premium;
2. material misrepresentation or fraud with respect to any material fact in the procurement or renewal of this policy;
3. material misrepresentation or fraud in the submission of any claim under this policy;
4. loss of driving privileges during the policy period, or, if this is a renewal policy, during the policy period or the 180 days immediately preceding the effective date of renewal, through suspension or revocation of an operator's license or motor vehicle registration issued to **you**, any driver in **your** household, or any regular operator of a **covered auto**. However, **we** will not cancel **your** policy solely due to an administrative revocation or suspension of an operator's license pursuant to Arkansas Code Annotated §5-65-104;
5. **you** or any driver of the **covered auto** have been convicted of:
  - a. driving while intoxicated;
  - b. homicide or assault arising out of the use of a motor vehicle; or
  - c. three separate convictions of speeding or reckless driving, or any combination of the two, during the policy period or the three months prior to the effective date of the policy; or
6. any other reason permitted by law.

Proof of mailing will be sufficient proof of notice. If this policy is cancelled, coverage will not be provided as of the effective date and time shown in the notice of cancellation. For purposes of cancellation, this policy is neither severable nor divisible. Any cancellation will be effective for all coverages for all persons and all vehicles.

## CANCELLATION REFUND

Upon cancellation, **you** may be entitled to a premium refund. However, **our** making or offering of a refund is not a condition of cancellation.

If this policy is cancelled, any refund due will be computed on a daily pro rata basis. However, **we** will retain a cancellation fee if this policy is cancelled at **your** request or if cancellation is for nonpayment of premium. A cancellation fee will be charged only during the initial policy period.

## NONRENEWAL

If neither **we** nor one of **our** affiliates offers to renew or continue this policy, other than for nonpayment of premium, **we** will mail notice of nonrenewal to the named insured shown on the **declarations page** at the last known address appearing in **our** records. Proof of mailing will be sufficient proof of notice. Notice will be mailed at least 30 days before the end of the policy period.

## AUTOMATIC TERMINATION

If **we** or an affiliate offers to renew or continue this policy and **you** or **your** representative does not accept, this policy will automatically terminate at the end of the current policy period. Failure to pay the required renewal or continuation premium when due will mean that **you** have not accepted **our** offer.

If **you** obtain other insurance on a **covered auto**, any similar insurance provided by this policy will terminate as to that **covered auto** on the effective date of the other insurance.

If a **covered auto** is sold or transferred to someone other than **you** or a **relative**, any insurance provided by this policy will terminate as to that **covered auto** on the effective date of the sale or transfer.

## LEGAL ACTION AGAINST US

**We** may not be sued unless there is full compliance with all the terms of this policy.

**We** may not be sued for payment under Part I - Liability To Others until the obligation of an insured person under Part I to pay is finally determined either by judgment after trial against that person or by written agreement of the insured person, the claimant, and **us**. No one will have any right to make **us** a party to a lawsuit to determine the liability of an insured person.

If **we** retain salvage, **we** have no duty to preserve or otherwise retain the salvage for any purpose, including evidence for any civil or criminal proceeding.

## OUR RIGHTS TO RECOVER PAYMENT

**We** are entitled to the rights of recovery that the insured person to whom payment was made has against another after the insured person has been fully compensated for his or her loss, to the extent of **our** payment. That insured person may be required to sign documents related to the recovery and must do whatever else **we** require to help **us** exercise those recovery rights, and do nothing after an accident or loss to prejudice those rights.

When an insured person has been paid by **us** and also recovers from another, the amount recovered will be held by the insured person in trust for **us** and reimbursed to **us** to the extent of **our** payment. However, this shall not apply to payment by **us** under any Accidental Death Benefits Coverage provided under Part II - Personal Injury Protection Coverage. If **we** are not reimbursed, **we** may pursue recovery of that amount directly against that insured person.

If an insured person recovers from another without **our** written consent, the insured person's right to payment under any affected coverage will no longer exist.

**Our** right of recovery does not apply to underinsured motorist benefits if:

1. the **insured person** sends **us** written notice, in accordance with the requirements of the Notice And Consent Requirement provision in Part III - Uninsured/Underinsured Motorist Coverage, of any tentative settlement agreement reached with the owner or operator of an underinsured motor vehicle, or such person's liability insurer; and
2. **we** fail to pay the sum offered in settlement to the **insured person** by the owner or operator of the underinsured motor vehicle, or that person's liability insurer, within 30 days of **our** receipt of such notice.

**Our** right of recovery does not apply to underinsured motorist benefits to the extent of any payment **we** have made to the **insured person** under a policy of liability insurance issued by **us** to the owner or operator of an underinsured motor vehicle.

If **we** elect to exercise **our** rights of recovery against another, **we** will also attempt to recover any deductible incurred by an insured person under this policy unless **we** are specifically instructed by that person not to pursue the deductible. **We** have no obligation to pursue recovery against another for any loss not covered by this policy.

**We** reserve the right to compromise or settle the deductible and property damage claims against the responsible parties for less than the full amount. **We** also reserve the right to incur reasonable expenses and attorney fees in pursuit of the recovery.

If the total recovery is less than the total of **our** payment and the deductible, **we** will reduce reimbursement of the deductible based on the proportion that the actual recovery bears to the total of **our** payment and the deductible. A proportionate share

of collection expenses and attorney fees incurred in connection with these recovery efforts will also reduce reimbursement of the deductible.

These provisions will be applied in accordance with state law.

## **JOINT AND INDIVIDUAL INTERESTS**

If there is more than one named insured on this policy, any named insured may cancel or change this policy. The action of one named insured will be binding on all persons provided coverage under this policy.

## **BANKRUPTCY**

The bankruptcy or insolvency of an insured person will not relieve **us** of any obligations under this policy. If execution of a judgment against an **insured person** under Part I - Liability To Others is returned unsatisfied because of the insolvency or bankruptcy of the **insured person**, the person claiming payment for damages under Part I may maintain an action against **us** for the amount of the judgment not exceeding **our** limits of liability.

**PROGRESSIVE**<sup>®</sup>  
*DRIVE Insurance*



\*9610A AR 0507\*

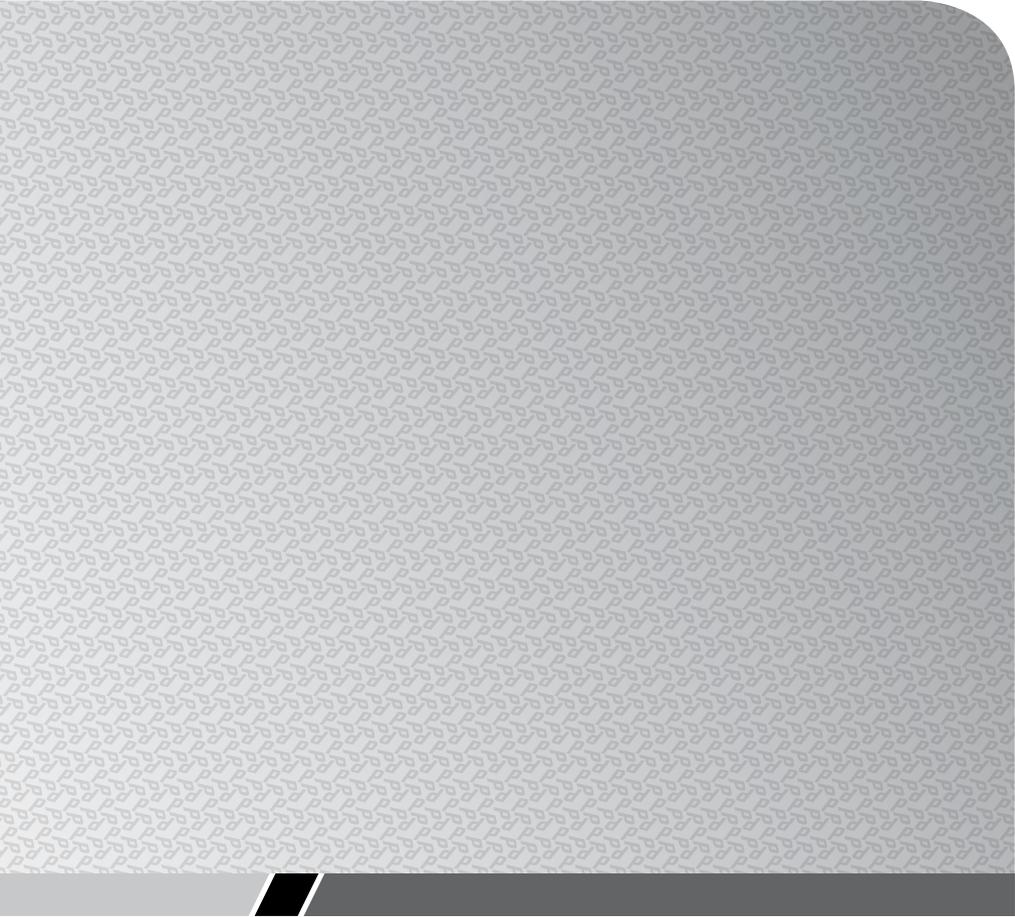


\*9610D AR 0507\*



# ARKANSAS

## AUTO POLICY



Form 9610D AR (05/07)  
version 3.0

***PROGRESSIVE***<sup>®</sup>  
*DIRECT*



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# ARKANSAS AUTO POLICY

## INSURING AGREEMENT

In return for **your** payment of the premium, **we** agree to insure **you** subject to all the terms, conditions, and limitations of this policy. **We** will insure **you** for the coverages and the limits of liability shown on this policy's **declarations page**. **Your** policy consists of the policy contract, **your** insurance application, the **declarations page**, and all endorsements to this policy.

## GENERAL DEFINITIONS

The following definitions apply throughout the policy. Defined terms are printed in boldface type and have the same meaning whether in the singular, plural, or any other form.

1. **"Additional auto"** means an **auto you** become the owner of during the policy period that does not permanently replace an **auto** shown on the **declarations page** if:
  - a. **we** insure all other **autos you** own;
  - b. the **additional auto** is not covered by any other insurance policy;
  - c. **you** notify **us** within 30 days of becoming the owner of the **additional auto**; and
  - d. **you** pay any additional premium due.

An **additional auto** will have the broadest coverage **we** provide for any **auto** shown on the **declarations page**. If **you** ask **us** to insure an **additional auto** more than 30 days after **you** become the owner, any coverage **we** provide will begin at the time **you** request coverage.

2. **"Auto"** means a land motor vehicle:
  - a. of the private passenger, pickup body, or cargo van type;
  - b. designed for operation principally upon public roads;
  - c. with at least four wheels; and
  - d. with a gross vehicle weight rating of 12,000 pounds or less, according to the manufacturer's specifications.

However, **"auto"** does not include step-vans, parcel delivery vans, or cargo cut-away vans or other vans with cabs separate from the cargo area.

3. **"Auto business"** means the business of selling, leasing, repairing, parking, storing, servicing, delivering, or testing vehicles.
4. **"Bodily injury"** means bodily harm, sickness, or disease, including death that results from bodily harm, sickness, or disease.
5. **"Covered auto"** means:
  - a. any **auto** or **trailer** shown on the **declarations page** for the coverages applicable to that **auto** or **trailer**;
  - b. any **additional auto**;
  - c. any **replacement auto**;
  - d. a **trailer** owned by **you**; or
  - e. a **loaner vehicle**.

6. **"Declarations page"** means the document showing **your** coverages, limits of liability, **covered autos**, premium, and other policy-related information. The **declarations page** may also be referred to as the Auto Insurance Coverage Summary.

7. **“Loaner vehicle”** means an **auto** operated by **you** that is:
  - a. loaned to **you** by a duly licensed automobile dealer:
    - i. as a temporary substitute for a **covered auto** while the **covered auto** is out of use because of breakdown, repair, or servicing; or
    - ii. for use as a demonstrator vehicle; or
  - b. rented or leased from a rental company that is in the business of providing primarily private passenger vehicles to the public under a rental agreement for a period not to exceed 90 days.
8. **“Occupying”** means in, on, entering, or exiting.
9. **“Property damage”** means physical damage to, destruction of, or loss of use of, tangible property.
10. **“Punitive or exemplary damages”** means damages which may be imposed to punish a wrongdoer and to deter others from similar conduct.
11. **“Relative”** means a person residing in the same household as **you**, and related to **you** by blood, marriage, or adoption, and includes a ward, stepchild, or foster child. **Your** unmarried dependent children temporarily away from home will qualify as a **relative** if they intend to continue to reside in **your** household.
12. **“Replacement auto”** means an **auto** that permanently replaces an **auto** shown on the **declarations page**. A **replacement auto** will have the same coverage as the **auto** it replaces if the **replacement auto** is not covered by any other insurance policy. However, if the **auto** being replaced had coverage under Part IV - Damage To A Vehicle, such coverage will apply to the **replacement auto** only during the first 30 days after **you** become the owner unless **you** notify **us** within that 30-day period that **you** want **us** to extend coverage beyond the initial 30 days. If the **auto** being replaced did not have coverage under Part IV - Damage To A Vehicle, such coverage may be added, but the **replacement auto** will have no coverage under Part IV until **you** notify **us** of the **replacement auto** and ask **us** to add the coverage.
13. **“Trailer”** means a non-motorized trailer, including a farm wagon or farm implement, designed to be towed on public roads by an **auto** and not being used:
  - a. for commercial purposes;
  - b. as an office, store, or for display purposes; or
  - c. as a passenger conveyance.
14. **“We”, “us”, and “our”** mean the underwriting company providing the insurance, as shown on the **declarations page**.
15. **“You” and “your”** mean:
  - a. a person shown as a named insured on the **declarations page**; and
  - b. the spouse of a named insured if residing in the same household at the time of the loss.

## **PART I - LIABILITY TO OTHERS**

### **INSURING AGREEMENT**

If **you** pay the premium for this coverage, **we** will pay damages for **bodily injury** and **property damage** for which an **insured person** becomes legally responsible because of an accident.

Damages include prejudgment interest awarded against an **insured person**.

**We** will settle or defend, at **our** option, any claim for damages covered by this Part I.

## **ADDITIONAL DEFINITIONS**

When used in this Part I:

1. **"Insured person"** means:
  - a. **you** or a **relative** with respect to an accident arising out of the ownership, maintenance, or use of an **auto** or **trailer**;
  - b. any person with respect to an accident arising out of that person's use of a **covered auto** with the permission of **you** or a **relative**;
  - c. any person or organization with respect only to vicarious liability for the acts or omissions of a person described in a or b above; and
  - d. any Additional Interest shown on the **declarations page** with respect only to its liability for the acts or omissions of a person described in a or b above.
2. **"Property damage"** means physical damage to, destruction of, or loss of use of, tangible property.

## **ADDITIONAL PAYMENTS**

In addition to **our** limit of liability, **we** will pay for an **insured person**:

1. all expenses **we** incur in the settlement of any claim or defense of any lawsuit;
2. interest accruing after entry of judgment, until **we** have paid, offered to pay, or deposited in court, that portion of the judgment which does not exceed **our** limit of liability. This does not apply if **we** have not been given notice of suit or the opportunity to defend an **insured person**;
3. the premium on any appeal bond or attachment bond required in any lawsuit **we** defend. **We** have no duty to purchase a bond in an amount exceeding **our** limit of liability, and **we** have no duty to apply for or furnish these bonds;
4. up to \$250 for a bail bond required because of an accident resulting in **bodily injury** or **property damage** covered under this Part I. **We** have no duty to apply for or furnish this bond; and
5. reasonable expenses, including loss of earnings up to \$200 per day, incurred at **our** request.

## **EXCLUSIONS - READ THE FOLLOWING EXCLUSIONS CAREFULLY. IF AN EXCLUSION APPLIES, COVERAGE WILL NOT BE AFFORDED UNDER THIS PART I.**

Coverage under this Part I, including **our** duty to defend, will not apply to any **insured person** for:

1. **bodily injury** or **property damage** arising out of the ownership, maintenance, or use of any vehicle or trailer while being used:
  - a. to carry persons or property for compensation or a fee; or
  - b. for retail or wholesale delivery, including, but not limited to, the pickup, transport, or delivery of magazines, newspapers, mail, or food.This exclusion does not apply to shared-expense car pools;

2. any liability assumed under any contract or agreement by **you** or a **relative**;
3. **bodily injury** to an employee of that **insured person** arising out of or within the course of employment. This exclusion does not apply to domestic employees if benefits are neither paid nor required to be provided under workers' compensation, disability benefits, or similar laws;
4. **bodily injury** or **property damage** arising out of an accident involving any vehicle while being maintained or used by a person while employed or engaged in any **auto business**. This exclusion does not apply to **you**, a **relative**, or an agent or employee of **you** or a **relative**, when using a **covered auto**;
5. **bodily injury** or **property damage** resulting from, or sustained during practice or preparation for:
  - a. any pre-arranged or organized racing, stunting, speed, or demolition contest or activity; or
  - b. any driving activity conducted on a permanent or temporary racetrack or race-course;
6. **bodily injury** or **property damage** due to a nuclear reaction or radiation;
7. **bodily injury** or **property damage** for which insurance:
  - a. is afforded under a nuclear energy liability insurance contract; or
  - b. would be afforded under a nuclear energy liability insurance contract but for its termination upon exhaustion of its limit of liability;
8. any obligation for which the United States Government is liable under the Federal Tort Claims Act;
9. **bodily injury** or **property damage** caused by an intentional act of that **insured person**, or at the direction of that **insured person**, even if the actual injury or damage is different than that which was intended or expected;
10. **property damage** to any property owned by, rented to, being transported by, used by, or in the charge of that **insured person**. This exclusion does not apply to a rented residence or a rented garage;
11. **bodily injury** to **you** or a **relative**;
12. **bodily injury** or **property damage** arising out of the ownership, maintenance, or use of any vehicle owned by **you** or furnished or available for **your** regular use, other than a **covered auto** for which this coverage has been purchased;
13. **bodily injury** or **property damage** arising out of the ownership, maintenance, or use of any vehicle owned by a **relative** or furnished or available for the regular use of a **relative**, other than a **covered auto** for which this coverage has been purchased. This exclusion does not apply to **your** maintenance or use of such vehicle;
14. **bodily injury** or **property damage** arising out of **your** or a **relative's** use of a vehicle, other than a **covered auto**, without the permission of the owner of the vehicle or the person in lawful possession of the vehicle;
15. **bodily injury** or **property damage** arising out of the use of a **covered auto** while leased or rented to others or given in exchange for any compensation. This exclusion does not apply to the operation of a **covered auto** by **you** or a **relative**;
16. **punitive or exemplary damages**; or

17. **bodily injury** or **property damage** caused by, or reasonably expected to result from, a criminal act or omission of that **insured person**. This exclusion applies regardless of whether that **insured person** is actually charged with, or convicted of, a crime. For purposes of this exclusion, criminal acts or omissions do not include traffic violations.

## LIMITS OF LIABILITY

The limit of liability shown on the **declarations page** for liability coverage is the most **we** will pay regardless of the number of:

1. claims made;
2. **covered autos**;
3. **insured persons**;
4. lawsuits brought;
5. vehicles involved in the accident; or
6. premiums paid.

If **your declarations page** shows a split limit:

1. the amount shown for “each person” is the most **we** will pay for all damages due to **bodily injury** to one person resulting from any one accident;
2. subject to the “each person” limit, the amount shown for “each accident” is the most **we** will pay for all damages due to **bodily injury** sustained by two or more persons in any one accident; and
3. the amount shown for “property damage” is the most **we** will pay for the total of all **property damage** resulting from any one accident.

The “each person” limit of liability applies to the total of all claims made for **bodily injury** to a person and all claims of others, if allowed by law, derived from such **bodily injury**, including, but not limited to, emotional injury or mental anguish resulting from the **bodily injury** of another or from witnessing the **bodily injury** to another, loss of society, loss of companionship, loss of services, loss of consortium, and wrongful death.

If the **declarations page** shows that “combined single limit” or “CSL” applies, the amount shown is the most **we** will pay for the total of all damages resulting from any one accident. However, without changing this limit of liability, **we** will comply with any law that requires **us** to provide any separate limits.

No one is entitled to duplicate payments for the same elements of damages.

If multiple auto policies issued by **us** are in effect for **you**, **we** will pay no more than the highest limit of liability for this coverage available under any one policy.

An **auto** and attached **trailer** are considered one **auto**. Therefore, the limits of liability will not be increased for an accident involving an **auto** that has an attached **trailer**.

## FINANCIAL RESPONSIBILITY LAWS

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

## OTHER INSURANCE

If there is any other applicable liability insurance or bond, **we** will pay only **our** share of the damages. **Our** share is the proportion that **our** limit of liability bears to the total of all applicable limits. However, any insurance **we** provide for a vehicle or trailer, other than a **covered auto**, will be excess over any other collectible insurance, self-insurance, or bond.

## OUT-OF-STATE COVERAGE

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

1. a financial responsibility or similar law requiring limits of liability for **bodily injury** or **property damage** higher than the limits shown on the **declarations page**, this policy will provide the higher limits; or
2. a compulsory insurance or similar law requiring a non-resident to maintain insurance whenever the non-resident uses an **auto** in that state, province, territory, or possession, this policy will provide the greater of:
  - a. the required minimum amounts and types of coverage; or
  - b. the limits of liability under this policy.

## RIGHT OF DIRECT ACTION

Any person entitled to payment of damages covered under this Part I, or his or her personal representative, shall be subrogated to the right of the person shown as the named insured on the **declarations page** for payment under this Part I. If a judgment against an **insured person** remains unsatisfied after 30 days from the date notice of entry of judgment was served on either the **insured person**, the attorney for the **insured person**, or **us**, the injured person, or his or her personal representative, may maintain an action against **us** for the amount of the judgment not exceeding **our** Limits of Liability.

## PART II - PERSONAL INJURY PROTECTION COVERAGE

### INSURING AGREEMENT - MEDICAL AND HOSPITAL BENEFITS COVERAGE

If **you** pay the premium for this coverage, **we** will pay for reasonable and necessary **medical and hospital benefits** because of **bodily injury**:

1. sustained by an **insured person**;

2. caused by an accident; and
3. arising out of the ownership, maintenance or use of a motor vehicle.

## **INSURING AGREEMENT - INCOME DISABILITY BENEFITS COVERAGE**

If **you** pay the premium for this coverage, **we** will pay for **income disability benefits** because of **bodily injury**:

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

## **INSURING AGREEMENT - ACCIDENTAL DEATH BENEFITS COVERAGE**

If **you** pay the premium for this coverage, **we** will pay the amount stated on the **declarations page** if an **insured person** dies within one year of the date of an accident as a result of **bodily injury**:

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

## **ADDITIONAL DEFINITIONS**

When used in this Part II:

1. **"Income disability benefits"** means loss of income from work the **insured person** would have performed had the **insured person** not sustained **bodily injury**. However if the **insured person** is a non-income earner, **income disability benefits** means expenses reasonably incurred for essential services in lieu of those the **insured person** would have performed without income had the **insured person** not sustained **bodily injury**. **Income disability benefits** apply only to the period beginning eight days after the date of the accident and not exceeding 52 weeks. **Income disability benefits** do not include any loss or expense after the death of the **insured person**.
2. **"Insured person"** and **"insured persons"** mean:
  - a. **you** or any **relative**; and
  - b. any other person:
    - (i) while **occupying a covered auto**; or
    - (ii) when struck by a **covered auto** while a pedestrian, bicyclist, or motorcyclist, or while riding on an animal or in a horse-drawn wagon or cart.
3. **"Medical and hospital benefits"** means all reasonable and necessary expenses for medical, hospital, nursing, dental, surgical, ambulance, funeral and prosthetic services incurred within 24 months after the accident, and may include any non-medical remedial care and treatment rendered in accordance with a recognized religious method of healing. Expenses for hospital charges are limited to semi-private accommodations.

**EXCLUSIONS - READ THE FOLLOWING EXCLUSIONS CAREFULLY. IF AN EXCLUSION APPLIES, COVERAGE WILL NOT BE AFFORDED UNDER THIS PART II.**

Coverage under this Part II will not apply to **bodily injury**:

1. sustained by any person, other than **you** or a **relative**, who is a named insured or additional insured under any other valid and collectible automobile insurance policy providing the minimum personal injury protection coverages required by law;
2. sustained by any person who intentionally caused such **bodily injury**;
3. sustained by any person while in the commission of a felony or while seeking to elude lawful apprehension or arrest by a law enforcement official;
4. to the extent benefits are paid or payable under any workers' compensation law, disability benefits law or similar law. This exclusion does not apply to Accidental Death Benefits Coverage;
5. to any person resulting from, or sustained during practice or preparation for:
  - a. any pre-arranged or organized racing, stunting, speed, or demolition contest or activity; or
  - b. any driving activity conducted on a permanent or temporary racetrack or race-course;
6. sustained by any person while **occupying** or when struck by any vehicle owned by **you** or furnished or available for **your** regular use, other than a **covered auto** for which this coverage has been purchased;
7. sustained by any person while **occupying** or when struck by any vehicle owned by a **relative** or furnished or available for the regular use of a **relative**, other than a **covered auto** for which this coverage has been purchased. This exclusion does not apply to **your** maintenance or use of such vehicle;
8. sustained by any person while **occupying** any vehicle or trailer while located for use as a residence or premises;
9. sustained by any person while **occupying** a **covered auto** while it is being used:
  - a. to carry persons or property for compensation or a fee; or
  - b. for retail or wholesale delivery, including, but not limited to, the pickup, transport, or delivery of magazines, newspapers, mail, or food.This exclusion does not apply to shared-expense car pools;
10. arising out of an accident involving any vehicle while being maintained or used by a person while employed or engaged in any **auto business**. This exclusion does not apply to **you**, a **relative**, or an agent or employee of **you** or a **relative**, when using a **covered auto**;
11. due to a nuclear reaction or radiation;
12. for which insurance:
  - a. is afforded under a nuclear energy liability insurance contract; or
  - b. would be afforded under a nuclear energy liability insurance contract but for its termination upon exhaustion of its limit of liability;
13. caused directly or indirectly by:
  - a. war (declared or undeclared) or civil war;
  - b. warlike action by any military force of any government, sovereign or other authority using military personnel or agents. This includes any action taken to

- hinder or defend against an actual or expected attack; or
  - c. insurrection, rebellion, revolution, usurped power, or any action taken by a governmental authority to hinder or defend against any of these acts;
14. caused directly or indirectly by:
- a. any accidental or intentional discharge, dispersal, or release of radioactive, nuclear, pathogenic, or poisonous biological material; or
  - b. any intentional discharge, dispersal, or release of chemical or hazardous material for any purpose other than its safe and useful purpose; or
15. to **you** or a **relative** while **occupying** any vehicle, other than a **covered auto**, without the permission of the owner of the vehicle or the person in lawful possession of the vehicle.

## LIMITS OF LIABILITY

The limits of liability shown on the **declarations page** for the coverages provided under this Part II - Personal Injury Protection Coverage is the most **we** will pay for each **insured person** in any one accident, regardless of the number of:

1. claims made;
2. **covered autos**;
3. **insured persons**;
4. lawsuits brought;
5. vehicles involved in the accident; or
6. premiums paid.

The limit of liability for Medical and Hospital Benefits is shown on the **declarations page**.

The limit of liability for Accidental Death Benefits is shown on the **declarations page**.

The limit of liability for Income Disability Benefits is:

1. 70% of the loss of gross income per week, not to exceed \$140 per week, if the **insured person** earned income from work at the time of the accident; or
2. \$70 per week, or any fractional part of a week, if the **insured person** did not earn income from work at the time of the accident.

In determining the amount payable under this Part II, the amount of damages sustained by the **insured person** due to **bodily injury** will be reduced by all sums paid or payable for the same elements of damages under:

1. Part I - Liability To Others; and
2. Part III - Uninsured/Underinsured Motorist Coverage.

## OTHER INSURANCE

1. With respect to **bodily injury** sustained by a **relative**, any Medical And Hospital Benefits Coverage or Income Disability Benefits Coverage afforded by this Part II shall be excess over any other similar coverage provided by a motor vehicle insurance policy under which the **relative** is a named insured.

2. If **you** or a **relative** are insured under any other motor vehicle insurance policy providing coverage for income disability benefits or similar coverage, the most that **you** or a **relative** may recover for **income disability benefits** shall not exceed the amount payable under the policy providing the highest limits of liability.
3. No coverage will be provided under this Part II for any person, other than **you** or a **relative**, who is a named insured or additional insured under any other valid and collectible motor vehicle insurance policy providing the minimum personal injury protection coverages required by law.

Subject to 1, 2, and 3 above, if there is other applicable personal injury protection insurance, **we** will pay only **our** share of the loss. **Our** share is the proportion that **our** limit of liability bears to the total of all applicable limits.

No one shall be entitled to recover duplicate payments for **income disability benefits** or **medical and hospital benefits** under this or any other motor vehicle insurance policy.

### **PART III - UNINSURED/UNDERINSURED MOTORIST COVERAGE**

#### **INSURING AGREEMENT - UNINSURED MOTORIST BODILY INJURY COVERAGE**

If **you** pay the premium for this coverage, **we** will pay for damages that an **insured person** is legally entitled to recover from the owner or operator of an **uninsured motor vehicle** because of **bodily injury**:

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

#### **INSURING AGREEMENT - UNDERINSURED MOTORIST BODILY INJURY COVERAGE**

If **you** pay the premium for this coverage, **we** will pay for damages that an **insured person** is legally entitled to recover from the owner or operator of an **underinsured motor vehicle** because of **bodily injury**:

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

**We** will pay under this Part III only after the limits of liability under all applicable bodily injury liability bonds and policies have been exhausted by payment of judgments or settlements.

#### **INSURING AGREEMENT - UNINSURED MOTORIST PROPERTY DAMAGE COVERAGE**

If **you** pay the premium for this coverage, **we** will pay for damages that an **insured person** is legally entitled to recover from the owner or operator of an **uninsured motor vehicle** due to **property damage**:

1. caused by an accident; and

2. arising out of the ownership, maintenance or use of an **uninsured motor vehicle**.

## NOTICE AND CONSENT REQUIREMENT

In order for coverage under this Part III to apply, an **insured person** must send to **us**, by certified mail, return receipt requested, written notice of any tentative settlement agreement reached with the owner or operator of an **underinsured motor vehicle**, or that person's liability insurer. However, this notice requirement shall not apply when **we** are making that offer of settlement as insurer of the owner or operator of the **underinsured motor vehicle**. The notice shall include:

1. written documentation of economic losses incurred, including copies of all medical bills;
2. written authorization or a court order allowing **us** to obtain medical reports from all employers and medical providers; and
3. written confirmation from the owner or operator's liability insurer as to the amount of the liability limits and the terms of the settlement agreement. The agreement shall not include any sum representing **punitive or exemplary damages**.

Within 30 days of **our** receipt of written notice of the tentative settlement agreement, **we** may pay the sum offered in settlement to the **insured person**. If **we** do this, **we** are subrogated to the **insured person's** right of recovery against the owner or operator of the **underinsured motor vehicle**, to the extent of **our** payment, and the **insured person** must assign to **us** all rights to any amount subsequently paid from all applicable liability bonds and policies.

Any judgment or settlement for damages against an owner or operator of an **uninsured motor vehicle** or an **underinsured motor vehicle** that arises out of a lawsuit brought without **our** written consent is not binding on **us**.

## ADDITIONAL DEFINITIONS

When used in this Part III:

1. "**Insured person**" means:
  - a. **you** or a **relative**;
  - b. any person while operating a **covered auto** with the permission of **you** or a **relative**;
  - c. any person **occupying**, but not operating, a **covered auto**; and
  - d. any person who is entitled to recover damages covered by this Part III because of **bodily injury** sustained by a person described in a, b, or c above.
2. "**Property damage**" means physical damage to, destruction of, or loss of use of, a **covered auto**.
3. "**Underinsured motor vehicle**" means a land motor vehicle or trailer of any type to which a bodily injury liability bond or policy applies at the time of the accident, but its limit of liability for bodily injury is less than the amount of the **insured person's bodily injury** damages.

An **underinsured motor vehicle** does not include any vehicle or equipment:

- a. owned by **you** or a **relative** or furnished or available for the regular use of **you** or a **relative**;
  - b. operated on rails or crawler treads;
  - c. designed mainly for use off public roads, while not on public roads;
  - d. while located for use as a residence or premises;
  - e. that is a **covered auto**; or
  - f. that is an **uninsured motor vehicle**.
4. "**Uninsured motor vehicle**" means a land motor vehicle or trailer of any type:
- a. to which no bodily injury liability bond or policy applies at the time of the accident;
  - b. to which a bodily injury liability bond or policy applies at the time of the accident, but the bonding or insuring company:
    - (i) denies coverage; or
    - (ii) is insolvent, or becomes so within one year of the date of the accident; or
  - c. that is a hit-and-run vehicle whose owner or operator cannot be identified and which strikes:
    - (i) **you** or a **relative**;
    - (ii) a vehicle that **you** or a **relative** are **occupying**; or
    - (iii) a **covered auto**;provided that the **insured person**, or someone on his or her behalf, reports the accident to the police or civil authority within 24 hours or as soon as practicable after the accident.

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

- a. owned by **you** or a **relative** or furnished or available for the regular use of **you** or a **relative**;
- b. owned or operated by a self-insurer under any applicable motor vehicle law, except a self-insurer that is or becomes insolvent;
- c. operated on rails or crawler treads;
- d. designed mainly for use off public roads, while not on public roads;
- e. while located for use as a residence or premises;
- f. that is a **covered auto**; or
- g. that is an **underinsured motor vehicle**.

### **EXCLUSIONS - READ THE FOLLOWING EXCLUSIONS CAREFULLY. IF AN EXCLUSION APPLIES, COVERAGE WILL NOT BE AFFORDED UNDER THIS PART III.**

- A. Coverage under this Part III will not apply:
1. to **bodily injury** sustained by any person while using or **occupying**:
    - a. a **covered auto** while being used:
      - (i) to carry persons or property for compensation or a fee; or
      - (ii) for retail or wholesale delivery, including, but not limited to, the pick-up, transport, or delivery of magazines, newspapers, mail, or food.  
This exclusion does not apply to shared-expense car pools; or
    - b. a motor vehicle that is owned by or available for the regular use of **you** or a **relative**. This exclusion does not apply to a **covered auto** that is insured under this Part III;

2. to **bodily injury** sustained by **you** or a **relative** while using any vehicle, other than a **covered auto**, without the permission of the owner of the vehicle or the person in lawful possession of the vehicle;
  3. directly or indirectly to benefit any insurer or self-insurer under any of the following or similar laws:
    - a. workers' compensation law; or
    - b. disability benefits law;
  4. to any **punitive or exemplary damages**; or
  5. to **bodily injury** sustained by any person if that person or the legal representative of that person settles without **our** written consent.
- B. Coverage under this Part III will not apply to **property damage**:
1. sustained while a **covered auto** is being used:
    - a. to carry persons or property for compensation or a fee; or
    - b. for retail or wholesale delivery, including, but not limited to, the pickup, transport, or delivery of magazines, newspapers, mail, or food.

This exclusion does not apply to shared-expense car pools;
  2. resulting from, or sustained during practice or preparation for:
    - a. any pre-arranged or organized racing, stunting, speed, or demolition contest or activity; or
    - b. any driving activity conducted on a permanent or temporary racetrack or racecourse;
  3. to a **covered auto** for which insurance:
    - a. is afforded under a nuclear energy liability insurance contract; or
    - b. would be afforded under a nuclear energy liability insurance contract but for its termination upon exhaustion of its limit of liability; or
  4. to a trailer.

## LIMITS OF LIABILITY

The limit of liability shown on the **declarations page** for Uninsured/Underinsured Motorist Coverage is the most **we** will pay regardless of the number of:

1. claims made;
2. **covered autos**;
3. **insured persons**;
4. lawsuits brought;
5. vehicles involved in the accident; or
6. premiums paid.

If **your declarations page** shows a split limit:

1. the amount shown for "each person" is the most **we** will pay for all damages due to **bodily injury** to one person;
2. subject to the "each person" limit, the amount shown for "each accident" is the most **we** will pay for all damages due to **bodily injury** sustained by two or more persons in any one accident; and
3. the amount shown for "**property damage**" is the most **we** will pay for the aggregate of all **property damage** caused by any one accident.

The “each person” limit of liability includes the total of all claims made for **bodily injury** to an **insured person** and all claims of others derived from such **bodily injury**, including, but not limited to, emotional injury or mental anguish resulting from the **bodily injury** of another or from witnessing the **bodily injury** to another, loss of society, loss of companionship, loss of services, loss of consortium, and wrongful death.

If the **declarations page** shows that “combined single limit” or “CSL” applies, the amount shown is the most **we** will pay for the total of all damages resulting from any one accident. However, without changing this total limit of liability, **we** will comply with any law that requires **us** to provide any separate limits.

In determining the amount payable under this Part III, the amount of the damages sustained by the **insured person** due to **bodily injury** will be reduced by all sums:

1. paid by or on behalf of any persons or organizations that may be legally responsible;
2. paid under Part I - Liability To Others; and
3. paid or payable because of **bodily injury** under any of the following or similar laws:
  - a. workers’ compensation law; or
  - b. disability benefits law.

The limit of liability for **property damage** to a **covered auto** is the lowest of:

1. the actual cash value of the **covered auto** at the time of the accident;
2. the amount necessary to replace the **covered auto**;
3. the amount necessary to repair the **covered auto** to its pre-loss condition; or
4. the limit of liability shown on the **declarations page** for Uninsured Motorist Property Damage.

The limit of liability for **property damage** under this Part III will be reduced by all sums paid because of **property damage** by or on behalf of any persons or organizations that may be legally responsible, including, but not limited to, all sums paid under Part I - Liability To Others.

Payments for **property damage** under this Part III are subject to the following provisions:

1. any amount payable under this Part III for **property damage** shall be subject to the deductible shown on the **declarations page**;
2. no more than one deductible shall be applied to any one accident;
3. the deductible under this Part III shall not apply if:
  - a. the operator of the **uninsured motor vehicle** has been positively identified and is solely at fault; and
  - b. the **covered auto** is insured for Collision Coverage under Part IV - Damage To A Vehicle; and
4. IN THE REPAIR OF **YOUR** COVERED MOTOR VEHICLE UNDER THE PHYSICAL DAMAGE COVERAGE PROVISIONS OF THIS POLICY, **WE** MAY REQUIRE OR SPECIFY THE USE OF MOTOR VEHICLE PARTS NOT MADE BY THE ORIGINAL MANUFACTURER. THESE PARTS ARE REQUIRED TO BE

AT LEAST EQUAL IN TERMS OF FIT, QUALITY, PERFORMANCE, AND WARRANTY TO THE ORIGINAL MANUFACTURER PARTS THEY REPLACE.

No one will be entitled to duplicate payments for the same elements of damages.

If multiple auto policies issued by **us** are in effect for **you**, **we** will pay no more than the highest limit of liability for this coverage available under any one policy.

## **OTHER INSURANCE**

If there is other applicable uninsured or underinsured motorist coverage, **we** will pay only **our** share of the damages. **Our** share is the proportion that **our** limit of liability bears to the total of all available coverage limits. However, any insurance **we** provide under this Part III with respect to a vehicle that is not a **covered auto** will be excess over any other uninsured or underinsured motorist coverage.

## **ARBITRATION**

If **we** and an **insured person** cannot agree on:

1. the legal liability of the operator or owner of an **underinsured motor vehicle** or **uninsured motor vehicle**; or
  2. the amount of the damages sustained by the **insured person**;
- this will be determined by arbitration if **we** and the **insured person** mutually agree to arbitration prior to the expiration of the bodily injury statute of limitations in the state in which the accident occurred.

In the event of arbitration, each party will select an arbitrator. The two arbitrators will select a third. If the two arbitrators cannot agree on a third arbitrator within 30 days, then on joint application by the **insured person** and **us**, the third arbitrator will be appointed by a court having jurisdiction.

Each party will pay the costs and fees of its arbitrator and any other expenses it incurs. The costs and fees of the third arbitrator will be shared equally.

Unless both parties agree otherwise, arbitration will take place in the county in which the **insured person** resides. Local rules of procedure and evidence will apply.

A decision agreed to by two of the arbitrators will determine:

1. the legal liability of the operator or owner of an **underinsured motor vehicle** or **uninsured motor vehicle**; and
  2. the amount of the damages sustained by the **insured person**;
- but will not be binding on either the **insured person** or **us**. The arbitrators will have no authority to award an amount in excess of the limit of liability.

**We** and an **insured person** may agree to an alternate form of arbitration.

## PART IV - DAMAGE TO A VEHICLE

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

If **you** pay the premium for this coverage, **we** will pay for sudden, direct, and accidental loss to a:

1. **covered auto**, including an attached **trailer**; or
2. **non-owned auto**;  
and its **custom parts or equipment**, resulting from **collision**.

In addition, **we** will pay the reasonable cost to replace any child safety seat damaged in an accident to which this coverage applies.

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

If **you** pay the premium for this coverage, **we** will pay for sudden, direct, and accidental loss to a:

1. **covered auto**, including an attached **trailer**; or
2. **non-owned auto**;  
and its **custom parts or equipment**, that is not caused by **collision**.

A loss not caused by **collision** includes:

1. contact with an animal (including a bird);
2. explosion or earthquake;
3. fire;
4. malicious mischief or vandalism;
5. missiles or falling objects;
6. riot or civil commotion;
7. theft or larceny;
8. windstorm, hail, water, or flood; or
9. breakage of glass not caused by **collision**.

In addition, **we** will pay for:

1. reasonable transportation expenses incurred by **you** if a **covered auto** is stolen; and
2. loss of use damages that **you** are legally liable to pay if a **non-owned auto** is stolen.

A combined maximum of \$900, not exceeding \$30 per day, will apply to these additional benefits. The additional benefit for transportation expenses will not apply if **you** purchased Rental Reimbursement Coverage for the stolen **covered auto**.

Coverage for transportation expenses and loss of use damages begins 48 hours after **you** report the theft to **us** and ends the earliest of:

1. when the **auto** has been recovered and returned to **you** or its owner;
2. when the **auto** has been recovered and repaired;

3. when the **auto** has been replaced; or
4. 72 hours after **we** make an offer to settle the loss if the **auto** is deemed by **us** to be a total loss.

**We** must receive written proof of transportation expenses and loss of use damages.

## **INSURING AGREEMENT - ADDITIONAL CUSTOM PARTS OR EQUIPMENT COVERAGE**

**We** will pay for sudden, direct, and accidental loss to **custom parts or equipment** on a **covered auto** for which this coverage has been purchased. This coverage applies only if **you** have purchased both Comprehensive Coverage and Collision Coverage for that **covered auto** and the loss is covered under one of those coverages. This coverage applies in addition to any coverage automatically provided for **custom parts or equipment** under Comprehensive Coverage or Collision Coverage.

## **INSURING AGREEMENT - RENTAL REIMBURSEMENT COVERAGE**

**We** will reimburse rental charges incurred when **you** rent an **auto** from a rental agency or auto repair shop due to a loss to a **covered auto** for which Rental Reimbursement Coverage has been purchased. This coverage applies only if **you** have purchased both Comprehensive Coverage and Collision Coverage for that **covered auto** and the loss is covered under one of those coverages.

Additional fees or charges for insurance, damage waivers, optional equipment, fuel, or accessories are not covered.

This coverage is limited to the each day limit shown on the **declarations page** for a maximum of 30 days.

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

Rental charges will be reimbursed beginning:

1. when the **covered auto** cannot be driven due to a loss; or
2. if the **covered auto** can be driven, when **you** deliver the **covered auto** to an auto repair shop or one of **our** Claims Service Centers for repairs due to the loss;

and ending the earliest of:

1. when the **covered auto** has been returned to **you**;
2. when the **covered auto** has been repaired;
3. when the **covered auto** has been replaced;
4. 72 hours after **we** make an offer to settle the loss if the **covered auto** is deemed by **us** to be a total loss; or
5. when **you** incur 30 days worth of rental charges.

**You** must provide **us** written proof of **your** rental charges to be reimbursed.

## INSURING AGREEMENT - LOAN/LEASE PAYOFF COVERAGE

If **you** pay the premium for this coverage, and the **covered auto** for which this coverage was purchased is deemed by **us** to be a total loss, **we** will pay, in addition to any amounts otherwise payable under this Part IV, the difference between:

1. the actual cash value of the **covered auto** at the time of the total loss; and
2. any greater amount the owner of the **covered auto** is legally obligated to pay under a written loan or lease agreement to which the **covered auto** is subject at the time of the total loss, reduced by:
  - a. unpaid finance charges or refunds due to the owner for such charges;
  - b. excess mileage charges or charges for wear and tear;
  - c. charges for extended warranties or refunds due to the owner for extended warranties;
  - d. charges for credit insurance or refunds due to the owner for credit insurance;
  - e. past due payments and charges for past due payments; and
  - f. collection or repossession expenses.

However, **our** payment under this coverage shall not exceed the limit of liability shown on the **declarations page**. The limit of liability is a percentage of the actual cash value of the **covered auto** at the time of the loss.

This coverage applies only if **you** have purchased both Comprehensive Coverage and Collision Coverage for that **covered auto** and the loss is covered under one of those coverages.

## ADDITIONAL DEFINITIONS

When used in this Part IV:

1. **“Collision”** means the upset of a vehicle or its impact with another vehicle or object.
2. **“Custom parts or equipment”** means equipment, devices, accessories, enhancements, and changes, other than those that are offered by the manufacturer specifically for that **auto** model, or that are installed by the auto dealership as part of the original sale of a new **auto**, that:
  - a. are permanently installed or attached; and
  - b. alter the appearance or performance of the **auto**.
3. **“Mechanical parts”** means operational parts on a vehicle that wear out over time or have a finite useful life or duration typically shorter than the life of the vehicle as a whole. **Mechanical parts** do not include external crash parts, wheels, paint, or windshields and other glass.
4. **“Non-owned auto”** means an **auto**:
  - a. that is not a **loaner vehicle**; and
  - b. that is not owned by or furnished or available for the regular use of **you** or a **relative** while in the custody of or being operated by **you** or a **relative** with the permission of the owner of the **auto** or the person in lawful possession of the **auto**.

**EXCLUSIONS - READ THE FOLLOWING EXCLUSIONS CAREFULLY. IF AN EXCLUSION APPLIES, COVERAGE WILL NOT BE AFFORDED UNDER THIS PART IV.**

Coverage under this Part IV will not apply for loss:

1. to any vehicle while being used:
  - a. to carry persons or property for compensation or a fee; or
  - b. for retail or wholesale delivery, including, but not limited to, the pickup, transport, or delivery of magazines, newspapers, mail, or food.This exclusion does not apply to shared-expense car pools;
2. to a **non-owned auto** while being maintained or used by a person while employed or engaged in any **auto business**;
3. to any vehicle resulting from, or sustained during practice or preparation for:
  - a. any pre-arranged or organized racing, stunting, speed, or demolition contest or activity; or
  - b. any driving activity conducted on a permanent or temporary racetrack or race-course;
4. to any vehicle for which insurance:
  - a. is afforded under a nuclear energy liability insurance contract; or
  - b. would be afforded under a nuclear energy liability insurance contract but for its termination upon exhaustion of its limit of liability;
5. to any vehicle caused by an intentional act committed by or at the direction of **you**, a **relative**, or the owner of a **non-owned auto**, even if the actual damage is different than that which was intended or expected;
6. to a **covered auto** while it is leased or rented to others or given in exchange for compensation. This exclusion does not apply to the operation of a **covered auto** by **you** or a **relative**;
7. due to destruction or confiscation by governmental or civil authorities of any vehicle because **you** or any **relative** engaged in illegal activities;
8. to any vehicle that is due and confined to:
  - a. wear and tear;
  - b. freezing;
  - c. mechanical, electrical, or electronic breakdown or failure; or
  - d. road damage to tires.This exclusion does not apply if the damage results from the theft of a vehicle;
9. to portable equipment, devices, accessories, and any other personal effects that are not permanently installed. This includes, but is not limited to:
  - a. tapes, compact discs, cassettes, DVDs, and other recording or recorded media;
  - b. any case or other container designed for use in storing or carrying tapes, compact discs, cassettes, DVDs, or other recording or recorded media;
  - c. any device used for the detection or location of radar, laser, or other speed measuring equipment or its transmissions; and
  - d. CB radios, telephones, two-way mobile radios, DVD players, personal computers, personal digital assistants, or televisions;
10. to any vehicle for diminution of value;
11. to any vehicle caused directly or indirectly by:
  - a. war (declared or undeclared) or civil war;

- b. warlike action by any military force of any government, sovereign or other authority using military personnel or agents. This includes any action taken to hinder or defend against an actual or expected attack; or
  - c. insurrection, rebellion, revolution, usurped power, or any action taken by a governmental authority to hinder or defend against any of these acts;
12. to any vehicle caused directly or indirectly by:
- a. any accidental or intentional discharge, dispersal or release of radioactive, nuclear, pathogenic or poisonous biological material; or
  - b. any intentional discharge, dispersal or release of chemical or hazardous material for any purpose other than its safe and useful purpose; or
13. to any vehicle caused by, or reasonably expected to result from, a criminal act or omission of **you**, a **relative**, or the owner of a **non-owned auto**. This exclusion applies regardless of whether **you**, the **relative**, or the owner of the **non-owned auto** is actually charged with, or convicted of, a crime. For purposes of this exclusion, criminal acts or omissions do not include traffic violations.

## LIMITS OF LIABILITY

1. The limit of liability for loss to a **covered auto**, **non-owned auto**, or **custom parts or equipment** is the lowest of:
- a. the actual cash value of the stolen or damaged property at the time of the loss reduced by the applicable deductible;
  - b. the amount necessary to replace the stolen or damaged property reduced by the applicable deductible;
  - c. the amount necessary to repair the damaged property to its pre-loss condition reduced by the applicable deductible; or
  - d. the Stated Amount shown on the **declarations page** for that **covered auto**.
- However, the most **we** will pay for loss to:
- a. **custom parts or equipment** is \$1,000 unless **you** purchased Additional Custom Parts or Equipment Coverage (“ACPE”). If **you** purchased ACPE, the most **we** will pay is \$1,000 plus the amount of ACPE **you** purchased;
  - b. a **trailer** is the limit of liability shown on the **declarations page** for that **trailer**. If the **trailer** is not shown on the **declarations page**, the limit of liability is \$500.
2. Payments for loss to a **covered auto**, **non-owned auto**, or **custom parts or equipment** are subject to the following provisions:
- a. If coverage applies to a **non-owned auto**, **we** will provide the broadest coverage applicable to any **covered auto** shown on the **declarations page**.
  - b. If **you** have elected a Stated Amount for a **covered auto**, the Stated Amount is the most **we** will pay for all loss to that **covered auto**, including its **custom parts or equipment**.
  - c. Coverage for **custom parts or equipment** will not cause **our** limit of liability for loss to an **auto** under this Part IV to be increased to an amount in excess of the actual cash value of the **auto**, including its **custom parts or equipment**.
  - d. In determining the amount necessary to repair damaged property to its pre-loss condition, the amount to be paid by **us**:
    - (i) will not exceed the prevailing competitive labor rates charged in the area

where the property is to be repaired and the cost of repair or replacement parts and equipment, as reasonably determined by **us**; and

(ii) will be based on the cost of repair or replacement parts and equipment which may be new, reconditioned, remanufactured, or used, including, but not limited to:

(a) original manufacturer parts or equipment; and

(b) nonoriginal manufacturer parts or equipment.

e. To determine the amount necessary to repair or replace the damaged property as referred to in subsection 1, the total cost of necessary repair or replacement may be reduced by unrepaired prior damage. Unrepaired prior damage includes broken, cracked, or missing parts; rust; dents; scrapes; gouges; and peeling paint. The reduction for unrepaired prior damage is the cost of labor, parts, and materials necessary to repair or replace damage, deterioration, defects, or wear and tear on exterior body parts, windshields and other glass, wheels, and paint, that existed prior to the accident and that is eliminated as a result of the repair or replacement of property damaged in the loss.

f. To determine the amount necessary to repair or replace the damaged property as referred to in subsection 1, an adjustment may be made for betterment or depreciation and physical condition on:

(i) batteries;

(ii) tires;

(iii) engines and transmissions, if the engine has greater than 80,000 miles; and

(iv) any other **mechanical parts** that are nonfunctioning or inoperative.

**We** will not make an adjustment for the labor costs associated with the replacement or repair of these parts.

g. The actual cash value is determined by the market value, age, and condition of the vehicle at the time the loss occurs.

3. No deductible will apply to a loss to window glass when the glass is repaired instead of replaced.

4. Duplicate recovery for the same elements of damages is not permitted.

5. Any amount paid or payable under this Part IV shall be reduced by any amount paid for **property damage** to the vehicle under Part III - Uninsured/Underinsured Motorist Coverage.

6. IN THE REPAIR OF **YOUR** COVERED MOTOR VEHICLE UNDER THE PHYSICAL DAMAGE COVERAGE PROVISIONS OF THIS POLICY, **WE** MAY REQUIRE OR SPECIFY THE USE OF MOTOR VEHICLE PARTS NOT MADE BY THE ORIGINAL MANUFACTURER. THESE PARTS ARE REQUIRED TO BE AT LEAST EQUAL IN TERMS OF FIT, QUALITY, PERFORMANCE, AND WARRANTY TO THE ORIGINAL MANUFACTURER PARTS THEY REPLACE.

## **PAYMENT OF LOSS**

**We** may, at **our** option:

1. pay for the loss in money; or
2. repair or replace the damaged or stolen property.

At **our** expense, **we** may return any recovered stolen property to **you** or to the address shown on the **declarations page**, with payment for any damage resulting from the theft. **We** may keep all or part of the property at the agreed or appraised value.

**We** may settle any loss with **you** or the owner or lienholder of the property.

## **NO BENEFIT TO BAILEE**

Coverage under this Part IV will not directly or indirectly benefit any carrier or other bailee for hire.

## **LOSS PAYABLE CLAUSE**

Payment under this Part IV for a loss to a **covered auto** will be made according to **your** interest and the interest of any lienholder shown on the **declarations page** or designated by **you**. At **our** option, payment may be made to both jointly, or to either separately. Either way, **we** will protect the interest of both. However, if the **covered auto** is not a total loss, **we** may make payment to **you** and the repairer of the **auto**.

Protection of the lienholder's financial interest will not be affected by any act or omission by any person entitled to coverage under this policy. However, protection under this clause does not apply:

1. in any case of conversion, embezzlement, secretion, or willful damaging or destruction, of the **covered auto** by or at the direction of **you**, a **relative**, or the owner of the **covered auto**; or
2. to any loss caused by, or reasonably expected to result from, a criminal act or omission of **you**, a **relative**, or the owner of the **covered auto**. This applies regardless of whether **you**, the **relative**, or the owner of the **covered auto** is actually charged with, or convicted of, a crime. For purposes of this clause, criminal acts or omissions do not include traffic violations.

If this policy is cancelled, nonrenewed, or voided, the interest of any lienholder under this agreement will also terminate.

When **we** make payment to a lienholder for loss under this policy, **we** will be subrogated to the rights of the party **we** pay, to the extent of **our** payment. When **we** pay a lienholder for a loss for which **you** are not covered, **we** are entitled to the lienholder's right of recovery against **you** to the extent of **our** payment. **Our** right to subrogation will not impair the lienholder's right to recover the full amount of its claim.

## **OTHER SOURCES OF RECOVERY**

If other sources of recovery also cover the loss, **we** will pay only **our** share of the loss. **Our** share is the proportion that **our** limit of liability bears to the total of all appli-

cable limits. However, any insurance **we** provide for a **non-owned auto**, or **trailer** not shown on the **declarations page**, will be excess over any other collectible source of recovery including, but not limited to:

1. any coverage provided by the owner of the **non-owned auto** or **trailer**;
2. any other applicable physical damage insurance; and
3. any other source of recovery applicable to the loss.

## **APPRAISAL**

If **we** cannot agree with **you** on the amount of a loss, then **we** and the **insured person** may mutually agree to an appraisal of the loss. Within 30 days of any agreement to an appraisal, each party shall appoint a competent appraiser and shall notify the other party of that appraiser's identity. The appraisers will determine the amount of loss. If they fail to agree, the disagreement will be submitted to a qualified umpire chosen by the appraisers. If the two appraisers are unable to agree upon an umpire within 15 days, **we** or **you** may request that a judge of a court of record, in the county where **you** reside, select an umpire. The appraisers and umpire will determine the amount of loss. The amount of loss agreed to by both appraisers, or by one appraiser and the umpire, will determine the amount payable under this Part IV, but will not be binding. **You** will pay **your** appraiser's fees and expenses. **We** will pay **our** appraiser's fees and expenses. All other expenses of the appraisal, including payment of the umpire if one is selected, will be shared equally between **us** and **you**. Neither **we** nor **you** waive any rights under this policy by agreeing to an appraisal.

## **PART V - ROADSIDE ASSISTANCE COVERAGE**

### **INSURING AGREEMENT**

If **you** pay the premium for this coverage, **we** will pay for **our** authorized service representative to provide the following services when necessary due to a **covered emergency**:

1. towing of a **covered disabled auto** to the nearest qualified repair facility; and
2. labor on a **covered disabled auto** at the place of disablement.

If a **covered disabled auto** is towed to any place other than the nearest qualified repair facility, **you** will be responsible for any additional charges incurred.

### **ADDITIONAL DEFINITIONS**

When used in this Part V:

1. "**Covered disabled auto**" means a **covered auto** for which this coverage has been purchased that sustains a **covered emergency**.
2. "**Covered emergency**" means a disablement that is a result of:
  - a. mechanical or electrical breakdown;
  - b. battery failure;
  - c. insufficient supply of fuel, oil, water, or other fluid;
  - d. flat tire;

- e. lock-out; or
- f. entrapment in snow, mud, water, or sand, within 100 feet of a road or highway.

**EXCLUSIONS - READ THE FOLLOWING EXCLUSIONS CAREFULLY. IF AN EXCLUSION APPLIES, COVERAGE WILL NOT BE AFFORDED UNDER THIS PART V.**

Coverage under this Part V will not apply to:

1. the cost of purchasing parts, fluid, lubricants, fuel, or replacement keys, or the labor to make replacement keys;
2. installation of products or material not related to the disablement;
3. labor not related to the disablement;
4. labor on a **covered disabled auto** for any time period in excess of 60 minutes per disablement;
5. towing or storage related to impoundment, abandonment, illegal parking, or other violations of law;
6. assistance with jacks, levelers, airbags, or awnings;
7. towing from a service station, garage, or repair shop;
8. labor or repair work performed at a service station, garage, or repair shop;
9. auto storage charges;
10. a second service call or tow for a single disablement;
11. disablement that occurs on roads not regularly maintained, sand beaches, open fields, or areas designated as not passable due to construction, weather, or earth movement;
12. mounting or removing of snow tires or chains;
13. tire repair;
14. repeated service calls for a **covered disabled auto** in need of routine maintenance or repair;
15. disablement that results from an intentional or willful act or action by **you**, a **relative**, or the operator of a **covered disabled auto**; or
16. a trailer.

**UNAUTHORIZED SERVICE PROVIDER**

When service is rendered by a provider in the business of providing roadside assistance and towing services, other than one of **our** authorized service representatives, **we** will pay only reasonable charges, as determined by **us**, for:

1. towing of a **covered disabled auto** to the nearest qualified repair facility; and
  2. labor on a **covered disabled auto** at the place of disablement;
- which is necessary due to a **covered emergency**.

**OTHER INSURANCE**

Any coverage provided under this Part V for service rendered by an unauthorized service provider will be excess over any other collectible insurance or towing protection coverage.

## **PART VI - DUTIES IN CASE OF AN ACCIDENT OR LOSS**

For coverage to apply under this policy, **you** or the person seeking coverage must promptly report each accident or loss even if **you** or the person seeking coverage is not at fault. **You** or the person seeking coverage must provide **us** with all accident or loss information including time, place, and how the accident or loss happened. **You** or the person seeking coverage must also obtain and provide **us** the names and addresses of all persons involved in the accident or loss, the names and addresses of any witnesses, and the license plate numbers of the vehicles involved.

If **you** or the person seeking coverage cannot identify the owner or operator of a vehicle involved in the accident, or if theft or vandalism has occurred, **you** or the person seeking coverage must notify the police within 24 hours or as soon as practicable.

A person seeking coverage must:

1. cooperate with **us** in any matter concerning a claim or lawsuit;
2. provide any written proof of loss **we** may reasonably require;
3. allow **us** to take signed and recorded statements, including sworn statements and examinations under oath, which **we** may conduct outside the presence of **you** or any other person seeking coverage, and answer all reasonable questions **we** may ask as often as **we** may reasonably require;
4. promptly call to notify **us** about any claim or lawsuit and send **us** any and all legal papers relating to the claim or suit;
5. attend hearings and trials as **we** require;
6. take reasonable steps after a loss to protect the **covered auto**, or any other vehicle for which coverage is sought, from further loss. **We** will pay reasonable expenses incurred in providing that protection. If failure to provide such protection results in further loss, any additional damages will not be covered under this policy;
7. allow **us** to have the damaged **covered auto**, or any other damaged vehicle for which coverage is sought, inspected and appraised before its repair or disposal;
8. submit to medical examinations at **our** expense by doctors **we** select as often as **we** may reasonably require; and
9. authorize **us** to obtain medical and other records.

## **PART VII - GENERAL PROVISIONS**

### **POLICY PERIOD AND TERRITORY**

This policy applies only to accidents and losses occurring during the policy period shown on the **declarations page** and that occur within a state, territory, or possession of the United States of America, or a province or territory of Canada, or while a **covered auto** is being transported between their ports.

## CHANGES

This policy contract, **your** insurance application (which is made a part of this policy as if attached hereto), the **declarations page**, and all endorsements to this policy issued by **us**, contain all the agreements between **you** and **us**. Subject to the following, the terms of this policy may not be changed or waived except by an endorsement issued by **us**.

The premium for this policy is based on information **we** received from **you** and other sources. **You** agree to cooperate with **us** in determining if this information is correct and complete, and to notify **us** if it changes during the policy period. If this information is incorrect, incomplete, or changes during the policy period, **you** agree that **we** may adjust **your** premium accordingly. Changes that may result in a premium adjustment are contained in **our** rates and rules. These include, but are not limited to, **you** or a **relative** obtaining a driver's license or operator's permit, or changes in:

1. the number, type, or use classification of **covered autos**;
2. operators using **covered autos**;
3. an operator's marital status;
4. the place of principal garaging of any **covered auto**;
5. coverage, deductibles, or limits of liability; or
6. rating territory or discount eligibility.

The coverage provided in **your** policy may be changed only by the issuance of a new policy or an endorsement by **us**. However, if during the policy period **we** broaden any coverage afforded under the current edition of **your** policy without additional premium charge, that change will automatically apply to **your** policy as of the date the coverage change is implemented in **your** state.

If **you** ask **us** to delete a vehicle from this policy, no coverage will apply to that vehicle as of the date and time **you** ask **us** to delete it.

## DUTY TO REPORT CHANGES

**You** must promptly notify **us** when:

1. **your** mailing or residence address changes;
2. the principal garaging address for a **covered auto** changes;
3. there is a change with respect to the residents in **your** household or the persons who regularly operate a **covered auto**;
4. an operator's marital status changes; or
5. **you** or a **relative** obtain a driver's license or operator's permit.

## SETTLEMENT OF CLAIMS

**We** may use estimating, appraisal, or injury evaluation systems to assist **us** in adjusting claims under this policy and to assist **us** in determining the amount of damages, expenses, or loss payable under this policy. Such systems may be developed by **us** or a third party and may include computer software, databases, and specialized technology.

## TERMS OF POLICY CONFORMED TO STATUTES

If any provision of this policy fails to conform to the statutes of the state listed on **your** application as **your** residence, the provision shall be deemed amended to conform to such statutes. All other provisions shall be given full force and effect. Any disputes as to the coverages provided or the provisions of this policy shall be governed by the law of the state listed on **your** application as **your** residence.

## TRANSFER OF INTEREST

The rights and duties under this policy may not be transferred to another person without **our** written consent. However, if a named insured shown on the **declarations page** dies, this policy will provide coverage until the end of the policy period for the legal representative of the named insured, while acting as such, and for persons covered under this policy on the date of the named insured's death.

## FRAUD OR MISREPRESENTATION

This policy was issued in reliance upon the information provided on **your** insurance application. **We** may void this policy at any time, including after the occurrence of an accident or loss, if **you**:

1. made incorrect statements or representations to **us** with regard to any material fact or circumstance;
2. concealed or misrepresented any material fact or circumstance; or
3. engaged in fraudulent conduct;

at the time of application. If **we** void this policy, this shall not affect coverage under Part I - Liability To Others for an accident that occurs before **we** notify the named insured that the policy is void. No payment will be made to any person who concealed or misrepresented any material fact or circumstance, or engaged in fraudulent conduct. If **we** void this policy, **you** must reimburse **us** if **we** make a payment.

**We** may deny coverage for an accident or loss if **you** or a person seeking coverage has knowingly concealed or misrepresented any material fact or circumstance, or engaged in fraudulent conduct, in connection with the presentation or settlement of a claim.

## PAYMENT OF PREMIUM AND FEES

If **your** initial premium payment is by check, draft, electronic funds transfer, or similar form of remittance, coverage under this policy is conditioned on payment to **us** by the financial institution. If the financial institution upon presentment does not honor the check, draft, electronic funds transfer, or similar form of remittance, this policy may, at **our** option, be deemed void from its inception. This means **we** will not be liable under this policy for any claims or damages that would otherwise be covered if the check, draft, electronic funds transfer, or similar form of remittance had been honored by the financial institution. Any action by **us** to present the remittance for payment more than once shall not affect **our** right to void this policy.

In addition to premium, fees may be charged on **your** policy. **We** may charge fees for installment payments, late payments, and other transactions. Payments made on **your** policy will be applied first to fees, then to premium due.

## CANCELLATION

**You** may cancel this policy during the policy period by calling or writing **us** and stating the future date **you** wish the cancellation to be effective.

**We** may cancel this policy during the policy period by mailing a notice of cancellation to the named insured shown on the **declarations page** at the last known address appearing in **our** records.

**We** will give at least 10 days notice of cancellation if the policy is cancelled for nonpayment of premium.

**We** will give at least 20 days notice of cancellation in all other cases.

**We** may cancel this policy for any reason if the notice is mailed within the first 59 days of the initial policy period.

After this policy is in effect for more than 59 days, or if this is a renewal or continuation policy, **we** may cancel only for one or more of the following reasons:

1. nonpayment of premium;
2. material misrepresentation or fraud with respect to any material fact in the procurement or renewal of this policy;
3. material misrepresentation or fraud in the submission of any claim under this policy;
4. loss of driving privileges during the policy period, or, if this is a renewal policy, during the policy period or the 180 days immediately preceding the effective date of renewal, through suspension or revocation of an operator's license or motor vehicle registration issued to **you**, any driver in **your** household, or any regular operator of a **covered auto**. However, **we** will not cancel **your** policy solely due to an administrative revocation or suspension of an operator's license pursuant to Arkansas Code Annotated §5-65-104;
5. **you** or any driver of the **covered auto** have been convicted of:
  - a. driving while intoxicated;
  - b. homicide or assault arising out of the use of a motor vehicle; or
  - c. three separate convictions of speeding or reckless driving, or any combination of the two, during the policy period or the three months prior to the effective date of the policy; or
6. any other reason permitted by law.

Proof of mailing will be sufficient proof of notice. If this policy is cancelled, coverage will not be provided as of the effective date and time shown in the notice of cancellation. For purposes of cancellation, this policy is neither severable nor divisible. Any cancellation will be effective for all coverages for all persons and all vehicles.

## CANCELLATION REFUND

Upon cancellation, **you** may be entitled to a premium refund. However, **our** making or offering of a refund is not a condition of cancellation.

If this policy is cancelled, any refund due will be computed on a daily pro rata basis. However, **we** will retain a cancellation fee if this policy is cancelled at **your** request or if cancellation is for nonpayment of premium. A cancellation fee will be charged only during the initial policy period.

## NONRENEWAL

If neither **we** nor one of **our** affiliates offers to renew or continue this policy, other than for nonpayment of premium, **we** will mail notice of nonrenewal to the named insured shown on the **declarations page** at the last known address appearing in **our** records. Proof of mailing will be sufficient proof of notice. Notice will be mailed at least 30 days before the end of the policy period.

## AUTOMATIC TERMINATION

If **we** or an affiliate offers to renew or continue this policy and **you** or **your** representative does not accept, this policy will automatically terminate at the end of the current policy period. Failure to pay the required renewal or continuation premium when due will mean that **you** have not accepted **our** offer.

If **you** obtain other insurance on a **covered auto**, any similar insurance provided by this policy will terminate as to that **covered auto** on the effective date of the other insurance.

If a **covered auto** is sold or transferred to someone other than **you** or a **relative**, any insurance provided by this policy will terminate as to that **covered auto** on the effective date of the sale or transfer.

## LEGAL ACTION AGAINST US

**We** may not be sued unless there is full compliance with all the terms of this policy.

**We** may not be sued for payment under Part I - Liability To Others until the obligation of an insured person under Part I to pay is finally determined either by judgment after trial against that person or by written agreement of the insured person, the claimant, and **us**. No one will have any right to make **us** a party to a lawsuit to determine the liability of an insured person.

If **we** retain salvage, **we** have no duty to preserve or otherwise retain the salvage for any purpose, including evidence for any civil or criminal proceeding.

## OUR RIGHTS TO RECOVER PAYMENT

**We** are entitled to the rights of recovery that the insured person to whom payment was made has against another after the insured person has been fully compensated for his or her loss, to the extent of **our** payment. That insured person may be required to sign documents related to the recovery and must do whatever else **we** require to help **us** exercise those recovery rights, and do nothing after an accident or loss to prejudice those rights.

When an insured person has been paid by **us** and also recovers from another, the amount recovered will be held by the insured person in trust for **us** and reimbursed to **us** to the extent of **our** payment. However, this shall not apply to payment by **us** under any Accidental Death Benefits Coverage provided under Part II - Personal Injury Protection Coverage. If **we** are not reimbursed, **we** may pursue recovery of that amount directly against that insured person.

If an insured person recovers from another without **our** written consent, the insured person's right to payment under any affected coverage will no longer exist.

**Our** right of recovery does not apply to underinsured motorist benefits if:

1. the **insured person** sends **us** written notice, in accordance with the requirements of the Notice And Consent Requirement provision in Part III - Uninsured/Underinsured Motorist Coverage, of any tentative settlement agreement reached with the owner or operator of an underinsured motor vehicle, or such person's liability insurer; and
2. **we** fail to pay the sum offered in settlement to the **insured person** by the owner or operator of the underinsured motor vehicle, or that person's liability insurer, within 30 days of **our** receipt of such notice.

**Our** right of recovery does not apply to underinsured motorist benefits to the extent of any payment **we** have made to the **insured person** under a policy of liability insurance issued by **us** to the owner or operator of an underinsured motor vehicle.

If **we** elect to exercise **our** rights of recovery against another, **we** will also attempt to recover any deductible incurred by an insured person under this policy unless **we** are specifically instructed by that person not to pursue the deductible. **We** have no obligation to pursue recovery against another for any loss not covered by this policy.

**We** reserve the right to compromise or settle the deductible and property damage claims against the responsible parties for less than the full amount. **We** also reserve the right to incur reasonable expenses and attorney fees in pursuit of the recovery.

If the total recovery is less than the total of **our** payment and the deductible, **we** will reduce reimbursement of the deductible based on the proportion that the actual recovery bears to the total of **our** payment and the deductible. A proportionate share

of collection expenses and attorney fees incurred in connection with these recovery efforts will also reduce reimbursement of the deductible.

These provisions will be applied in accordance with state law.

## **JOINT AND INDIVIDUAL INTERESTS**

If there is more than one named insured on this policy, any named insured may cancel or change this policy. The action of one named insured will be binding on all persons provided coverage under this policy.

## **BANKRUPTCY**

The bankruptcy or insolvency of an insured person will not relieve **us** of any obligations under this policy. If execution of a judgment against an **insured person** under Part I - Liability To Others is returned unsatisfied because of the insolvency or bankruptcy of the **insured person**, the person claiming payment for damages under Part I may maintain an action against **us** for the amount of the judgment not exceeding **our** limits of liability.

***PROGRESSIVE***<sup>®</sup>  
*DIRECT*



\*9610D AR 0507\*



## **Named Driver Exclusion Endorsement**

If **you** have asked **us** to exclude any person from coverage under this policy, then **we** will not provide coverage for any claim arising from an accident or loss involving a motorized vehicle being operated by that excluded driver. This includes any claim for damages made against **you**, a **relative**, or any other person or organization that is vicariously liable for an accident arising out of the operation of a motorized vehicle by the excluded driver.

**All other terms, limits and provisions of this policy remain unchanged.**

Form Z195 (07/05)

## Named Non-Owner Coverage Endorsement

If **you** elect Named Non-Owner Coverage, **your** policy is amended as follows:

### 1. General Definitions

- (a) The definition of "**you**" and "**your**" is deleted and replaced by the following:

"**You**" and "**your**" mean the person shown as the named insured on the **declarations page**.

- (b) The definition of "**covered auto**" is deleted and replaced by the following:

"**Covered auto**" means an **auto you** become the owner of during the policy period if:

- a. the **auto** is not covered by any other insurance policy;
- b. **you** notify **us** within 30 days of becoming the owner of the **auto**; and
- c. **you** pay any additional premium due.

If **you** ask **us** to insure the **auto** more than 30 days after **you** become the owner, any coverage **we** provide will begin at the time **you** request coverage.

### 2. Part I - Liability To Others

- (a) The Additional Definition of "**insured person**" is deleted and replaced by the following:

"**Insured person**" means:

- a. **you** with respect to an accident arising out of the ownership, maintenance, or use of an **auto** or **trailer**;
- b. any person with respect to an accident arising out of that person's use of a **covered auto** with **your** permission; and
- c. any person or organization with respect only to vicarious liability for the acts or omissions of a person described in a or b above.

- (b) Exclusion 4 is deleted and replaced by the following:

4. **bodily injury** or **property damage** arising out of an accident involving any vehicle while being maintained or used by a person while employed or engaged in any **auto business**. This exclusion does not apply to a vehicle being operated or occupied by **you**;

- (c) Exclusion 12 is deleted and replaced by the following:

12. **bodily injury** or **property damage** arising out of the ownership, maintenance, or use of any vehicle owned by **you**, other than a **covered auto**;

- (d) Exclusion 13 is deleted.

- (e) Exclusion 15 is deleted and replaced by the following:

15. **bodily injury** or **property damage** arising out of the use of a **covered auto** while leased or rented to others or given in exchange for any compensation. This exclusion does not apply to the operation of a **covered auto** by **you**;

- (f) The Out-of-State Coverage provision is deleted and replaced by the following:

#### OUT-OF-STATE COVERAGE

If an accident to which this Part I applies occurs in any state, territory, or possession of the United States of America or any province or territory of Canada, other than the one where **you** reside, and the state, province, territory, or possession has:

1. a financial responsibility or similar law requiring limits of liability for **bodily injury** or **property damage** higher than the limits shown on the **declarations page**, this policy will provide the higher limits; or
2. a compulsory insurance or similar law requiring a non-resident to maintain insurance whenever the non-resident uses an **auto** in that state, province, territory, or possession, this policy will provide the greater of:
  - a. the required minimum amounts and types of coverage; or
  - b. the limits of liability under this policy.

3. **Part II – Personal Injury Protection Coverage**

(a) The Additional Definition of "**insured person**" is deleted and replaced by the following:

"**Insured person**" means:

a. **you**:

- (i) while **occupying** an **auto**; or
- (ii) when struck by a **motor vehicle** or a trailer while not **occupying** a self-propelled motorized vehicle; and

b. any other person while **occupying** a **covered auto** with **your** permission.

(b) Exclusion 1 is deleted and replaced by the following:

- 1. sustained by any person, other than **you**, who is a named insured or additional insured under any other valid and collectible automobile insurance policy providing the minimum personal injury protection coverages required by law;

(c) Exclusion 6 is deleted and replaced by the following:

- 6. sustained by any person while **occupying** or when struck by any vehicle owned by **you**, other than a **covered auto**;

(d) Exclusion 7 is deleted.

(e) Exclusion 10 is deleted and replaced by the following:

- 10. arising out of an accident involving any vehicle while being maintained or used by a person while employed or engaged in any **auto business**. This exclusion does not apply to a vehicle being operated or occupied by **you**;

(f) Exclusion 15 is deleted and replaced by the following:

- 15. to **you** while **occupying** any vehicle other than a **covered auto**, without the permission of the owner of the vehicle or the person in lawful possession of the vehicle.

**Part III – Uninsured/Underinsured Motorist Coverage**

(a) The Additional Definition of "**insured person**" is deleted and replaced by the following:

"**Insured person**" means:

a. **you**;

b. any person while operating a **covered auto** with **your** permission;

c. any person **occupying**, but not operating, a **covered auto**;

d. any person who is entitled to recover damages covered by this Part III because of **bodily injury** sustained by a person described in a, b, or c above.

(b) All references to **relative** are deleted from the Additional Definitions of "**underinsured motor vehicle**" and "**uninsured motor vehicle**."

(c) Exclusion A.1.b. is deleted and replaced by the following:

b. a motor vehicle that is owned by **you**, other than a **covered auto**.

**All other terms, limits and provisions of this policy remain unchanged.**



*SERFF Tracking Number:* PRGS-125314399      *State:* Arkansas  
*First Filing Company:* Progressive Casualty Insurance Company, ...      *State Tracking Number:* AR-PC-07-026393  
*Company Tracking Number:* L060289-AR-AU-A/D  
*TOI:* 19.0 Personal Auto      *Sub-TOI:* 19.0001 Private Passenger Auto (PPA)  
*Product Name:* Auto  
*Project Name/Number:* 9610A AR, 9610D AR, Z194 AR, Z195 AR/L060289-AR-AU-A/D

## **Rate Information**

Rate data does NOT apply to filing.

SERFF Tracking Number: PRGS-125314399 State: Arkansas  
First Filing Company: Progressive Casualty Insurance Company, ... State Tracking Number: AR-PC-07-026393  
Company Tracking Number: L060289-AR-AU-A/D  
TOI: 19.0 Personal Auto Sub-TOI: 19.0001 Private Passenger Auto (PPA)  
Product Name: Auto  
Project Name/Number: 9610A AR, 9610D AR, Z194 AR, Z195 AR/L060289-AR-AU-A/D

## Supporting Document Schedules

**Satisfied -Name:** Uniform Transmittal Document-Property & Casualty **Review Status:** Approved 11/01/2007

**Comments:**

**Attachment:**

industry\_rates\_PCtransDoc\_intelligent.pdf

**Satisfied -Name:** Cover Letter **Review Status:** Approved 11/01/2007

**Comments:**

**Attachment:**

10-10-07 Initial Cvr Ltr for 9610, Z194, Z195 AR \_amended\_.pdf

**Satisfied -Name:** Summary of Changes **Review Status:** Approved 11/01/2007

**Comments:**

The Summary of Changes is submitted for informational purposes only and not for review and approval.

**Attachment:**

5894AR - 1c.pdf

**Satisfied -Name:** Response to Objections **Review Status:** Approved 11/01/2007

**Comments:**

**Attachment:**

10-29-07 Response to 10-18-07 Objection Letter.pdf

**Satisfied -Name:** Response Letter **Review Status:** Approved 11/01/2007

**Comments:**

**Attachment:**

11-01-07 Response to 10-30-07 Objection Letter.pdf

SERFF Tracking Number: PRGS-125314399 State: Arkansas  
First Filing Company: Progressive Casualty Insurance Company, ... State Tracking Number: AR-PC-07-026393  
Company Tracking Number: L060289-AR-AU-A/D  
TOI: 19.0 Personal Auto Sub-TOI: 19.0001 Private Passenger Auto (PPA)  
Product Name: Auto  
Project Name/Number: 9610A AR, 9610D AR, Z194 AR, Z195 AR/L060289-AR-AU-A/D

**Satisfied -Name:** Comparison Document for 9610 policy  
**Review Status:** Approved 12/03/2007

**Comments:**

This document shows the minor changes made from the previously approved version of this form.

**Attachment:**

9610 AR - 4c v. 9610 AR - 3c Comparison Document.pdf

**Satisfied -Name:** Comparison Document for Form Z195  
**Review Status:** Approved 12/03/2007

**Comments:**

This document shows the minor changes made from the previously approved version of this form.

**Attachment:**

Z195 - 1r (v. Z195 AR).pdf

**Satisfied -Name:** Letter for Amended Forms  
**Review Status:** Approved 12/03/2007

**Comments:**

**Attachment:**

11-21-07 Letter for Amended 9610 & Z195, added 9330.pdf

## Property & Casualty Transmittal Document

<b>1. Reserved for Insurance Dept. Use Only</b>	<b>2. Insurance Department Use only</b> a. Date the filing is received: b. Analyst: c. Disposition: d. Date of disposition of the filing: e. Effective date of filing: <table style="width: 100%; border: none;"> <tr> <td style="width: 60%; border: none;">New Business</td> <td style="border: none;"></td> </tr> <tr> <td style="border: none;">Renewal Business</td> <td style="border: none;"></td> </tr> </table> f. State Filing #: g. SERFF Filing #: h. Subject Codes	New Business		Renewal Business	
New Business					
Renewal Business					

<b>3. Group Name</b>	<b>Group NAIC #</b>

4. Company Name(s)	Domicile	NAIC #	FEIN #	State #

<b>5. Company Tracking Number</b>	
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**Contact Info of Filer(s) or Corporate Officer(s)** [include toll-free number]

6.	Name and address	Title	Telephone #s	FAX #	e-mail

7. Signature of authorized filer	
8. Please print name of authorized filer	

**Filing information** (see General Instructions for descriptions of these fields)

9. Type of Insurance (TOI)	
10. Sub-Type of Insurance (Sub-TOI)	
11. State Specific Product code(s)(if applicable)[See State Specific Requirements]	
12. Company Program Title (Marketing title)	
13. Filing Type	<input type="checkbox"/> Rate/Loss Cost <input type="checkbox"/> Rules <input type="checkbox"/> Rates/Rules <input type="checkbox"/> Forms <input type="checkbox"/> Combination Rates/Rules/Forms <input type="checkbox"/> Withdrawal <input type="checkbox"/> Other (give description)
14. Effective Date(s) Requested	New: <input type="text"/> Renewal: <input type="text"/>
15. Reference Filing?	<input type="checkbox"/> Yes <input type="checkbox"/> No
16. Reference Organization (if applicable)	
17. Reference Organization # & Title	
18. Company's Date of Filing	
19. Status of filing in domicile	<input type="checkbox"/> Not Filed <input type="checkbox"/> Pending <input type="checkbox"/> Authorized <input type="checkbox"/> Disapproved

## Property & Casualty Transmittal Document—

20. This filing transmittal is part of Company Tracking #

21. Filing Description [This area can be used in lieu of a cover letter or filing memorandum and is free-form text]

22. Filing Fees (Filer must provide check # and fee amount if applicable)  
[If a state requires you to show how you calculated your filing fees, place that calculation below]

Check #:  
Amount:

Refer to each state's checklist for additional state specific requirements or instructions on calculating fees.

\*\*\*Refer to the each state's checklist for additional state specific requirements (i.e. # of additional copies required, other state specific forms, etc.)

PC TD-1 pg 2 of 2

## FORM FILING SCHEDULE

(This form must be provided **ONLY** when making a filing that includes forms)  
 (Do **not** refer to the body of the filing for the forms listing, unless allowed by state.)

<b>1.</b>	<b>This filing transmittal is part of Company Tracking #</b>	
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<b>2.</b>	<b>This filing corresponds to rate/rule filing number</b> (Company tracking number of rate/rule filing, if applicable)	
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3.	Form Name /Description/Synopsis	Form # Include edition date	Replacement Or withdrawn?	If replacement, give form # it replaces	Previous state filing number, if required by state
01			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
02			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
03			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
04			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
05			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
06			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
07			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
08			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
09			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
10			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		

PC FFS-1



October 10, 2007

**\*AMENDED – change on page 2**

**FILED VIA SERFF**

Property and Casualty Division  
Arkansas Insurance Department  
1200 West 3<sup>rd</sup> Street  
Little Rock, AR 72201-1904

**RE: Independent Company Form Filing – Private Passenger Auto – Company File # L060289-AR-AU-A/D**

**Agency:**

<b>PROGRESSIVE CASUALTY INSURANCE COMPANY</b>	<b>(NAIC # 155-24260)</b>
<b>PROGRESSIVE CLASSIC INSURANCE COMPANY</b>	<b>(NAIC # 155-42994)</b>
<b>PROGRESSIVE NORTHWESTERN INSURANCE COMPANY</b>	<b>(NAIC # 155-42919)</b>
<b>PROGRESSIVE SPECIALTY INSURANCE COMPANY</b>	<b>(NAIC # 155-32786)</b>
<b>UNITED FINANCIAL CASUALTY COMPANY</b>	<b>(NAIC # 155-11770)</b>

**Arkansas Auto Policy – Form 9610A AR (05/07)**  
**Named Driver Exclusion Endorsement – Form Z195 AR (05/07)**  
**Named Non-Owner Coverage Endorsement – Form Z194 AR (05/07)**

**Direct:**

**PROGRESSIVE DIRECT INSURANCE COMPANY (NAIC # 155-16322)**

**Arkansas Auto Policy – Form 9610D AR (05/07)**  
**Named Driver Exclusion Endorsement – Form Z195 AR (05/07)**  
**Named Non-Owner Coverage Endorsement – Form Z194 AR (05/07)**

**SERFF Tracking # PRGS-125314399**

Included in this filing are the above-referenced forms for your review and approval. The proposed effective date is **January 31, 2008**. We will notify you if this date changes.

The **Arkansas Auto Policy – Form 9610A AR (05/07)** and **Arkansas Auto Policy – Form 9610D AR (05/07)** replace the following forms:

- Arkansas Motor Vehicle Policy – Form 9608A AR (11/04)
- Arkansas Motor Vehicle Policy – Form 9608D AR (11/04)
- Cancellation Fee Waiver Endorsement – Form 0101 (08/02)
- Motor Vehicle Policy Endorsement – Form 7951 AR (09/02)

These forms were approved in the following companies:

- Progressive Casualty Insurance Company
- Progressive Classic Insurance Company
- Progressive Direct Insurance Company
- Progressive Northwestern Insurance Company
- Progressive Specialty Insurance Company
- United Financial Casualty Company

The **Arkansas Auto Policy – Form 9610A AR (05/07)** will be used for our agency business channel under the “~~Drive Insurance from Progressive~~ Progressive Drive” brand. The **Arkansas Auto Policy – Form 9610D AR (05/07)** will be used for our direct business channel under the “Progressive Direct” brand. Both policies are identical except for the branded logo on the policy jacket.

The revised Arkansas Auto Policy is based on a new model auto policy we have developed for use in all states where we do business. This new model was modified to comply with Arkansas law. The changes to the policy involve both increases and decreases in coverage. Overall, we think the net effect of these changes should be neutral or possibly a slight increase in coverage.

Please refer to the attached Summary of Changes document for further details. The Summary of Changes is submitted for informational purposes only and not for review and approval.

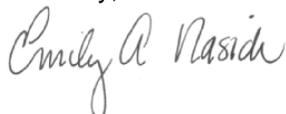
The **Named Driver Exclusion Endorsement – Form Z195 AR (05/07)** will be used with the Arkansas Auto Policy – Form 9610A AR (05/07) and Arkansas Auto Policy – Form 9610D AR (05/07). This endorsement will be issued to any insured with an excluded driver on their policy. This endorsement is identical to the endorsement that was contained in the Arkansas Motor Vehicle Policy, Forms 9608A AR (11/04) and 9608D AR (11/04).

The **Named Non-Owner Coverage Endorsement – Form Z194 AR (05/07)** will be used with the Arkansas Auto Policy – Form 9610A AR (05/07) and Arkansas Auto Policy – Form 9610D AR (05/07). This endorsement will be issued to any insured purchasing named non-owner coverage.

Also included is the required NAIC Property & Casualty Transmittal Document. The filing fee of \$50.00 is being submitted via EFT in SERFF.

If you have any questions or want to discuss this filing, please contact me via SERFF, e-mail, or call me at 1-800-321-9843, extension 625-2456. Thank you for your attention to this filing.

Sincerely,



Emily A. Vlasich  
Corporate Counsel  
Direct: (440) 395-2456  
FAX: (440) 395-3790  
E-mail: emily\_a\_vlasich@progressive.com

EAV/aml

## Important notice about upcoming changes in your coverage

Before you renew your policy, we want to let you know about some upcoming changes in your policy contract. Your renewal policy will contain several increases as well as several decreases in coverage. Overall, we think you will find that your new policy will be better than your current policy. This is a summary of the changes in coverage under the new policy. This summary provides a basic outline of the changes. Please refer to the enclosed policy contract for more details. If there are differences between this summary and the policy contract, the policy contract will control.

### Increases in coverage

	<b>Under your current policy:</b>	<b>Under your renewal policy:</b>
<b>All Parts</b>	When an insured person or resident relative is driving a non-owned auto, the owner of that auto must have given express or implied permission in order for coverage to apply.	Coverage will apply if the owner of a non-owned auto or the person in lawful possession of the non-owned auto gave permission.
<b>Part I – Liability to Others</b>	Coverage is excluded for damage to property owned by or rented to an insured person or someone else residing in your household.	This exclusion was changed to only exclude damage to property owned by or rented to an insured person. It does not exclude damage to property owned by or rented to someone else residing in your household.
<b>Part II – Personal Injury Protection Coverage</b>	Coverage is excluded if an insured person is injured while occupying any vehicle while it is being used to carry people or goods for compensation.	This exclusion will apply only if an insured person is using a covered auto to carry people or goods for compensation.
<b>Part III – Uninsured/Underinsured Motorist Coverage</b>	Uninsured/Underinsured Motorist Coverage (UM/UIM) is considered excess coverage for guest passengers riding in your covered auto. This means that it pays for injuries suffered by these passengers only after other available UM/UIM insurance has paid first.	UM/UIM will be considered primary coverage for everyone riding in your covered auto. This means that guest passengers do not need to make a claim under their own policy first.
<b>Part IV – Damage to a Vehicle</b>	Comprehensive and/or Collision Coverage is not provided for custom parts or equipment installed by a dealer on new autos.	Coverage will be provided under Comprehensive and/or Collision Coverage for custom parts or equipment installed by a dealer on new autos.
	The amount provided for a rental car under Comprehensive Coverage when a covered auto is stolen is \$20 per day.	The amount provided for a rental car under Comprehensive Coverage when a covered auto is stolen has been increased to \$30 per day.
	Coverage is not provided while a covered auto is leased or rented to others.	This exclusion will no longer apply if you or a relative are operating a covered auto.

**Part IV – Damage to a Vehicle**

(continued)

**Under your current policy:**

**Under your renewal policy:**

Coverage is excluded for a loss due to theft of a vehicle: 1) by you or a relative; or 2) prior to its delivery to you or a relative; or 3) while it is in the care, custody, or control of an auto business.	This exclusion has been deleted.
Coverage is excluded for property damage caused by mold, mildew, or fungus.	This exclusion has been deleted.
The lienholder has no greater rights for coverage under the policy than the insured.	A lienholder will have rights under the policy under certain circumstances, even if coverage is denied to the insured. If we make a payment to a lienholder under these circumstances, we have the right to collect that payment back from the insured.

**Part VI – Duties in Case of an Accident or Loss**

An insured is required to report a claim within 24 hours for coverage to apply.	This requirement has been modified. An insured is now simply required to report a claim promptly for coverage to apply.
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**Part VII – General Provisions**

The coverage for a covered auto automatically terminates if there is a new owner of the covered auto or if there is any other insurance covering the covered auto.	The coverage for a covered auto automatically terminates if the covered auto is sold or transferred to someone else or if the named insured purchases other similar insurance covering the covered auto.
If you wish to bring legal action against us, you must do so before the statute of limitations for bodily injury in your state has expired.	This provision has been deleted.
The policy may be voided if you or anyone covered under your policy commits fraud.	The policy may be voided if the named insured or a resident spouse commits fraud.

**Named Non-Owner Coverage**

(called “Named Operator – Non-Owned Vehicle Coverage” in your current policy)

Coverage is not provided for any vehicle you acquire during the policy period without notifying us.	You now have coverage for a vehicle you acquire during the policy period if you notify us within 30 days of becoming the owner and pay the premium due.
---	---

**Decreases in coverage**

**All Parts**

<b>Under your current policy:</b>	<b>Under your renewal policy:</b>
Coverage applies for vehicles that are furnished or available for the regular use of you or a resident relative even if those vehicles are not listed on the policy.	Coverage will be excluded for vehicles that are furnished or available for the regular use of you or a resident relative if those vehicles are not listed on the policy.
Coverage is not specifically excluded for injury or damage caused while an insured person is committing a crime.	An exclusion has been added to Part I, Part II and Part IV to exclude injury or damage caused while an insured person is committing a crime. This exclusion does not apply to traffic violations.
The policy does not address whether coverage may be stacked (limits of liability added together) if the named insured has more than one policy due to having more than 4 vehicles insured by us.	Coverage may not be stacked if the named insured has more than one policy due to having more than four vehicles insured by us.
Coverage is excluded for organized racing activities.	This exclusion has been expanded to exclude any loss that occurs while driving on a racetrack.

**Part I – Liability to Others**

Liability coverage applies if one covered auto damages another covered auto.	When one covered auto damages another, liability coverage will be excluded. The covered autos will be covered only under Collision Coverage if you bought Collision Coverage for the vehicle.
Coverage is excluded if an insured person intentionally causes damage.	Coverage will also be excluded for intended as well as unintended injuries or damage caused by intentional acts.

**Part II – Personal Injury Protection Coverage**

Coverage is not specifically excluded for organized racing activities and driving on a racetrack.	Coverage is excluded for organized racing activities and driving on a racetrack.
Coverage is not specifically excluded for war, warlike actions or insurrection.	Coverage is excluded for war, warlike actions or insurrection.
Coverage is not specifically excluded for dispersion of radioactive, poisonous or other hazardous material.	Coverage is excluded for dispersion of radioactive, poisonous or other hazardous material.

**Part III –  
Uninsured/Underinsured  
Motorist Coverage**

**Under your current policy:**

**Under your renewal policy:**

<p>An uninsured motor vehicle does not include any vehicle owned by you or a resident relative.</p>	<p>An uninsured motor vehicle does not include any vehicle owned by or furnished or available for the regular use of you or a resident relative.</p>
<p>Uninsured Motorist Property Damage Coverage covers property owned by an insured person and contained in a covered auto at the time of an accident.</p>	<p>Uninsured Motorist Property Damage Coverage does not cover property owned by an insured person and contained in a covered auto at the time of an accident.</p>

**Part IV – Damage to a  
Vehicle**

<p>Coverage is excluded if you, a resident relative, or the owner of a non-owned auto intentionally causes damage.</p>	<p>Coverage is excluded for intended as well as unintended damage caused by intentional acts.</p>
--	---



October 29, 2007

**FILED VIA SERFF**

Ms. Alexa Grissom  
Property and Casualty Division  
Arkansas Insurance Department  
1200 West 3<sup>rd</sup> Street  
Little Rock, AR 72201-1904

**RE: Independent Company Form Filing – Private Passenger Auto – Company File # L060289-AR-AU-A/D**

**Agency:**

<b>PROGRESSIVE CASUALTY INSURANCE COMPANY</b>	<b>(NAIC # 155-24260)</b>
<b>PROGRESSIVE CLASSIC INSURANCE COMPANY</b>	<b>(NAIC # 155-42994)</b>
<b>PROGRESSIVE NORTHWESTERN INSURANCE COMPANY</b>	<b>(NAIC # 155-42919)</b>
<b>PROGRESSIVE SPECIALTY INSURANCE COMPANY</b>	<b>(NAIC # 155-32786)</b>
<b>UNITED FINANCIAL CASUALTY COMPANY</b>	<b>(NAIC # 155-11770)</b>

**Arkansas Auto Policy – Form 9610A AR (05/07)**  
**Named Driver Exclusion Endorsement – Form Z195 AR (05/07)**  
**Named Non-Owner Coverage Endorsement – Form Z194 AR (05/07)**

**Direct:**

**PROGRESSIVE DIRECT INSURANCE COMPANY (NAIC # 155-16322)**

**Arkansas Auto Policy – Form 9610D AR (05/07)**  
**Named Driver Exclusion Endorsement – Form Z195 AR (05/07)**  
**Named Non-Owner Coverage Endorsement – Form Z194 AR (05/07)**

**SERFF Tracking # PRGS-125314399**  
**Arkansas File # AR-PC-07-026393**

Dear Ms. Grissom:

I am writing in response to the issues raised in your Objection Letter dated October 18, 2007.

**First issue**

**Your letter states:** “The Appraisal provision must comply with Bulletin No. 19-89. Appraisal may not be demanded or binding.”

**Response:** The appraisal provision in the 9610 AR policy does not provide for mandatory or binding arbitration. Specifically, the policy states that legal liability and damages will be determined by arbitration “if we and the insured person mutually agree to arbitration. “ Also, there is no provision in the policy that states that the arbitration decision is binding, and we will not enforce it as such.

Second issue

**Your letter states:** "Additionally, please advise if you are in compliance with Act 373 of 2007 regarding liability coverage."

**Response:** Yes, the 9610 AR policy complies with these recent law changes. The definition of "loaner vehicle" in the General Definitions section has been revised to include vehicles "rented or leased from a rental company that is in the business of providing primarily private passenger vehicles to the public under a rental agreement for a period not to exceed 90 days." Also, the Other Insurance provision in Part I complies with the provisions related to the priority of primary coverage.

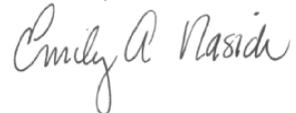
Third issue

**Your letter states:** "Lastly, where is the cancellation fee disclosed to the insured?"

**Response:** The cancellation fee is disclosed to the insured on: 1) the application, 2) on the cancel notice, which issues when the policy is cancelled for nonpayment, and 3) on the final cancel notice, which issues both when the insured cancels and when the policy is cancelled for nonpayment.

If you have any questions or want to discuss this filing, please contact me via SERFF, e-mail, or call me at 1-800-321-9843, network extension 625-2456. Thank you for your continued attention to this filing.

Sincerely,



Emily A. Vlasich  
Corporate Counsel  
Direct: (440) 395-2456  
FAX: (440) 395-3790  
E-mail: emily\_a\_vlasich@progressive.com

EAV/aml



November 1, 2007

**FILED VIA SERFF**

Ms. Alexa Grissom  
Property and Casualty Division  
Arkansas Insurance Department  
1200 West 3<sup>rd</sup> Street  
Little Rock, AR 72201-1904

**RE: Independent Company Form Filing – Private Passenger Auto – Company File # L060289-AR-AU-A/D**

**Agency:**

<b>PROGRESSIVE CASUALTY INSURANCE COMPANY</b>	<b>(NAIC # 155-24260)</b>
<b>PROGRESSIVE CLASSIC INSURANCE COMPANY</b>	<b>(NAIC # 155-42994)</b>
<b>PROGRESSIVE NORTHWESTERN INSURANCE COMPANY</b>	<b>(NAIC # 155-42919)</b>
<b>PROGRESSIVE SPECIALTY INSURANCE COMPANY</b>	<b>(NAIC # 155-32786)</b>
<b>UNITED FINANCIAL CASUALTY COMPANY</b>	<b>(NAIC # 155-11770)</b>

**Arkansas Auto Policy – Form 9610A AR (05/07)**  
**Named Driver Exclusion Endorsement – Form Z195 AR (05/07)**  
**Named Non-Owner Coverage Endorsement – Form Z194 AR (05/07)**

**Direct:**

**PROGRESSIVE DIRECT INSURANCE COMPANY (NAIC # 155-16322)**

**Arkansas Auto Policy – Form 9610D AR (05/07)**  
**Named Driver Exclusion Endorsement – Form Z195 AR (05/07)**  
**Named Non-Owner Coverage Endorsement – Form Z194 AR (05/07)**

**SERFF Tracking # PRGS-125314399**  
**Arkansas File # AR-PC-07-026393**

Dear Ms. Grissom:

I am writing in response to the issues raised in your Objection Letter dated October 30, 2007. I have revised the Appraisal section to state that appraisal may be mutually agreed to, instead of demanded. Also, the provision does state that appraisal is non-binding.

If you have any questions or want to discuss this filing, please contact me via SERFF, e-mail, or call me at 1-800-321-9843, network extension 625-2456. Thank you for your continued attention to this filing.

Sincerely,

Emily A. Vlasich  
Corporate Counsel  
Direct: (440) 395-2456  
FAX: (440) 395-3790  
E-mail: emily\_a\_vlasich@progressive.com

EAV/aml

# **COMPARISON DOCUMENT**

## **ARKANSAS AUTO POLICY**

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## ARKANSAS AUTO POLICY

### INSURING AGREEMENT

In return for **your** payment of the premium, **we** agree to insure **you** subject to all the terms, conditions, and limitations of this policy. **We** will insure **you** for the coverages and the limits of liability shown on this policy's **declarations page**. **Your** policy consists of the policy contract, **your** insurance application, the **declarations page**, and all endorsements to this policy.

### GENERAL DEFINITIONS

The following definitions apply throughout the policy. Defined terms are printed in boldface type and have the same meaning whether in the singular, plural, or any other form.

1. "**Additional auto**" means an **auto you** become the owner of during the policy period that does not permanently replace an **auto** shown on the **declarations page** if:
  - a. **we** insure all other **autos you** own;
  - b. the **additional auto** is not covered by any other insurance policy;
  - c. **you** notify **us** within 30 days of becoming the owner of the **additional auto**; and
  - d. **you** pay any additional premium due.An **additional auto** will have the broadest coverage **we** provide for any **auto** shown on the **declarations page**. If **you** ask **us** to insure an **additional auto** more than 30 days after **you** become the owner, any coverage **we** provide will begin at the time **you** request coverage.
2. "**Auto**" means a land motor vehicle:
  - a. of the private passenger, pickup body, or cargo van type;
  - b. designed for operation principally upon public roads;
  - c. with at least four wheels; and
  - d. with a gross vehicle weight rating of 12,000 pounds or less, according to the manufacturer's specifications.However, "**auto**" does not include step-vans, parcel delivery vans, or cargo cutaway vans or other vans with cabs separate from the cargo area.
3. "**Auto business**" means the business of selling, leasing, repairing, parking, storing, servicing, delivering, or testing vehicles.
4. "**Bodily injury**" means bodily harm, sickness, or disease, including death that results from bodily harm, sickness, or disease.
5. "**Covered auto**" means:
  - a. any **auto** or **trailer** shown on the **declarations page** for the coverages applicable to that **auto** or **trailer**;
  - b. any **additional auto**;
  - c. any **replacement auto**; ~~or~~
  - d. a **trailer** owned by **you**; or
  - e. a **loaner vehicle**.
6. "**Declarations page**" means the document showing **your** coverages, limits of liability, **covered autos**, premium, and other policy-related information. The **declarations page** may also be referred to as the Auto Insurance Coverage Summary.
7. "**Loaner vehicle**" means an **auto** operated by **you** that is:
  - a. loaned to **you** by a duly licensed automobile dealer:
    - i. as a temporary substitute for a **covered auto** while the **covered auto** is out of use because of breakdown, repair, or servicing; or
    - ii. for use as a demonstrator vehicle; or

- b. rented or leased from a rental company that is in the business of providing primarily private passenger vehicles to the public under a rental agreement for a period not to exceed 90 days.
- 8. "**Occupying**" means in, on, entering, or exiting.
- 9. "**Property damage**" means physical damage to, destruction of, or loss of use of, tangible property.
- 10. "**Punitive or exemplary damages**" means damages which may be imposed to punish a wrongdoer and to deter others from similar conduct.
- 11. "**Relative**" means a person residing in the same household as **you**, and related to **you** by blood, marriage, or adoption, and includes a ward, stepchild, or foster child. **Your** unmarried dependent children temporarily away from home will qualify as a **relative** if they intend to continue to reside in **your** household.
- 12. "**Replacement auto**" means an **auto** that permanently replaces an **auto** shown on the **declarations page**. A **replacement auto** will have the same coverage as the **auto** it replaces if the **replacement auto** is not covered by any other insurance policy. However, if the **auto** being replaced had coverage under Part IV - Damage To A Vehicle, such coverage will apply to the **replacement auto** only during the first 30 days after **you** become the owner unless **you** notify **us** within that 30-day period that **you** want **us** to extend coverage beyond the initial 30 days. If the **auto** being replaced did not have coverage under Part IV - Damage To A Vehicle, such coverage may be added, but the **replacement auto** will have no coverage under Part IV until **you** notify **us** of the **replacement auto** and ask **us** to add the coverage.
- 13. "**Trailer**" means a non-motorized trailer, including a farm wagon or farm implement, designed to be towed on public roads by an **auto** and not being used:
  - a. for commercial purposes;
  - b. as an office, store, or for display purposes; or
  - c. as a passenger conveyance.
- 14. "**We**", "**us**", and "**our**" mean the underwriting company providing the insurance, as shown on the **declarations page**.
- 15. "**You**" and "**your**" mean:
  - a. a person shown as a named insured on the **declarations page**; and
  - b. the spouse of a named insured if residing in the same household at the time of the loss.

## PART I - LIABILITY TO OTHERS

### INSURING AGREEMENT

If **you** pay the premium for this coverage, **we** will pay damages for **bodily injury** and **property damage** for which an **insured person** becomes legally responsible because of an accident.

Damages include prejudgment interest awarded against an **insured person**.

**We** will settle or defend, at **our** option, any claim for damages covered by this Part I.

### ADDITIONAL DEFINITIONS

When used in this Part I:

1. "**Insured person**" means:
  - a. **you** or a **relative** with respect to an accident arising out of the ownership, maintenance, or use of an **auto** or **trailer**;
  - b. any person with respect to an accident arising out of that person's use of a **covered auto** with the permission of **you** or a **relative**;
  - c. any person or organization with respect only to vicarious liability for the acts or omissions of a person described in a or b above; and
  - d. any Additional Interest shown on the **declarations page** with respect only to its liability for the acts or omissions of a person described in a or b above.
2. "**Property damage**" means physical damage to, destruction of, or loss of use of, tangible property.

### ADDITIONAL PAYMENTS

In addition to **our** limit of liability, **we** will pay for an **insured person**:

1. all expenses **we** incur in the settlement of any claim or defense of any lawsuit;
2. interest accruing after entry of judgment, until **we** have paid, offered to pay, or deposited in court, that portion of the judgment which does not exceed **our** limit of liability. This does not apply if **we** have not been given notice of suit or the opportunity to defend an **insured person**;
3. the premium on any appeal bond or attachment bond required in any lawsuit **we** defend. **We** have no duty to purchase a bond in an amount exceeding **our** limit of liability, and **we** have no duty to apply for or furnish these bonds;
4. up to \$250 for a bail bond required because of an accident resulting in **bodily injury** or **property damage** covered under this Part I. **We** have no duty to apply for or furnish this bond; and
5. reasonable expenses, including loss of earnings up to \$200 per day, incurred at **our** request.

### EXCLUSIONS - READ THE FOLLOWING EXCLUSIONS CAREFULLY. IF AN EXCLUSION APPLIES, COVERAGE WILL NOT BE AFFORDED UNDER THIS PART I.

Coverage under this Part I, including **our** duty to defend, will not apply to any **insured person** for:

1. **bodily injury** or **property damage** arising out of the ownership, maintenance, or use of any vehicle or trailer while being used:
  - a. to carry persons or property for compensation or a fee; or
  - b. for retail or wholesale delivery, including, but not limited to, the pickup, transport, or delivery of magazines, newspapers, mail, or food.

This exclusion does not apply to shared-expense car pools;

2. any liability assumed under any contract or agreement by **you** or a **relative**;
3. **bodily injury** to an employee of that **insured person** arising out of or within the course of employment. This exclusion does not apply to domestic employees if benefits are neither paid nor required to be provided under workers' compensation, disability benefits, or similar laws;
4. **bodily injury** or **property damage** arising out of an accident involving any vehicle while being maintained or used by a person while employed or engaged in any **auto business**. This exclusion does not apply to **you**, a **relative**, or an agent or employee of **you** or a **relative**, when using a **covered auto**;
5. **bodily injury** or **property damage** resulting from, or sustained during practice or preparation for:
  - a. any pre-arranged or organized racing, stunting, speed, or demolition contest or activity; or
  - b. any driving activity conducted on a permanent or temporary racetrack or racecourse;
6. **bodily injury** or **property damage** due to a nuclear reaction or radiation;
7. **bodily injury** or **property damage** for which insurance:
  - a. is afforded under a nuclear energy liability insurance contract; or
  - b. would be afforded under a nuclear energy liability insurance contract but for its termination upon exhaustion of its limit of liability;
8. any obligation for which the United States Government is liable under the Federal Tort Claims Act;
9. **bodily injury** or **property damage** caused by an intentional act of that **insured person**, or at the direction of that **insured person**, even if the actual injury or damage is different than that which was intended or expected;
10. **property damage** to any property owned by, rented to, being transported by, used by, or in the charge of that **insured person**. This exclusion does not apply to a rented residence or a rented garage;
11. **bodily injury** to **you** or a **relative**;
12. **bodily injury** or **property damage** arising out of the ownership, maintenance, or use of any vehicle owned by **you** or furnished or available for **your** regular use, other than a **covered auto** for which this coverage has been purchased;
13. **bodily injury** or **property damage** arising out of the ownership, maintenance, or use of any vehicle owned by a **relative** or furnished or available for the regular use of a **relative**, other than a **covered auto** for which this coverage has been purchased. This exclusion does not apply to **your** maintenance or use of such vehicle;
14. **bodily injury** or **property damage** arising out of **your** or a **relative's** use of a vehicle, other than a **covered auto**, without the permission of the owner of the vehicle or the person in lawful possession of the vehicle;
15. **bodily injury** or **property damage** arising out of the use of a **covered auto** while leased or rented to others or given in exchange for any compensation. This exclusion does not apply to the operation of a **covered auto** by **you** or a **relative**;
16. **punitive or exemplary damages**; or
17. **bodily injury** or **property damage** caused by, or reasonably expected to result from, a criminal act or omission of that **insured person**. This exclusion applies regardless of whether that **insured person** is actually charged with, or convicted of, a crime. For purposes of this exclusion, criminal acts or omissions do not include traffic violations.

## LIMITS OF LIABILITY

The limit of liability shown on the **declarations page** for liability coverage is the most **we** will pay regardless of the number of:

1. claims made;
2. **covered autos**;

3. **insured persons;**
4. lawsuits brought;
5. vehicles involved in the accident; or
6. premiums paid.

If **your declarations page** shows a split limit:

1. the amount shown for "each person" is the most **we** will pay for all damages due to **bodily injury** to one person resulting from any one accident;
2. subject to the "each person" limit, the amount shown for "each accident" is the most **we** will pay for all damages due to **bodily injury** sustained by two or more persons in any one accident; and
3. the amount shown for "property damage" is the most **we** will pay for the total of all **property damage** resulting from any one accident.

The "each person" limit of liability applies to the total of all claims made for **bodily injury** to a person and all claims of others, if allowed by law, derived from such **bodily injury**, including, but not limited to, emotional injury or mental anguish resulting from the **bodily injury** of another or from witnessing the **bodily injury** to another, loss of society, loss of companionship, loss of services, loss of consortium, and wrongful death.

If the **declarations page** shows that "combined single limit" or "CSL" applies, the amount shown is the most **we** will pay for the total of all damages resulting from any one accident. However, without changing this limit of liability, **we** will comply with any law that requires **us** to provide any separate limits.

No one is entitled to duplicate payments for the same elements of damages.

If multiple auto policies issued by **us** are in effect for **you**, **we** will pay no more than the highest limit of liability for this coverage available under any one policy.

An **auto** and attached **trailer** are considered one **auto**. Therefore, the limits of liability will not be increased for an accident involving an **auto** that has an attached **trailer**.

## **FINANCIAL RESPONSIBILITY LAWS**

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

## **OTHER INSURANCE**

If there is any other applicable liability insurance or bond, **we** will pay only **our** share of the damages. **Our** share is the proportion that **our** limit of liability bears to the total of all applicable limits. However, any insurance **we** provide for a vehicle or trailer, other than a **covered auto**, will be excess over any other collectible insurance, self-insurance, or bond.

~~Any insurance **we** provide for a **loaner vehicle** will be primary over any applicable insurance provided by a policy issued to the owner of the **loaner vehicle** for liability arising out of **your** use of the **loaner vehicle**.~~

## **OUT-OF-STATE COVERAGE**

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

1. a financial responsibility or similar law requiring limits of liability for **bodily injury** or **property damage** higher than the limits shown on the **declarations page**, this policy will provide the higher limits; or
2. a compulsory insurance or similar law requiring a non-resident to maintain insurance whenever the non-resident uses an **auto** in that state, province, territory, or possession, this policy will provide the greater of:
  - a. the required minimum amounts and types of coverage; or
  - b. the limits of liability under this policy.

## **RIGHT OF DIRECT ACTION**

Any person entitled to payment of damages covered under this Part I, or his or her personal representative, shall be subrogated to the right of the person shown as the named insured on the **declarations page** for payment under this Part I. If a judgment against an **insured person** remains unsatisfied after 30 days from the date notice of entry of judgment was served on either the **insured person**, the attorney for the **insured person**, or **us**, the injured person, or his or her personal representative, may maintain an action against **us** for the amount of the judgment not exceeding **our** Limits of Liability.

## **PART II - PERSONAL INJURY PROTECTION COVERAGE**

### **INSURING AGREEMENT - MEDICAL AND HOSPITAL BENEFITS COVERAGE**

If **you** pay the premium for this coverage, **we** will pay for reasonable and necessary **medical and hospital benefits** because of **bodily injury**:

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

### **INSURING AGREEMENT - INCOME DISABILITY BENEFITS COVERAGE**

If **you** pay the premium for this coverage, **we** will pay for **income disability benefits** because of **bodily injury**:

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

### **INSURING AGREEMENT - ACCIDENTAL DEATH BENEFITS COVERAGE**

If **you** pay the premium for this coverage, **we** will pay the amount stated on the **declarations page** if an **insured person** dies within one year of the date of an accident as a result of **bodily injury**:

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

### **ADDITIONAL DEFINITIONS**

When used in this Part II:

1. "**Income disability benefits**" means loss of income from work the **insured person** would have performed had the **insured person** not sustained **bodily injury**. However, if the **insured person** is a non-income earner, **income disability benefits** means expenses reasonably incurred for essential services in lieu of those the **insured person** would have performed without income had the **insured person** not sustained **bodily injury**. **Income disability benefits** apply only to the period beginning 8 days after the date of the accident and not exceeding 52 weeks. **Income disability benefits** do not include any loss or expense after the death of the **insured person**.
2. "**Insured person**" and "**insured persons**" mean:
  - a. **you** or any **relative**; and
  - b. any other person:
    - (i) while **occupying a covered auto**; or
    - (ii) when struck by a **covered auto** while a pedestrian, bicyclist, or motorcyclist, or while riding on an animal or in a horse-drawn wagon or cart.
3. "**Medical and hospital benefits**" means all reasonable and necessary expenses for medical, hospital, nursing, dental, surgical, ambulance, funeral, and prosthetic services incurred within 24 months after the accident, and may include any non-medical remedial care and treatment rendered in accordance with a recognized religious method of healing. Expenses for hospital charges are limited to semi-private accommodations.

**EXCLUSIONS - READ THE FOLLOWING EXCLUSIONS CAREFULLY. IF AN EXCLUSION APPLIES, COVERAGE WILL NOT BE AFFORDED UNDER THIS PART II.**

Coverage under this Part II will not apply to **bodily injury**:

1. sustained by any person, other than **you** or a **relative**, who is a named insured or additional insured under any other valid and collectible automobile insurance policy providing the minimum personal injury protection coverages required by law;
2. sustained by any person who intentionally caused such **bodily injury**;
3. sustained by any person while in the commission of a felony or while seeking to elude lawful apprehension or arrest by a law enforcement official;
4. to the extent benefits are paid or payable under any workers' compensation law, disability benefits law or similar law. This exclusion does not apply to Accidental Death Benefits Coverage;
5. to any person resulting from, or sustained during practice or preparation for:
  - a. any pre-arranged or organized racing, stunting, speed, or demolition contest or activity; or
  - b. any driving activity conducted on a permanent or temporary racetrack or racecourse;
6. sustained by any person while **occupying** or when struck by any vehicle owned by **you** or furnished or available for **your** regular use, other than a **covered auto** for which this coverage has been purchased;
7. sustained by any person while **occupying** or when struck by any vehicle owned by a **relative** or furnished or available for the regular use of a **relative**, other than a **covered auto** for which this coverage has been purchased. This exclusion does not apply to **your** maintenance or use of such vehicle;
8. sustained by any person while **occupying** any vehicle or trailer while located for use as a residence or premises;
9. sustained by any person while **occupying a covered auto** while it is being used:
  - a. to carry persons or property for compensation or a fee; or
  - b. for retail or wholesale delivery, including, but not limited to, the pickup, transport, or delivery of magazines, newspapers, mail, or food.

This exclusion does not apply to shared-expense car pools;
10. arising out of an accident involving any vehicle while being maintained or used by a person while employed or engaged in any **auto business**. This exclusion does not apply to **you**, a **relative**, or an agent or employee of **you** or a **relative**, when using a **covered auto**;
11. due to a nuclear reaction or radiation;
12. for which insurance:
  - a. is afforded under a nuclear energy liability insurance contract; or
  - b. would be afforded under a nuclear energy liability insurance contract but for its termination upon exhaustion of its limit of liability;
13. caused directly or indirectly by:
  - a. war (declared or undeclared) or civil war;
  - b. warlike action by any military force of any government, sovereign or other authority using military personnel or agents. This includes any action taken to hinder or defend against an actual or expected attack; or
  - c. insurrection, rebellion, revolution, usurped power, or any action taken by a governmental authority to hinder or defend against any of these acts;
14. caused directly or indirectly by:
  - a. any accidental or intentional discharge, dispersal, or release of radioactive, nuclear, pathogenic, or poisonous biological material; or
  - b. any intentional discharge, dispersal, or release of chemical or hazardous material for any purpose other than its safe and useful purpose; or

15. to **you** or a **relative** while **occupying** any vehicle, other than a **covered auto**, without the permission of the owner of the vehicle or the person in lawful possession of the vehicle.

## LIMITS OF LIABILITY

The limits of liability shown on the **declarations page** for the coverages provided under this Part II – Personal Injury Protection Coverage is the most **we** will pay for each **insured person** in any one accident, regardless of the number of:

1. claims made;
2. **covered autos**;
3. **insured persons**;
4. lawsuits brought;
5. vehicles involved in the accident; or
6. premiums paid.

The limit of liability for Medical and Hospital Benefits is shown on the **declarations page**.

The limit of liability for Accidental Death Benefits is shown on the **declarations page**.

The limit of liability for Income Disability Benefits is:

1. 70% of the loss of gross income per week, not to exceed \$140 per week, if the **insured person** earned income from work at the time of the accident; or
2. \$70 per week, or any fractional part of a week, if the **insured person** did not earn income from work at the time of the accident.

In determining the amount payable under this Part II, the amount of damages sustained by the **insured person** due to **bodily injury** will be reduced by all sums paid or payable for the same elements of damages under:

1. Part I – Liability To Others; and
2. Part III – Uninsured/Underinsured Motorist Coverage.

## OTHER INSURANCE

1. With respect to **bodily injury** sustained by a **relative**, any Medical And Hospital Benefits Coverage or Income Disability Benefits Coverage afforded by this Part II shall be excess over any other similar coverage provided by a motor vehicle insurance policy under which the **relative** is a named insured.
2. If **you** or a **relative** are insured under any other motor vehicle insurance policy providing coverage for income disability benefits or similar coverage, the most that **you** or a **relative** may recover for **income disability benefits** shall not exceed the amount payable under the policy providing the highest limits of liability.
3. No coverage will be provided under this Part II for any person, other than **you** or a **relative**, who is a named insured or additional insured under any other valid and collectible motor vehicle insurance policy providing the minimum personal injury protection coverages required by law.

Subject to 1, 2, and 3 above, if there is other applicable personal injury protection insurance, **we** will pay only **our** share of the loss. **Our** share is the proportion that **our** limit of liability bears to the total of all applicable limits.

~~However, any coverage provided under this Part II arising out of the operation of a **loaner vehicle** by **you** will be primary over any applicable insurance provided by a policy issued to the owner of the **loaner vehicle** for personal injury protection insurance.~~

No one shall be entitled to recover duplicate payments for **income disability benefits** or **medical and hospital benefits** under this or any other motor vehicle insurance policy.

## **PART III - UNINSURED/UNDERINSURED MOTORIST COVERAGE**

### **INSURING AGREEMENT – UNINSURED MOTORIST BODILY INJURY COVERAGE**

If **you** pay the premium for this coverage, **we** will pay for damages that an **insured person** is legally entitled to recover from the owner or operator of an **uninsured motor vehicle** because of **bodily injury**:

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

### **INSURING AGREEMENT - UNDERINSURED MOTORIST BODILY INJURY COVERAGE**

If **you** pay the premium for this coverage, **we** will pay for damages that an **insured person** is legally entitled to recover from the owner or operator of an **underinsured motor vehicle** because of **bodily injury**:

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

**We** will pay under this Part III only after the limits of liability under all applicable bodily injury liability bonds and policies have been exhausted by payment of judgments or settlements.

### **INSURING AGREEMENT - UNINSURED MOTORIST PROPERTY DAMAGE COVERAGE**

If **you** pay the premium for this coverage, **we** will pay for damages that an **insured person** is legally entitled to recover from the owner or operator of an **uninsured motor vehicle** due to **property damage**:

~~1. to a covered auto listed on the declarations page as a vehicle for which Uninsured Motorist Property Damage Coverage is provided;~~

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

### **NOTICE AND CONSENT REQUIREMENT**

In order for coverage under this Part III to apply, an **insured person** must send to **us**, by certified mail, return receipt requested, written notice of any tentative settlement agreement reached with the owner or operator of an **underinsured motor vehicle**, or that person's liability insurer. However, this notice requirement shall not apply when **we** are making that offer of settlement as insurer of the owner or operator of the **underinsured motor vehicle**. The notice shall include:

1. written documentation of economic losses incurred, including copies of all medical bills;
2. written authorization or a court order allowing **us** to obtain medical reports from all employers and medical providers; and
3. written confirmation from the owner or operator's liability insurer as to the amount of the liability limits and the terms of the settlement agreement. The agreement shall not include any sum representing **punitive or exemplary damages**.

Within 30 days of **our** receipt of written notice of the tentative settlement agreement, **we** may pay the sum offered in settlement to the **insured person**. If **we** do this, **we** are subrogated to the **insured person's** right of recovery against the owner or operator of the **underinsured motor vehicle**, to the

extent of **our** payment, and the **insured person** must assign to **us** all rights to any amount subsequently paid from all applicable liability bonds and policies.

Any judgment or settlement for damages against an owner or operator of an **uninsured motor vehicle** or an **underinsured motor vehicle** that arises out of a lawsuit brought without **our** written consent is not binding on **us**.

## **ADDITIONAL DEFINITIONS**

When used in this Part III:

1. "**Insured person**" means:
  - a. **you** or a **relative**;
  - b. any person while operating a **covered auto** with the permission of **you** or a **relative**;
  - c. any person **occupying**, but not operating, a **covered auto**; and
  - d. any person who is entitled to recover damages covered by this Part III because of **bodily injury** sustained by a person described in a, b, or c above.
2. "**Property damage**" means physical damage to, destruction of, or loss of use of, a **covered auto**.
3. "**Underinsured motor vehicle**" means a land motor vehicle or trailer of any type to which a bodily injury liability bond or policy applies at the time of the accident, but its limit of liability for bodily injury is less than the amount of the **insured person's bodily injury** damages.

An **underinsured motor vehicle** does not include any vehicle or equipment:

- a. owned by **you** or a **relative** or furnished or available for the regular use of **you** or a **relative**;
  - b. operated on rails or crawler treads;
  - c. designed mainly for use off public roads, while not on public roads;
  - d. while located for use as a residence or premises;
  - e. that is a **covered auto**; or
  - f. that is an **uninsured motor vehicle**.
4. "**Uninsured motor vehicle**" means a land motor vehicle or trailer of any type:
    - a. to which no bodily injury liability bond or policy applies at the time of the accident;
    - b. to which a bodily injury liability bond or policy applies at the time of the accident, but the bonding or insuring company:
      - (i) denies coverage; or
      - (ii) is insolvent or becomes so within one year of the date of the accident; or
    - c. that is a hit-and-run vehicle whose owner or operator cannot be identified and which strikes:
      - (i) **you** or a **relative**;
      - (ii) a vehicle that **you** or a **relative** are **occupying**; or
      - (iii) a **covered auto**;provided that the **insured person**, or someone on his or her behalf, reports the accident to the police or civil authority within 24 hours or as soon as practicable after the accident.

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

- a. owned by **you** or a **relative** or furnished or available for the regular use of **you** or a **relative**;
- b. owned or operated by a self-insurer under any applicable motor vehicle law, except a self-insurer that is or becomes insolvent;
- c. operated on rails or crawler treads;
- d. designed mainly for use off public roads, while not on public roads;
- e. while located for use as a residence or premises;
- f. that is a **covered auto**; or
- g. that is an **underinsured motor vehicle**.

**EXCLUSIONS - READ THE FOLLOWING EXCLUSIONS CAREFULLY. IF AN EXCLUSION APPLIES, COVERAGE WILL NOT BE AFFORDED UNDER THIS PART III.**

A. Coverage under this Part III will not apply:

1. to **bodily injury** sustained by any person while using or **occupying**:
  - a. a **covered auto** while being used:
    - (i) to carry persons or property for compensation or a fee; or
    - (ii) for retail or wholesale delivery, including, but not limited to, the pickup, transport, or delivery of magazines, newspapers, mail, or food.  
This exclusion does not apply to shared-expense car pools; or
  - b. a motor vehicle that is owned by or available for the regular use of **you** or a **relative**. This exclusion does not apply to a **covered auto** that is insured under this Part III;
2. to **bodily injury** sustained by **you** or a **relative** while using any vehicle, other than a **covered auto**, without the permission of the owner of the vehicle or the person in lawful possession of the vehicle;
3. directly or indirectly to benefit any insurer or self-insurer under any of the following or similar laws:
  - a. workers' compensation law; or
  - b. disability benefits law;
4. to any **punitive or exemplary damages**; or
5. to **bodily injury** sustained by any person if that person or the legal representative of that person settles without **our** written consent.

B. Coverage under this Part III will not apply to **property damage**:

1. sustained while a **covered auto** is being used:
  - a. to carry persons or property for compensation or a fee; or
  - b. for retail or wholesale delivery, including, but not limited to, the pickup, transport, or delivery of magazines, newspapers, mail, or food.  
This exclusion does not apply to shared-expense car pools;
2. resulting from, or sustained during practice or preparation for:
  - a. any pre-arranged or organized racing, stunting, speed, or demolition contest or activity; or
  - b. any driving activity conducted on a permanent or temporary racetrack or racecourse;
3. to a **covered auto** for which insurance:
  - a. is afforded under a nuclear energy liability insurance contract; or
  - b. would be afforded under a nuclear energy liability insurance contract but for its termination upon exhaustion of its limit of liability; or
4. to a trailer.

**LIMITS OF LIABILITY**

The limit of liability shown on the **declarations page** for Uninsured/Underinsured Motorist Coverage is the most **we** will pay regardless of the number of:

1. claims made;
2. **covered autos**;
3. **insured persons**;
4. lawsuits brought;
5. vehicles involved in the accident; or
6. premiums paid.

If **your declarations page** shows a split limit:

1. the amount shown for "each person" is the most **we** will pay for all damages due to **bodily injury** to one person;
2. subject to the "each person" limit, the amount shown for "each accident" is the most **we** will pay for all damages due to **bodily injury** sustained by two or more persons in any one accident; and
3. the amount shown for "**property damage**" is the most **we** will pay for the aggregate of all **property damage** caused by any one accident.

The "each person" limit of liability includes the total of all claims made for **bodily injury** to an **insured person** and all claims of others derived from such **bodily injury**, including, but not limited to, emotional injury or mental anguish resulting from the **bodily injury** of another or from witnessing the **bodily injury** to another, loss of society, loss of companionship, loss of services, loss of consortium, and wrongful death.

If the **declarations page** shows that "combined single limit" or "CSL" applies, the amount shown is the most **we** will pay for the total of all damages resulting from any one accident. However, without changing this total limit of liability, **we** will comply with any law that requires **us** to provide any separate limits.

In determining the amount payable under this Part III, the amount of the damages sustained by the **insured person** due to **bodily injury** will be reduced by all sums:

1. paid by or on behalf of any persons or organizations that may be legally responsible;
2. paid under Part I - Liability To Others; and
3. paid or payable because of **bodily injury** under any of the following or similar laws:
  - a. workers' compensation law; or
  - b. disability benefits law.

The limit of liability for **property damage** to a **covered auto** is the lowest of:

1. the actual cash value of the **covered auto** at the time of the accident;
2. the amount necessary to replace the **covered auto**;
3. the amount necessary to repair the **covered auto** to its pre-loss condition; or
4. the limit of liability shown on the **declarations page** for Uninsured Motorist Property Damage.

The limit of liability for **property damage** under this Part III will be reduced by all sums paid because of **property damage** by or on behalf of any persons or organizations that may be legally responsible, including, but not limited to, all sums paid under Part I - Liability To Others.

Payments for **property damage** under this Part III are subject to the following provisions:

1. any amount payable under this Part III for **property damage** shall be subject to the deductible shown on the **declarations page**;
2. no more than one deductible shall be applied to any one accident;
3. the deductible under this Part III shall not apply if:
  - a. the operator of the **uninsured motor vehicle** has been positively identified and is solely at fault; and
  - b. the **covered auto** is insured for Collision Coverage under Part IV - Damage To A Vehicle; and
4. IN THE REPAIR OF **YOUR COVERED MOTOR VEHICLE** UNDER THE PHYSICAL DAMAGE COVERAGE PROVISIONS OF THIS POLICY, **WE** MAY REQUIRE OR SPECIFY THE USE OF MOTOR VEHICLE PARTS NOT MADE BY THE ORIGINAL MANUFACTURER. THESE PARTS ARE REQUIRED TO BE AT LEAST EQUAL IN TERMS

## OF FIT, QUALITY, PERFORMANCE, AND WARRANTY TO THE ORIGINAL MANUFACTURER PARTS THEY REPLACE.

No one will be entitled to duplicate payments for the same elements of damages.

If multiple auto policies issued by **us** are in effect for **you**, **we** will pay no more than the highest limit of liability for this coverage available under any one policy.

### OTHER INSURANCE

If there is other applicable uninsured or underinsured motorist coverage, **we** will pay only **our** share of the damages. **Our** share is the proportion that **our** limit of liability bears to the total of all available coverage limits. However, any insurance **we** provide under this Part III with respect to a vehicle that is not a covered auto will be excess over any other uninsured or underinsured motorist coverage, ~~except with respect to:~~

- ~~1. coverage for **bodily injury to you or a relative when occupying a covered auto**; and~~
- ~~2. similar insurance provided by a policy issued to the owner of the **loaner vehicle** if **you** are operating the **loaner vehicle** involved in an accident and:
  - ~~a. an **insured person** sustains **bodily injury**; or~~
  - ~~b. the **loaner vehicle** sustains **property damage**.~~~~

### ARBITRATION

If **we** and an **insured person** cannot agree on:

1. the legal liability of the operator or owner of an **underinsured motor vehicle** or **uninsured motor vehicle**; or
  2. the amount of the damages sustained by the **insured person**;
- this will be determined by arbitration if **we** and the **insured person** mutually agree to arbitration prior to the expiration of the bodily injury statute of limitations in the state in which the accident occurred.

In the event of arbitration, each party will select an arbitrator. The two arbitrators will select a third. If the two arbitrators cannot agree on a third arbitrator within 30 days, then on joint application by the **insured person** and **us**, the third arbitrator will be appointed by a court having jurisdiction.

Each party will pay the costs and fees of its arbitrator and any other expenses it incurs. The costs and fees of the third arbitrator will be shared equally.

Unless both parties agree otherwise, arbitration will take place in the county in which the **insured person** resides. Local rules of procedure and evidence will apply.

A decision agreed to by two of the arbitrators will determine:

1. the legal liability of the operator or owner of an **underinsured motor vehicle** or **uninsured motor vehicle**; and
  2. the amount of the damages sustained by the **insured person**;
- but will not be binding on either the **insured person** or **us**.

The arbitrators will have no authority to award an amount in excess of the limit of liability.

**We** and an **insured person** may agree to an alternate form of arbitration.

## PART IV - DAMAGE TO A VEHICLE

### INSURING AGREEMENT - COLLISION COVERAGE

If **you** pay the premium for this coverage, **we** will pay for sudden, direct, and accidental loss to a:

1. **covered auto**, including an attached **trailer**; or
2. **non-owned auto**;  
and its **custom parts or equipment**, resulting from **collision**.

In addition, **we** will pay the reasonable cost to replace any child safety seat damaged in an accident to which this coverage applies.

### INSURING AGREEMENT - COMPREHENSIVE COVERAGE

If **you** pay the premium for this coverage, **we** will pay for sudden, direct, and accidental loss to a:

1. **covered auto**, including an attached **trailer**; or
2. **non-owned auto**;  
and its **custom parts or equipment**, that is not caused by **collision**.

A loss not caused by **collision** includes:

1. contact with an animal (including a bird);
2. explosion or earthquake;
3. fire;
4. malicious mischief or vandalism;
5. missiles or falling objects;
6. riot or civil commotion;
7. theft or larceny;
8. windstorm, hail, water, or flood; or
9. breakage of glass not caused by **collision**.

In addition, **we** will pay for:

1. reasonable transportation expenses incurred by **you** if a **covered auto** is stolen; and
2. loss of use damages that **you** are legally liable to pay if a **non-owned auto** is stolen.

A combined maximum of \$900, not exceeding \$30 per day, will apply to these additional benefits. The additional benefit for transportation expenses will not apply if **you** purchased Rental Reimbursement Coverage for the stolen **covered auto**.

Coverage for transportation expenses and loss of use damages begins 48 hours after **you** report the theft to **us** and ends the earliest of:

1. when the **auto** has been recovered and returned to **you** or its owner;
2. when the **auto** has been recovered and repaired;
3. when the **auto** has been replaced; or
4. 72 hours after **we** make an offer to settle the loss if the **auto** is deemed by **us** to be a total loss.

**We** must receive written proof of transportation expenses and loss of use damages.

## **INSURING AGREEMENT - ADDITIONAL CUSTOM PARTS OR EQUIPMENT COVERAGE**

**We** will pay for sudden, direct, and accidental loss to **custom parts or equipment** on a **covered auto** for which this coverage has been purchased. This coverage applies only if **you** have purchased both Comprehensive Coverage and Collision Coverage for that **covered auto** and the loss is covered under one of those coverages. This coverage applies in addition to any coverage automatically provided for **custom parts or equipment** under Comprehensive Coverage or Collision Coverage.

## **INSURING AGREEMENT - RENTAL REIMBURSEMENT COVERAGE**

**We** will reimburse rental charges incurred when **you** rent an **auto** from a rental agency or auto repair shop due to a loss to a **covered auto** for which Rental Reimbursement Coverage has been purchased. This coverage applies only if **you** have purchased both Comprehensive Coverage and Collision Coverage for that **covered auto** and the loss is covered under one of those coverages.

Additional fees or charges for insurance, damage waivers, optional equipment, fuel, or accessories are not covered.

This coverage is limited to the each day limit shown on the **declarations page** for a maximum of 30 days.

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

Rental charges will be reimbursed beginning:

1. when the **covered auto** cannot be driven due to a loss; or
2. if the **covered auto** can be driven, when **you** deliver the **covered auto** to an auto repair shop or one of **our** Claims Service Centers for repairs due to the loss;

and ending the earliest of:

1. when the **covered auto** has been returned to **you**;
2. when the **covered auto** has been repaired;
3. when the **covered auto** has been replaced;
4. 72 hours after **we** make an offer to settle the loss if the **covered auto** is deemed by **us** to be a total loss; or
5. when **you** incur 30 days worth of rental charges.

**You** must provide **us** written proof of **your** rental charges to be reimbursed.

## **INSURING AGREEMENT - LOAN/LEASE PAYOFF COVERAGE**

If **you** pay the premium for this coverage, and the **covered auto** for which this coverage was purchased is deemed by **us** to be a total loss, **we** will pay, in addition to any amounts otherwise payable under this Part IV, the difference between:

1. the actual cash value of the **covered auto** at the time of the total loss; and
2. any greater amount the owner of the **covered auto** is legally obligated to pay under a written loan or lease agreement to which the **covered auto** is subject at the time of the total loss, reduced by:
  - a. unpaid finance charges or refunds due to the owner for such charges;
  - b. excess mileage charges or charges for wear and tear;
  - c. charges for extended warranties or refunds due to the owner for extended warranties;

- d. charges for credit insurance or refunds due to the owner for credit insurance;
- e. past due payments and charges for past due payments; and
- f. collection or repossession expenses.

However, **our** payment under this coverage shall not exceed the limit of liability shown on the **declarations page**. The limit of liability is a percentage of the actual cash value of the **covered auto** at the time of the loss.

This coverage applies only if **you** have purchased both Comprehensive Coverage and Collision Coverage for that **covered auto** and the loss is covered under one of those coverages.

## ADDITIONAL DEFINITIONS

When used in this Part IV:

1. "**Collision**" means the upset of a vehicle or its impact with another vehicle or object.
2. "**Custom parts or equipment**" means equipment, devices, accessories, enhancements, and changes, other than those that are offered by the manufacturer specifically for that **auto** model, or that are installed by the auto dealership as part of the original sale of a new **auto**, that:
  - a. are permanently installed or attached; and
  - b. alter the appearance or performance of the **auto**.
3. "**Mechanical parts**" means operational parts on a vehicle that wear out over time or have a finite useful life or duration typically shorter than the life of the vehicle as a whole. **Mechanical parts** do not include external crash parts, wheels, paint, or windshields and other glass.
4. ~~4.~~ "**Non-owned auto**" means an **auto**:
  - a. ~~that is not a loaner vehicle; and~~
  - b. ~~that is not~~ owned by or furnished or available for the regular use of **you** or a **relative** while in the custody of or being operated by **you** or a **relative** with the permission of the owner of the **auto** or the person in lawful possession of the **auto**.

## **EXCLUSIONS - READ THE FOLLOWING EXCLUSIONS CAREFULLY. IF AN EXCLUSION APPLIES, COVERAGE WILL NOT BE AFFORDED UNDER THIS PART IV.**

Coverage under this Part IV will not apply for loss:

1. to any vehicle while being used:
  - a. to carry persons or property for compensation or a fee; or
  - b. for retail or wholesale delivery, including, but not limited to, the pickup, transport, or delivery of magazines, newspapers, mail, or food.

This exclusion does not apply to shared-expense car pools;
2. to a **non-owned auto** while being maintained or used by a person while employed or engaged in any **auto business**;
3. to any vehicle resulting from, or sustained during practice or preparation for:
  - a. any pre-arranged or organized racing, stunting, speed, or demolition contest or activity; or
  - b. any driving activity conducted on a permanent or temporary racetrack or racecourse;
4. to any vehicle for which insurance:
  - a. is afforded under a nuclear energy liability insurance contract; or
  - b. would be afforded under a nuclear energy liability insurance contract but for its termination upon exhaustion of its limit of liability;

5. to any vehicle caused by an intentional act committed by or at the direction of **you**, a **relative**, or the owner of a **non-owned auto**, even if the actual damage is different than that which was intended or expected;
6. to a **covered auto** while it is leased or rented to others or given in exchange for compensation. This exclusion does not apply to the operation of a **covered auto** by **you** or a **relative**;
7. due to destruction or confiscation by governmental or civil authorities of any vehicle because **you** or any **relative** engaged in illegal activities;
8. to any vehicle that is due and confined to:
  - a. wear and tear;
  - b. freezing;
  - c. mechanical, electrical, or electronic breakdown or failure; or
  - d. road damage to tires.

This exclusion does not apply if the damage results from the theft of a vehicle;
9. to portable equipment, devices, accessories, and any other personal effects that are not permanently installed. This includes, but is not limited to:
  - a. tapes, compact discs, cassettes, DVDs, and other recording or recorded media;
  - b. any case or other container designed for use in storing or carrying tapes, compact discs, cassettes, DVDs, or other recording or recorded media;
  - c. any device used for the detection or location of radar, laser, or other speed measuring equipment or its transmissions; and
  - d. CB radios, telephones, two-way mobile radios, DVD players, personal computers, personal digital assistants, or televisions;
10. to any vehicle for diminution of value;
11. to any vehicle caused directly or indirectly by:
  - a. war (declared or undeclared) or civil war;
  - b. warlike action by any military force of any government, sovereign or other authority using military personnel or agents. This includes any action taken to hinder or defend against an actual or expected attack; or
  - c. insurrection, rebellion, revolution, usurped power, or any action taken by a governmental authority to hinder or defend against any of these acts;
12. to any vehicle caused directly or indirectly by:
  - a. any accidental or intentional discharge, dispersal or release of radioactive, nuclear, pathogenic or poisonous biological material; or
  - b. any intentional discharge, dispersal or release of chemical or hazardous material for any purpose other than its safe and useful purpose; or
13. to any vehicle caused by, or reasonably expected to result from, a criminal act or omission of **you**, a **relative**, or the owner of a **non-owned auto**. This exclusion applies regardless of whether **you**, the **relative**, or the owner of the **non-owned auto** is actually charged with, or convicted of, a crime. For purposes of this exclusion, criminal acts or omissions do not include traffic violations.

## LIMITS OF LIABILITY

1. The limit of liability for loss to a **covered auto**, **non-owned auto**, or **custom parts or equipment** is the lowest of:
  - a. the actual cash value of the stolen or damaged property at the time of the loss reduced by the applicable deductible;
  - b. the amount necessary to replace the stolen or damaged property reduced by the applicable deductible;

- c. the amount necessary to repair the damaged property to its pre-loss condition reduced by the applicable deductible; or
  - d. the Stated Amount shown on the **declarations page** for that **covered auto**.
- However, the most **we** will pay for loss to:
- a. **custom parts or equipment** is \$1,000 unless **you** purchased Additional Custom Parts or Equipment Coverage ("ACPE"). If **you** purchased ACPE, the most **we** will pay is \$1,000 plus the amount of ACPE **you** purchased;
  - b. a **trailer** is the limit of liability shown on the **declarations page** for that **trailer**. If the **trailer** is not shown on the **declarations page**, the limit of liability is \$500.
2. Payments for loss to a **covered auto, non-owned auto, or custom parts or equipment** are subject to the following provisions:
- a. If coverage applies to a **non-owned auto**, **we** will provide the broadest coverage applicable to any **covered auto** shown on the **declarations page**.
  - b. If **you** have elected a Stated Amount for a **covered auto**, the Stated Amount is the most **we** will pay for all loss to that **covered auto**, including its **custom parts or equipment**.
  - c. Coverage for **custom parts or equipment** will not cause **our** limit of liability for loss to an **auto** under this Part IV to be increased to an amount in excess of the actual cash value of the **auto**, including its **custom parts or equipment**.
  - d. In determining the amount necessary to repair damaged property to its pre-loss condition, the amount to be paid by **us**:
    - (i) will not exceed the prevailing competitive labor rates charged in the area where the property is to be repaired and the cost of repair or replacement parts and equipment, as reasonably determined by **us**; and
    - (ii) will be based on the cost of repair or replacement parts and equipment which may be new, reconditioned, remanufactured, or used, including, but not limited to:
      - (a) original manufacturer parts or equipment; and
      - (b) nonoriginal manufacturer parts or equipment.
  - e. To determine the amount necessary to repair or replace the damaged property as referred to in subsection 1, the total cost of necessary repair or replacement may be reduced by unrepaired prior damage. Unrepaired prior damage includes broken, cracked, or missing parts; rust; dents; scrapes; gouges; and peeling paint. The reduction for unrepaired prior damage is the cost of labor, parts, and materials necessary to repair or replace damage, deterioration, defects, or wear and tear on exterior body parts, windshields and other glass, wheels, and paint, that existed prior to the accident and that is eliminated as a result of the repair or replacement of property damaged in the loss.
  - f. To determine the amount necessary to repair or replace the damaged property as referred to in subsection 1, an adjustment may be made for betterment or depreciation and physical condition on:
    - (i) batteries;
    - (ii) tires;
    - (iii) engines and transmissions, if the engine has greater than 80,000 miles; and
    - (iv) any other **mechanical parts** that are nonfunctioning or inoperative.

**We** will not make an adjustment for the labor costs associated with the replacement or repair of these parts.
  - g. The actual cash value is determined by the market value, age, and condition of the vehicle at the time the loss occurs.
3. No deductible will apply to a loss to window glass when the glass is repaired instead of replaced.
4. Duplicate recovery for the same elements of damages is not permitted.

5. Any amount paid or payable under this Part IV shall be reduced by any amount paid for **property damage** to the vehicle under Part III – Uninsured/Underinsured Motorist Coverage.
6. IN THE REPAIR OF **YOUR COVERED MOTOR VEHICLE UNDER THE PHYSICAL DAMAGE COVERAGE PROVISIONS OF THIS POLICY, WE MAY REQUIRE OR SPECIFY THE USE OF MOTOR VEHICLE PARTS NOT MADE BY THE ORIGINAL MANUFACTURER. THESE PARTS ARE REQUIRED TO BE AT LEAST EQUAL IN TERMS OF FIT, QUALITY, PERFORMANCE, AND WARRANTY TO THE ORIGINAL MANUFACTURER PARTS THEY REPLACE.**

## **PAYMENT OF LOSS**

**We** may, at **our** option:

1. pay for the loss in money; or
2. repair or replace the damaged or stolen property.

At **our** expense, **we** may return any recovered stolen property to **you** or to the address shown on the **declarations page**, with payment for any damage resulting from the theft. **We** may keep all or part of the property at the agreed or appraised value.

**We** may settle any loss with **you** or the owner or lienholder of the property.

## **NO BENEFIT TO BAILEE**

Coverage under this Part IV will not directly or indirectly benefit any carrier or other bailee for hire.

## **LOSS PAYABLE CLAUSE**

Payment under this Part IV for a loss to a **covered auto** will be made according to **your** interest and the interest of any lienholder shown on the **declarations page** or designated by **you**. At **our** option, payment may be made to both jointly, or to either separately. Either way, **we** will protect the interest of both. However, if the **covered auto** is not a total loss, **we** may make payment to **you** and the repairer of the **auto**.

Protection of the lienholder's financial interest will not be affected by any act or omission by any person entitled to coverage under this policy. However, protection under this clause does not apply:

1. in any case of conversion, embezzlement, secretion, or willful damaging or destruction, of the **covered auto** by or at the direction of **you**, a **relative**, or the owner of the **covered auto**; or
2. to any loss caused by, or reasonably expected to result from, a criminal act or omission of **you**, a **relative**, or the owner of the **covered auto**. This applies regardless of whether **you**, the **relative**, or the owner of the **covered auto** is actually charged with, or convicted of, a crime. For purposes of this clause, criminal acts or omissions do not include traffic violations.

If this policy is cancelled, nonrenewed, or voided, the interest of any lienholder under this agreement will also terminate.

When **we** make payment to a lienholder for loss under this policy, **we** will be subrogated to the rights of the party **we** pay, to the extent of **our** payment. When **we** pay a lienholder for a loss for which **you** are not covered, **we** are entitled to the lienholder's right of recovery against **you** to the extent of **our**

payment. **Our** right to subrogation will not impair the lienholder's right to recover the full amount of its claim.

## **OTHER SOURCES OF RECOVERY**

If other sources of recovery also cover the loss, **we** will pay only **our** share of the loss. **Our** share is the proportion that **our** limit of liability bears to the total of all applicable limits. However, any insurance **we** provide for a **non-owned auto**, or **trailer** not shown on the **declarations page**, will be excess over any other collectible source of recovery including, but not limited to:

1. any coverage provided by the owner of the **non-owned auto** or **trailer**;
2. any other applicable physical damage insurance; and
3. any other source of recovery applicable to the loss.

~~Any insurance **we** provide for a **loaner vehicle** will be primary over any applicable insurance provided by a policy issued to the owner of the **loaner vehicle** for loss arising out of **your** use of the **loaner vehicle**.~~

## **APPRAISAL**

If **we** cannot agree with **you** on the amount of a loss, then **we** and the **insured person** may mutually agree to an appraisal of the loss. Within 30 days of any agreement to an appraisal, each party shall appoint a competent appraiser and shall notify the other party of that appraiser's identity. The appraisers will determine the amount of loss. If they fail to agree, the disagreement will be submitted to a qualified umpire chosen by the appraisers. If the two appraisers are unable to agree upon an umpire within 15 days, **we** or **you** may request that a judge of a court of record, in the county where **you** reside, select an umpire. The appraisers and umpire will determine the amount of loss. The amount of loss agreed to by both appraisers, or by one appraiser and the umpire, will determine the amount payable under this Part IV, but will not be binding. **You** will pay **your** appraiser's fees and expenses. **We** will pay **our** appraiser's fees and expenses. All other expenses of the appraisal, including payment of the umpire if one is selected, will be shared equally between **us** and **you**. Neither **we** nor **you** waive any rights under this policy by agreeing to an appraisal.

## **PART V - ROADSIDE ASSISTANCE COVERAGE**

### **INSURING AGREEMENT**

If **you** pay the premium for this coverage, **we** will pay for **our** authorized service representative to provide the following services when necessary due to a **covered emergency**:

1. towing of a **covered disabled auto** to the nearest qualified repair facility; and
2. labor on a **covered disabled auto** at the place of disablement.

If a **covered disabled auto** is towed to any place other than the nearest qualified repair facility, **you** will be responsible for any additional charges incurred.

### **ADDITIONAL DEFINITIONS**

When used in this Part V:

1. "**Covered disabled auto**" means a **covered auto** for which this coverage has been purchased that sustains a **covered emergency**.
2. "**Covered emergency**" means a disablement that is a result of:
  - a. mechanical or electrical breakdown;
  - b. battery failure;
  - c. insufficient supply of fuel, oil, water, or other fluid;
  - d. flat tire;
  - e. lock-out; or
  - f. entrapment in snow, mud, water, or sand, within 100 feet of a road or highway.

### **EXCLUSIONS - READ THE FOLLOWING EXCLUSIONS CAREFULLY. IF AN EXCLUSION APPLIES, COVERAGE WILL NOT BE AFFORDED UNDER THIS PART V.**

Coverage under this Part V will not apply to:

1. the cost of purchasing parts, fluid, lubricants, fuel, or replacement keys, or the labor to make replacement keys;
2. installation of products or material not related to the disablement;
3. labor not related to the disablement;
4. labor on a **covered disabled auto** for any time period in excess of 60 minutes per disablement;
5. towing or storage related to impoundment, abandonment, illegal parking, or other violations of law;
6. assistance with jacks, levelers, airbags, or awnings;
7. towing from a service station, garage, or repair shop;
8. labor or repair work performed at a service station, garage, or repair shop;
9. auto storage charges;
10. a second service call or tow for a single disablement;
11. disablement that occurs on roads not regularly maintained, sand beaches, open fields, or areas designated as not passable due to construction, weather, or earth movement;
12. mounting or removing of snow tires or chains;
13. tire repair;
14. repeated service calls for a **covered disabled auto** in need of routine maintenance or repair;
15. disablement that results from an intentional or willful act or action by **you**, a **relative**, or the operator of a **covered disabled auto**; or
16. a trailer.

## **UNAUTHORIZED SERVICE PROVIDER**

When service is rendered by a provider in the business of providing roadside assistance and towing services, other than one of **our** authorized service representatives, **we** will pay only reasonable charges, as determined by **us**, for:

1. towing of a **covered disabled auto** to the nearest qualified repair facility; and
2. labor on a **covered disabled auto** at the place of disablement;

which is necessary due to a **covered emergency**.

## **OTHER INSURANCE**

Any coverage provided under this Part V for service rendered by an unauthorized service provider will be excess over any other collectible insurance or towing protection coverage.

## **PART VI - DUTIES IN CASE OF AN ACCIDENT OR LOSS**

For coverage to apply under this policy, **you** or the person seeking coverage must promptly report each accident or loss even if **you** or the person seeking coverage is not at fault. **You** or the person seeking coverage must provide **us** with all accident or loss information including time, place, and how the accident or loss happened. **You** or the person seeking coverage must also obtain and provide **us** the names and addresses of all persons involved in the accident or loss, the names and addresses of any witnesses, and the license plate numbers of the vehicles involved.

If **you** or the person seeking coverage cannot identify the owner or operator of a vehicle involved in the accident, or if theft or vandalism has occurred, **you** or the person seeking coverage must notify the police within 24 hours or as soon as practicable.

A person seeking coverage must:

1. cooperate with **us** in any matter concerning a claim or lawsuit;
2. provide any written proof of loss **we** may reasonably require;
3. allow **us** to take signed and recorded statements, including sworn statements and examinations under oath, which **we** may conduct outside the presence of **you** or any other person seeking coverage, and answer all reasonable questions **we** may ask as often as **we** may reasonably require;
4. promptly call to notify **us** about any claim or lawsuit and send **us** any and all legal papers relating to the claim or suit;
5. attend hearings and trials as **we** require;
6. take reasonable steps after a loss to protect the **covered auto**, or any other vehicle for which coverage is sought, from further loss. **We** will pay reasonable expenses incurred in providing that protection. If failure to provide such protection results in further loss, any additional damages will not be covered under this policy;
7. allow **us** to have the damaged **covered auto**, or any other damaged vehicle for which coverage is sought, inspected and appraised before its repair or disposal;
8. submit to medical examinations at **our** expense by doctors **we** select as often as **we** may reasonably require; and
9. authorize **us** to obtain medical and other records.

## PART VII - GENERAL PROVISIONS

### **POLICY PERIOD AND TERRITORY**

This policy applies only to accidents and losses occurring during the policy period shown on the **declarations page** and that occur within a state, territory, or possession of the United States of America, or a province or territory of Canada, or while a **covered auto** is being transported between their ports.

### **CHANGES**

This policy contract, **your** insurance application (which is made a part of this policy as if attached hereto), the **declarations page**, and all endorsements to this policy issued by **us**, contain all the agreements between **you** and **us**. Subject to the following, the terms of this policy may not be changed or waived except by an endorsement issued by **us**.

The premium for this policy is based on information **we** received from **you** and other sources. **You** agree to cooperate with **us** in determining if this information is correct and complete, and to notify **us** if it changes during the policy period. If this information is incorrect, incomplete, or changes during the policy period, **you** agree that **we** may adjust **your** premium accordingly. Changes that may result in a premium adjustment are contained in **our** rates and rules. These include, but are not limited to, **you** or a **relative** obtaining a driver's license or operator's permit, or changes in:

1. the number, type, or use classification of **covered autos**;
2. operators using **covered autos**;
3. an operator's marital status;
4. the place of principal garaging of any **covered auto**;
5. coverage, deductibles, or limits of liability; or
6. rating territory or discount eligibility.

The coverage provided in **your** policy may be changed only by the issuance of a new policy or an endorsement by **us**. However, if during the policy period **we** broaden any coverage afforded under the current edition of **your** policy without additional premium charge, that change will automatically apply to **your** policy as of the date the coverage change is implemented in **your** state.

If **you** ask **us** to delete a vehicle from this policy, no coverage will apply to that vehicle as of the date and time **you** ask **us** to delete it.

### **DUTY TO REPORT CHANGES**

**You** must promptly notify **us** when:

1. **your** mailing or residence address changes;
2. the principal garaging address for a **covered auto** changes;
3. there is a change with respect to the residents in **your** household or the persons who regularly operate a **covered auto**;
4. an operator's marital status changes; or
5. **you** or a **relative** obtain a driver's license or operator's permit.

## **SETTLEMENT OF CLAIMS**

**We** may use estimating, appraisal, or injury evaluation systems to assist **us** in adjusting claims under this policy and to assist **us** in determining the amount of damages, expenses, or loss payable under this policy. Such systems may be developed by **us** or a third party and may include computer software, databases, and specialized technology.

## **TERMS OF POLICY CONFORMED TO STATUTES**

If any provision of this policy fails to conform to the statutes of the state listed on **your** application as **your** residence, the provision shall be deemed amended to conform to such statutes. All other provisions shall be given full force and effect. Any disputes as to the coverages provided or the provisions of this policy shall be governed by the law of the state listed on **your** application as **your** residence.

## **TRANSFER OF INTEREST**

The rights and duties under this policy may not be transferred to another person without **our** written consent. However, if a named insured shown on the **declarations page** dies, this policy will provide coverage until the end of the policy period for the legal representative of the named insured, while acting as such, and for persons covered under this policy on the date of the named insured's death.

## **FRAUD OR MISREPRESENTATION**

This policy was issued in reliance upon the information provided on **your** insurance application. **We** may void this policy at any time, including after the occurrence of an accident or loss, if **you**:

1. made incorrect statements or representations to **us** with regard to any material fact or circumstance;
2. concealed or misrepresented any material fact or circumstance; or
3. engaged in fraudulent conduct;

at the time of application. If **we** void this policy, this shall not affect coverage under Part I Liability To Others for an accident that occurs before **we** notify the named insured that the policy is void. No payment will be made to any person who concealed or misrepresented any material fact or circumstance, or engaged in fraudulent conduct. If **we** void this policy, **you** must reimburse **us** if **we** make a payment.

**We** may deny coverage for an accident or loss if **you** or a person seeking coverage has knowingly concealed or misrepresented any material fact or circumstance, or engaged in fraudulent conduct, in connection with the presentation or settlement of a claim.

## **PAYMENT OF PREMIUM AND FEES**

If **your** initial premium payment is by check, draft, electronic funds transfer, or similar form of remittance, coverage under this policy is conditioned on payment to **us** by the financial institution. If the financial institution upon presentment does not honor the check, draft, electronic funds transfer, or similar form of remittance, this policy may, at **our** option, be deemed void from its inception. This means **we** will not be liable under this policy for any claims or damages that would otherwise be covered if the check, draft, electronic funds transfer, or similar form of remittance had been honored by the financial institution. Any action by **us** to present the remittance for payment more than once shall not affect **our** right to void this policy.

In addition to premium, fees may be charged on **your** policy. **We** may charge fees for installment payments, late payments, and other transactions. Payments made on **your** policy will be applied first to fees, then to premium due.

## CANCELLATION

**You** may cancel this policy during the policy period by calling or writing **us** and stating the future date **you** wish the cancellation to be effective.

**We** may cancel this policy during the policy period by mailing a notice of cancellation to the named insured shown on the **declarations page** at the last known address appearing in **our** records.

**We** will give at least 10 days notice of cancellation if the policy is cancelled for nonpayment of premium.

**We** will give at least 20 days notice of cancellation in all other cases.

**We** may cancel this policy for any reason if the notice is mailed within the first 59 days of the initial policy period.

After this policy is in effect for more than 59 days, or if this is a renewal or continuation policy, **we** may cancel only for one or more of the following reasons:

1. nonpayment of premium;
2. material misrepresentation or fraud with respect to any material fact in the procurement or renewal of this policy;
3. material misrepresentation or fraud in the submission of any claim under this policy;
4. loss of driving privileges during the policy period, or, if this is a renewal policy, during the policy period or the 180 days immediately preceding the effective date of renewal, through suspension or revocation of an operator's license or motor vehicle registration issued to **you**, any driver in **your** household, or any regular operator of a **covered auto**. However, **we** will not cancel **your** policy solely due to an administrative revocation or suspension of an operator's license pursuant to Arkansas Code Annotated §5-65-104;
5. **you** or any driver of the **covered auto** have been convicted of:
  - a. driving while intoxicated;
  - b. homicide or assault arising out of the use of a motor vehicle; or
  - c. three separate convictions of speeding or reckless driving, or any combination of the two, during the policy period or the three months prior to the effective date of the policy; or
6. any other reason permitted by law.

Proof of mailing will be sufficient proof of notice. If this policy is cancelled, coverage will not be provided as of the effective date and time shown in the notice of cancellation. For purposes of cancellation, this policy is neither severable nor divisible. Any cancellation will be effective for all coverages for all persons and all vehicles.

## CANCELLATION REFUND

Upon cancellation, **you** may be entitled to a premium refund. However, **our** making or offering of a refund is not a condition of cancellation.

If this policy is cancelled, any refund due will be computed on a daily pro rata basis. However, **we** will retain a cancellation fee if this policy is cancelled at **your** request or if cancellation is for nonpayment of premium. A cancellation fee will be charged only during the initial policy period.

## **NONRENEWAL**

If neither **we** nor one of **our** affiliates offers to renew or continue this policy, other than for nonpayment of premium, **we** will mail notice of nonrenewal to the named insured shown on the **declarations page** at the last known address appearing in **our** records. Proof of mailing will be sufficient proof of notice. Notice will be mailed at least 30 days before the end of the policy period.

## **AUTOMATIC TERMINATION**

If **we** or an affiliate offers to renew or continue this policy and **you** or **your** representative does not accept, this policy will automatically terminate at the end of the current policy period. Failure to pay the required renewal or continuation premium when due will mean that **you** have not accepted **our** offer.

If **you** obtain other insurance on a **covered auto**, any similar insurance provided by this policy will terminate as to that **covered auto** on the effective date of the other insurance.

If a **covered auto** is sold or transferred to someone other than **you** or a **relative**, any insurance provided by this policy will terminate as to that **covered auto** on the effective date of the sale or transfer.

## **LEGAL ACTION AGAINST US**

**We** may not be sued unless there is full compliance with all the terms of this policy.

**We** may not be sued for payment under Part I - Liability To Others until the obligation of an insured person under Part I to pay is finally determined either by judgment after trial against that person or by written agreement of the insured person, the claimant, and **us**. No one will have any right to make **us** a party to a lawsuit to determine the liability of an insured person.

If **we** retain salvage, **we** have no duty to preserve or otherwise retain the salvage for any purpose, including evidence for any civil or criminal proceeding.

## **OUR RIGHTS TO RECOVER PAYMENT**

**We** are entitled to the rights of recovery that the insured person to whom payment was made has against another after the insured person has been fully compensated for his or her loss, to the extent of **our** payment. That insured person may be required to sign documents related to the recovery and must do whatever else **we** require to help **us** exercise those recovery rights, and do nothing after an accident or loss to prejudice those rights.

When an insured person has been paid by **us** and also recovers from another, the amount recovered will be held by the insured person in trust for **us** and reimbursed to **us** to the extent of **our** payment. However, this shall not apply to payment by **us** under any Accidental Death Benefits Coverage provided under Part II – Personal Injury Protection Coverage. If **we** are not reimbursed, **we** may pursue recovery of that amount directly against that insured person.

If an insured person recovers from another without **our** written consent, the insured person's right to payment under any affected coverage will no longer exist.

**Our** right of recovery does not apply to underinsured motorist benefits if:

1. the **insured person** sends **us** written notice, in accordance with the requirements of the provision in Part III - Uninsured/Underinsured Motorist Coverage, of any tentative settlement agreement reached with the owner or operator of an underinsured motor vehicle, or such person's liability insurer; and
2. **we** fail to pay the sum offered in settlement to the **insured person** by the owner or operator of the underinsured motor vehicle, or that person's liability insurer, within 30 days of **our** receipt of such notice.

**Our** right of recovery does not apply to underinsured motorist benefits to the extent of any payment **we** have made to the **insured person** under a policy of liability insurance issued by **us** to the owner or operator of an underinsured motor vehicle.

If **we** elect to exercise **our** rights of recovery against another, **we** will also attempt to recover any deductible incurred by an insured person under this policy unless **we** are specifically instructed by that person not to pursue the deductible. **We** have no obligation to pursue recovery against another for any loss not covered by this policy.

**We** reserve the right to compromise or settle the deductible and property damage claims against the responsible parties for less than the full amount. **We** also reserve the right to incur reasonable expenses and attorney fees in pursuit of the recovery.

If the total recovery is less than the total of **our** payment and the deductible, **we** will reduce reimbursement of the deductible based on the proportion that the actual recovery bears to the total of **our** payment and the deductible. A proportionate share of collection expenses and attorney fees incurred in connection with these recovery efforts will also reduce reimbursement of the deductible.

These provisions will be applied in accordance with state law.

## **JOINT AND INDIVIDUAL INTERESTS**

If there is more than one named insured on this policy, any named insured may cancel or change this policy. The action of one named insured will be binding on all persons provided coverage under this policy.

## **BANKRUPTCY**

The bankruptcy or insolvency of an insured person will not relieve **us** of any obligations under this policy. If execution of a judgment against an **insured person** under Part I – Liability To Others is returned unsatisfied because of the insolvency or bankruptcy of the **insured person**, the person claiming payment for damages under Part I may maintain an action against **us** for the amount of the judgment not exceeding **our** limits of liability.

## Named Driver Exclusion Endorsement

If **you** have asked **us** to exclude any person from coverage under this policy, then **we** will not provide coverage for any claim arising from an accident or loss involving a motorized vehicle being operated by that excluded driver. This includes any claim for damages made against **you**, a **relative**, or any other person or organization that is vicariously liable for an accident arising out of the operation of a motorized vehicle by the excluded driver.

**All other terms, limits and provisions of this policy remain unchanged.**

~~I acknowledge and accept that coverage is restricted for any driver excluded from this policy.~~

**Signature of named insured** \_\_\_\_\_ **Date**

~~X~~ \_\_\_\_\_



November 21, 2007

**FILED VIA SERFF**

\*Additions/changes in blue  
\*\*Deletions in red strikethrough

Ms. Alexa Grissom  
Property and Casualty Division  
Arkansas Insurance Department  
1200 West 3<sup>rd</sup> Street  
Little Rock, AR 72201-1904

**RE: Independent Company Form Filing – Private Passenger Auto – Company File # L060289-AR-AU-A/D**

**Agency:**

**PROGRESSIVE CASUALTY INSURANCE COMPANY (NAIC # 155-24260)**  
**PROGRESSIVE CLASSIC INSURANCE COMPANY (NAIC # 155-42994)**  
**PROGRESSIVE NORTHWESTERN INSURANCE COMPANY (NAIC # 155-42919)**  
**PROGRESSIVE SPECIALTY INSURANCE COMPANY (NAIC # 155-32786)**  
**UNITED FINANCIAL CASUALTY COMPANY (NAIC # 155-11770)**

Arkansas Auto Policy – Form 9610A AR (05/07)  
Named Driver Exclusion Endorsement – Form Z195 ~~AR (05/07)~~ **(07/05)\***  
Named Non-Owner Coverage Endorsement – Form Z194 AR (05/07)  
**Named Driver Exclusion Election – Form 9330 AR (05/07)\***

**Direct:**

**PROGRESSIVE DIRECT INSURANCE COMPANY (NAIC # 155-16322)**

Arkansas Auto Policy – Form 9610D AR (05/07)  
Named Driver Exclusion Endorsement – Form Z195 ~~AR (05/07)~~ **(07/05)\***  
Named Non-Owner Coverage Endorsement – Form Z194 AR (05/07)  
**Named Driver Exclusion Election – Form 9330 AR (05/07)\***

**SERFF Tracking # PRGS-125314399**  
**Arkansas File # AR-PC-07-026393**

Dear Ms. Grissom:

I am re-submitting the Progressive 9610 Arkansas policy, which was approved on November 1, 2007, for your review and approval. The proposed effective date for this filing remains January 31, 2008.

After reviewing the policy further, I modified the terms to clarify our coverage of “loaner vehicles,” in compliance with Act 373 of 2007. Specifically, the autos specified in Act 373 of 2007, which are defined as “loaner vehicles” in the policy, were added to the definition of “covered auto.” Because covered autos receive primary coverage under the policy, a change was made to the “Other Insurance” provisions to take out some unnecessary language. These changes do not alter the coverage under the policy. Rather, they merely clarify our intent to provide primary coverage for “loaner vehicles.”

We are also amending the Named Driver Exclusion Endorsement, in which we inadvertently added a signature line. The signed form is in the **Named Driver Exclusion Election – Form 9330 AR (05/07)**, which we amending slightly to reference the Named Driver Exclusion Endorsement.

I have provided redlines of all documents that show the changes made to the prior approved forms.

If you have any questions or want to discuss this filing, please contact me via SERFF, e-mail, or call me at 1-800-321-9843, network extension 625-2456.

Sincerely,



Emily A. Vlasich  
Corporate Counsel  
Direct: (440) 395-2456  
FAX: (440) 395-3790  
E-mail: [emily\\_a\\_vlasich@progressive.com](mailto:emily_a_vlasich@progressive.com)

EAV/aml

SERFF Tracking Number: PRGS-125314399 State: Arkansas  
 First Filing Company: Progressive Casualty Insurance Company, ... State Tracking Number: AR-PC-07-026393  
 Company Tracking Number: L060289-AR-AU-A/D  
 TOI: 19.0 Personal Auto Sub-TOI: 19.0001 Private Passenger Auto (PPA)  
 Product Name: Auto  
 Project Name/Number: 9610A AR, 9610D AR, Z194 AR, Z195 AR/L060289-AR-AU-A/D

## Superseded Attachments

Please note that all items on the following pages are items, which have been replaced by a newer version. The newest version is located with the appropriate schedule on previous pages. These items are in date order with most recent first.

Original Date:	Schedule	Document Name	Replaced Date	Attach Document
No original date	Form	Arkansas Auto Policy	11/01/2007	96100705AR04.pdf
No original date	Form	Arkansas Auto Policy	11/01/2007	96100705AR02.pdf
No original date	Form	Named Driver Exclusion Endorsement	10/10/2007	Z195 AR - 1c.pdf
No original date	Form	Arkansas Auto Policy	10/04/2007	96100705AR04.pdf
No original date	Form	Arkansas Auto Policy	10/04/2007	96100705AR02.pdf
No original date	Supporting Document	Cover Letter	10/10/2007	10-10-07 Initial Cvr Ltr for 9610, Z194, Z195 AR.pdf

\*9610A AR 0507\*



# ARKANSAS

## AUTO POLICY



Form 9610A AR (05/07)  
version 3.0

***PROGRESSIVE***<sup>®</sup>  
*DRIVE*<sup>®</sup> Insurance



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# ARKANSAS AUTO POLICY

## INSURING AGREEMENT

In return for **your** payment of the premium, **we** agree to insure **you** subject to all the terms, conditions, and limitations of this policy. **We** will insure **you** for the coverages and the limits of liability shown on this policy's **declarations page**. **Your** policy consists of the policy contract, **your** insurance application, the **declarations page**, and all endorsements to this policy.

## GENERAL DEFINITIONS

The following definitions apply throughout the policy. Defined terms are printed in boldface type and have the same meaning whether in the singular, plural, or any other form.

1. **"Additional auto"** means an **auto you** become the owner of during the policy period that does not permanently replace an **auto** shown on the **declarations page** if:
  - a. **we** insure all other **autos you** own;
  - b. the **additional auto** is not covered by any other insurance policy;
  - c. **you** notify **us** within 30 days of becoming the owner of the **additional auto**; and
  - d. **you** pay any additional premium due.

An **additional auto** will have the broadest coverage **we** provide for any **auto** shown on the **declarations page**. If **you** ask **us** to insure an **additional auto** more than 30 days after **you** become the owner, any coverage **we** provide will begin at the time **you** request coverage.

2. **"Auto"** means a land motor vehicle:
  - a. of the private passenger, pickup body, or cargo van type;
  - b. designed for operation principally upon public roads;
  - c. with at least four wheels; and
  - d. with a gross vehicle weight rating of 12,000 pounds or less, according to the manufacturer's specifications.

However, **"auto"** does not include step-vans, parcel delivery vans, or cargo cut-away vans or other vans with cabs separate from the cargo area.

3. **"Auto business"** means the business of selling, leasing, repairing, parking, storing, servicing, delivering, or testing vehicles.
4. **"Bodily injury"** means bodily harm, sickness, or disease, including death that results from bodily harm, sickness, or disease.
5. **"Covered auto"** means:
  - a. any **auto** or **trailer** shown on the **declarations page** for the coverages applicable to that **auto** or **trailer**;
  - b. any **additional auto**;
  - c. any **replacement auto**; or
  - d. a **trailer** owned by **you**.
6. **"Declarations page"** means the document showing **your** coverages, limits of liability, **covered autos**, premium, and other policy-related information. The **declarations page** may also be referred to as the Auto Insurance Coverage Summary.

7. **“Loaner vehicle”** means an **auto** operated by **you** that is:
  - a. loaned to **you** by a duly licensed automobile dealer:
    - i. as a temporary substitute for a **covered auto** while the **covered auto** is out of use because of breakdown, repair, or servicing; or
    - ii. for use as a demonstrator vehicle; or
  - b. rented or leased from a rental company that is in the business of providing primarily private passenger vehicles to the public under a rental agreement for a period not to exceed 90 days.
8. **“Occupying”** means in, on, entering, or exiting.
9. **“Property damage”** means physical damage to, destruction of, or loss of use of, tangible property.
10. **“Punitive or exemplary damages”** means damages which may be imposed to punish a wrongdoer and to deter others from similar conduct.
11. **“Relative”** means a person residing in the same household as **you**, and related to **you** by blood, marriage, or adoption, and includes a ward, stepchild, or foster child. **Your** unmarried dependent children temporarily away from home will qualify as a **relative** if they intend to continue to reside in **your** household.
12. **“Replacement auto”** means an **auto** that permanently replaces an **auto** shown on the **declarations page**. A **replacement auto** will have the same coverage as the **auto** it replaces if the **replacement auto** is not covered by any other insurance policy. However, if the **auto** being replaced had coverage under Part IV - Damage To A Vehicle, such coverage will apply to the **replacement auto** only during the first 30 days after **you** become the owner unless **you** notify **us** within that 30-day period that **you** want **us** to extend coverage beyond the initial 30 days. If the **auto** being replaced did not have coverage under Part IV - Damage To A Vehicle, such coverage may be added, but the **replacement auto** will have no coverage under Part IV until **you** notify **us** of the **replacement auto** and ask **us** to add the coverage.
13. **“Trailer”** means a non-motorized trailer, including a farm wagon or farm implement, designed to be towed on public roads by an **auto** and not being used:
  - a. for commercial purposes;
  - b. as an office, store, or for display purposes; or
  - c. as a passenger conveyance.
14. **“We”, “us”, and “our”** mean the underwriting company providing the insurance, as shown on the **declarations page**.
15. **“You” and “your”** mean:
  - a. a person shown as a named insured on the **declarations page**; and
  - b. the spouse of a named insured if residing in the same household at the time of the loss.

## **PART I - LIABILITY TO OTHERS**

### **INSURING AGREEMENT**

If **you** pay the premium for this coverage, **we** will pay damages for **bodily injury** and **property damage** for which an **insured person** becomes legally responsible because of an accident.

Damages include prejudgment interest awarded against an **insured person**.

**We** will settle or defend, at **our** option, any claim for damages covered by this Part I.

## **ADDITIONAL DEFINITIONS**

When used in this Part I:

1. **"Insured person"** means:
  - a. **you** or a **relative** with respect to an accident arising out of the ownership, maintenance, or use of an **auto** or **trailer**;
  - b. any person with respect to an accident arising out of that person's use of a **covered auto** with the permission of **you** or a **relative**;
  - c. any person or organization with respect only to vicarious liability for the acts or omissions of a person described in a or b above; and
  - d. any Additional Interest shown on the **declarations page** with respect only to its liability for the acts or omissions of a person described in a or b above.
2. **"Property damage"** means physical damage to, destruction of, or loss of use of, tangible property.

## **ADDITIONAL PAYMENTS**

In addition to **our** limit of liability, **we** will pay for an **insured person**:

1. all expenses **we** incur in the settlement of any claim or defense of any lawsuit;
2. interest accruing after entry of judgment, until **we** have paid, offered to pay, or deposited in court, that portion of the judgment which does not exceed **our** limit of liability. This does not apply if **we** have not been given notice of suit or the opportunity to defend an **insured person**;
3. the premium on any appeal bond or attachment bond required in any lawsuit **we** defend. **We** have no duty to purchase a bond in an amount exceeding **our** limit of liability, and **we** have no duty to apply for or furnish these bonds;
4. up to \$250 for a bail bond required because of an accident resulting in **bodily injury** or **property damage** covered under this Part I. **We** have no duty to apply for or furnish this bond; and
5. reasonable expenses, including loss of earnings up to \$200 per day, incurred at **our** request.

## **EXCLUSIONS - READ THE FOLLOWING EXCLUSIONS CAREFULLY. IF AN EXCLUSION APPLIES, COVERAGE WILL NOT BE AFFORDED UNDER THIS PART I.**

Coverage under this Part I, including **our** duty to defend, will not apply to any **insured person** for:

1. **bodily injury** or **property damage** arising out of the ownership, maintenance, or use of any vehicle or trailer while being used:
  - a. to carry persons or property for compensation or a fee; or
  - b. for retail or wholesale delivery, including, but not limited to, the pickup, transport, or delivery of magazines, newspapers, mail, or food.This exclusion does not apply to shared-expense car pools;

2. any liability assumed under any contract or agreement by **you** or a **relative**;
3. **bodily injury** to an employee of that **insured person** arising out of or within the course of employment. This exclusion does not apply to domestic employees if benefits are neither paid nor required to be provided under workers' compensation, disability benefits, or similar laws;
4. **bodily injury** or **property damage** arising out of an accident involving any vehicle while being maintained or used by a person while employed or engaged in any **auto business**. This exclusion does not apply to **you**, a **relative**, or an agent or employee of **you** or a **relative**, when using a **covered auto**;
5. **bodily injury** or **property damage** resulting from, or sustained during practice or preparation for:
  - a. any pre-arranged or organized racing, stunting, speed, or demolition contest or activity; or
  - b. any driving activity conducted on a permanent or temporary racetrack or race-course;
6. **bodily injury** or **property damage** due to a nuclear reaction or radiation;
7. **bodily injury** or **property damage** for which insurance:
  - a. is afforded under a nuclear energy liability insurance contract; or
  - b. would be afforded under a nuclear energy liability insurance contract but for its termination upon exhaustion of its limit of liability;
8. any obligation for which the United States Government is liable under the Federal Tort Claims Act;
9. **bodily injury** or **property damage** caused by an intentional act of that **insured person**, or at the direction of that **insured person**, even if the actual injury or damage is different than that which was intended or expected;
10. **property damage** to any property owned by, rented to, being transported by, used by, or in the charge of that **insured person**. This exclusion does not apply to a rented residence or a rented garage;
11. **bodily injury** to **you** or a **relative**;
12. **bodily injury** or **property damage** arising out of the ownership, maintenance, or use of any vehicle owned by **you** or furnished or available for **your** regular use, other than a **covered auto** for which this coverage has been purchased;
13. **bodily injury** or **property damage** arising out of the ownership, maintenance, or use of any vehicle owned by a **relative** or furnished or available for the regular use of a **relative**, other than a **covered auto** for which this coverage has been purchased. This exclusion does not apply to **your** maintenance or use of such vehicle;
14. **bodily injury** or **property damage** arising out of **your** or a **relative's** use of a vehicle, other than a **covered auto**, without the permission of the owner of the vehicle or the person in lawful possession of the vehicle;
15. **bodily injury** or **property damage** arising out of the use of a **covered auto** while leased or rented to others or given in exchange for any compensation. This exclusion does not apply to the operation of a **covered auto** by **you** or a **relative**;
16. **punitive or exemplary damages**; or

17. **bodily injury** or **property damage** caused by, or reasonably expected to result from, a criminal act or omission of that **insured person**. This exclusion applies regardless of whether that **insured person** is actually charged with, or convicted of, a crime. For purposes of this exclusion, criminal acts or omissions do not include traffic violations.

## LIMITS OF LIABILITY

The limit of liability shown on the **declarations page** for liability coverage is the most **we** will pay regardless of the number of:

1. claims made;
2. **covered autos**;
3. **insured persons**;
4. lawsuits brought;
5. vehicles involved in the accident; or
6. premiums paid.

If **your declarations page** shows a split limit:

1. the amount shown for “each person” is the most **we** will pay for all damages due to **bodily injury** to one person resulting from any one accident;
2. subject to the “each person” limit, the amount shown for “each accident” is the most **we** will pay for all damages due to **bodily injury** sustained by two or more persons in any one accident; and
3. the amount shown for “property damage” is the most **we** will pay for the total of all **property damage** resulting from any one accident.

The “each person” limit of liability applies to the total of all claims made for **bodily injury** to a person and all claims of others, if allowed by law, derived from such **bodily injury**, including, but not limited to, emotional injury or mental anguish resulting from the **bodily injury** of another or from witnessing the **bodily injury** to another, loss of society, loss of companionship, loss of services, loss of consortium, and wrongful death.

If the **declarations page** shows that “combined single limit” or “CSL” applies, the amount shown is the most **we** will pay for the total of all damages resulting from any one accident. However, without changing this limit of liability, **we** will comply with any law that requires **us** to provide any separate limits.

No one is entitled to duplicate payments for the same elements of damages.

If multiple auto policies issued by **us** are in effect for **you**, **we** will pay no more than the highest limit of liability for this coverage available under any one policy.

An **auto** and attached **trailer** are considered one **auto**. Therefore, the limits of liability will not be increased for an accident involving an **auto** that has an attached **trailer**.

## FINANCIAL RESPONSIBILITY LAWS

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

## OTHER INSURANCE

If there is any other applicable liability insurance or bond, **we** will pay only **our** share of the damages. **Our** share is the proportion that **our** limit of liability bears to the total of all applicable limits. However, any insurance **we** provide for a vehicle or trailer, other than a **covered auto**, will be excess over any other collectible insurance, self-insurance, or bond.

Any insurance **we** provide for a **loaner vehicle** will be primary over any applicable insurance provided by a policy issued to the owner of the **loaner vehicle** for liability arising out of **your** use of the **loaner vehicle**.

## OUT-OF-STATE COVERAGE

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

1. a financial responsibility or similar law requiring limits of liability for **bodily injury** or **property damage** higher than the limits shown on the **declarations page**, this policy will provide the higher limits; or
2. a compulsory insurance or similar law requiring a non-resident to maintain insurance whenever the non-resident uses an **auto** in that state, province, territory, or possession, this policy will provide the greater of:
  - a. the required minimum amounts and types of coverage; or
  - b. the limits of liability under this policy.

## RIGHT OF DIRECT ACTION

Any person entitled to payment of damages covered under this Part I, or his or her personal representative, shall be subrogated to the right of the person shown as the named insured on the **declarations page** for payment under this Part I. If a judgment against an **insured person** remains unsatisfied after 30 days from the date notice of entry of judgment was served on either the **insured person**, the attorney for the **insured person**, or **us**, the injured person, or his or her personal representative, may maintain an action against **us** for the amount of the judgment not exceeding **our** Limits of Liability.

## **PART II - PERSONAL INJURY PROTECTION COVERAGE**

### **INSURING AGREEMENT - MEDICAL AND HOSPITAL BENEFITS COVERAGE**

If **you** pay the premium for this coverage, **we** will pay for reasonable and necessary **medical and hospital benefits** because of **bodily injury**:

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

### **INSURING AGREEMENT - INCOME DISABILITY BENEFITS COVERAGE**

If **you** pay the premium for this coverage, **we** will pay for **income disability benefits** because of **bodily injury**:

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

### **INSURING AGREEMENT - ACCIDENTAL DEATH BENEFITS COVERAGE**

If **you** pay the premium for this coverage, **we** will pay the amount stated on the **declarations page** if an **insured person** dies within one year of the date of an accident as a result of **bodily injury**:

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

### **ADDITIONAL DEFINITIONS**

When used in this Part II:

1. **"Income disability benefits"** means loss of income from work the **insured person** would have performed had the **insured person** not sustained **bodily injury**. However if the **insured person** is a non-income earner, **income disability benefits** means expenses reasonably incurred for essential services in lieu of those the **insured person** would have performed without income had the **insured person** not sustained **bodily injury**. **Income disability benefits** apply only to the period beginning eight days after the date of the accident and not exceeding 52 weeks. **Income disability benefits** do not include any loss or expense after the death of the **insured person**.
2. **"Insured person"** and **"insured persons"** mean:
  - a. **you** or any **relative**; and
  - b. any other person:
    - (i) while **occupying a covered auto**; or
    - (ii) when struck by a **covered auto** while a pedestrian, bicyclist, or motorcyclist, or while riding on an animal or in a horse-drawn wagon or cart.
3. **"Medical and hospital benefits"** means all reasonable and necessary expenses for medical, hospital, nursing, dental, surgical, ambulance, funeral and prosthetic

services incurred within 24 months after the accident, and may include any non-medical remedial care and treatment rendered in accordance with a recognized religious method of healing. Expenses for hospital charges are limited to semi-private accommodations.

**EXCLUSIONS - READ THE FOLLOWING EXCLUSIONS CAREFULLY. IF AN EXCLUSION APPLIES, COVERAGE WILL NOT BE AFFORDED UNDER THIS PART II.**

Coverage under this Part II will not apply to **bodily injury**:

1. sustained by any person, other than **you** or a **relative**, who is a named insured or additional insured under any other valid and collectible automobile insurance policy providing the minimum personal injury protection coverages required by law;
2. sustained by any person who intentionally caused such **bodily injury**;
3. sustained by any person while in the commission of a felony or while seeking to elude lawful apprehension or arrest by a law enforcement official;
4. to the extent benefits are paid or payable under any workers' compensation law, disability benefits law or similar law. This exclusion does not apply to Accidental Death Benefits Coverage;
5. to any person resulting from, or sustained during practice or preparation for:
  - a. any pre-arranged or organized racing, stunting, speed, or demolition contest or activity; or
  - b. any driving activity conducted on a permanent or temporary racetrack or racecourse;
6. sustained by any person while **occupying** or when struck by any vehicle owned by **you** or furnished or available for **your** regular use, other than a **covered auto** for which this coverage has been purchased;
7. sustained by any person while **occupying** or when struck by any vehicle owned by a **relative** or furnished or available for the regular use of a **relative**, other than a **covered auto** for which this coverage has been purchased. This exclusion does not apply to **your** maintenance or use of such vehicle;
8. sustained by any person while **occupying** any vehicle or trailer while located for use as a residence or premises;
9. sustained by any person while **occupying a covered auto** while it is being used:
  - a. to carry persons or property for compensation or a fee; or
  - b. for retail or wholesale delivery, including, but not limited to, the pickup, transport, or delivery of magazines, newspapers, mail, or food.This exclusion does not apply to shared-expense car pools;
10. arising out of an accident involving any vehicle while being maintained or used by a person while employed or engaged in any **auto business**. This exclusion does not apply to **you**, a **relative**, or an agent or employee of **you** or a **relative**, when using a **covered auto**;
11. due to a nuclear reaction or radiation;
12. for which insurance:
  - a. is afforded under a nuclear energy liability insurance contract; or

- b. would be afforded under a nuclear energy liability insurance contract but for its termination upon exhaustion of its limit of liability;
13. caused directly or indirectly by:
    - a. war (declared or undeclared) or civil war;
    - b. warlike action by any military force of any government, sovereign or other authority using military personnel or agents. This includes any action taken to hinder or defend against an actual or expected attack; or
    - c. insurrection, rebellion, revolution, usurped power, or any action taken by a governmental authority to hinder or defend against any of these acts;
  14. caused directly or indirectly by:
    - a. any accidental or intentional discharge, dispersal, or release of radioactive, nuclear, pathogenic, or poisonous biological material; or
    - b. any intentional discharge, dispersal, or release of chemical or hazardous material for any purpose other than its safe and useful purpose; or
  15. to **you** or a **relative** while **occupying** any vehicle, other than a **covered auto**, without the permission of the owner of the vehicle or the person in lawful possession of the vehicle.

## LIMITS OF LIABILITY

The limits of liability shown on the **declarations page** for the coverages provided under this Part II - Personal Injury Protection Coverage is the most **we** will pay for each **insured person** in any one accident, regardless of the number of:

1. claims made;
2. **covered autos**;
3. **insured persons**;
4. lawsuits brought;
5. vehicles involved in the accident; or
6. premiums paid.

The limit of liability for Medical and Hospital Benefits is shown on the **declarations page**.

The limit of liability for Accidental Death Benefits is shown on the **declarations page**.

The limit of liability for Income Disability Benefits is:

1. 70% of the loss of gross income per week, not to exceed \$140 per week, if the **insured person** earned income from work at the time of the accident; or
2. \$70 per week, or any fractional part of a week, if the **insured person** did not earn income from work at the time of the accident.

In determining the amount payable under this Part II, the amount of damages sustained by the **insured person** due to **bodily injury** will be reduced by all sums paid or payable for the same elements of damages under:

1. Part I - Liability To Others; and
2. Part III - Uninsured/Underinsured Motorist Coverage.

## OTHER INSURANCE

1. With respect to **bodily injury** sustained by a **relative**, any Medical And Hospital Benefits Coverage or Income Disability Benefits Coverage afforded by this Part II shall be excess over any other similar coverage provided by a motor vehicle insurance policy under which the **relative** is a named insured.
2. If **you** or a **relative** are insured under any other motor vehicle insurance policy providing coverage for income disability benefits or similar coverage, the most that **you** or a **relative** may recover for **income disability benefits** shall not exceed the amount payable under the policy providing the highest limits of liability.
3. No coverage will be provided under this Part II for any person, other than **you** or a **relative**, who is a named insured or additional insured under any other valid and collectible motor vehicle insurance policy providing the minimum personal injury protection coverages required by law.

Subject to 1, 2, and 3 above, if there is other applicable personal injury protection insurance, **we** will pay only **our** share of the loss. **Our** share is the proportion that **our** limit of liability bears to the total of all applicable limits.

However, any coverage provided under this Part II arising out of the operation of a **loaner vehicle** by **you** will be primary over any applicable insurance provided by a policy issued to the owner of the **loaner vehicle** for personal injury protection insurance.

No one shall be entitled to recover duplicate payments for **income disability benefits** or **medical and hospital benefits** under this or any other motor vehicle insurance policy.

## PART III - UNINSURED/UNDERINSURED MOTORIST COVERAGE

### INSURING AGREEMENT - UNINSURED MOTORIST BODILY INJURY COVERAGE

If **you** pay the premium for this coverage, **we** will pay for damages that an **insured person** is legally entitled to recover from the owner or operator of an **uninsured motor vehicle** because of **bodily injury**:

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

### INSURING AGREEMENT - UNDERINSURED MOTORIST BODILY INJURY COVERAGE

If **you** pay the premium for this coverage, **we** will pay for damages that an **insured person** is legally entitled to recover from the owner or operator of an **underinsured motor vehicle** because of **bodily injury**:

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

**We** will pay under this Part III only after the limits of liability under all applicable bodily injury liability bonds and policies have been exhausted by payment of judgments or settlements.

## **INSURING AGREEMENT - UNINSURED MOTORIST PROPERTY DAMAGE COVERAGE**

If **you** pay the premium for this coverage, **we** will pay for damages that an **insured person** is legally entitled to recover from the owner or operator of an **uninsured motor vehicle** due to **property damage**:

1. to a **covered auto** listed on the **declarations page** as a vehicle for which Uninsured Motorist Property Damage Coverage is provided;
2. caused by an accident; and
3. arising out of the ownership, maintenance or use of an **uninsured motor vehicle**.

## **NOTICE AND CONSENT REQUIREMENT**

In order for coverage under this Part III to apply, an **insured person** must send to **us**, by certified mail, return receipt requested, written notice of any tentative settlement agreement reached with the owner or operator of an **underinsured motor vehicle**, or that person's liability insurer. However, this notice requirement shall not apply when **we** are making that offer of settlement as insurer of the owner or operator of the **underinsured motor vehicle**. The notice shall include:

1. written documentation of economic losses incurred, including copies of all medical bills;
2. written authorization or a court order allowing **us** to obtain medical reports from all employers and medical providers; and
3. written confirmation from the owner or operator's liability insurer as to the amount of the liability limits and the terms of the settlement agreement. The agreement shall not include any sum representing **punitive or exemplary damages**.

Within 30 days of **our** receipt of written notice of the tentative settlement agreement, **we** may pay the sum offered in settlement to the **insured person**. If **we** do this, **we** are subrogated to the **insured person's** right of recovery against the owner or operator of the **underinsured motor vehicle**, to the extent of **our** payment, and the **insured person** must assign to **us** all rights to any amount subsequently paid from all applicable liability bonds and policies.

Any judgment or settlement for damages against an owner or operator of an **uninsured motor vehicle** or an **underinsured motor vehicle** that arises out of a lawsuit brought without **our** written consent is not binding on **us**.

## **ADDITIONAL DEFINITIONS**

When used in this Part III:

1. "**Insured person**" means:
  - a. **you** or a **relative**;

- b. any person while operating a **covered auto** with the permission of **you** or a **relative**;
  - c. any person **occupying**, but not operating, a **covered auto**; and
  - d. any person who is entitled to recover damages covered by this Part III because of **bodily injury** sustained by a person described in a, b, or c above.
2. **"Property damage"** means physical damage to, destruction of, or loss of use of, a **covered auto**.
3. **"Underinsured motor vehicle"** means a land motor vehicle or trailer of any type to which a bodily injury liability bond or policy applies at the time of the accident, but its limit of liability for bodily injury is less than the amount of the **insured person's bodily injury** damages.

An **underinsured motor vehicle** does not include any vehicle or equipment:

- a. owned by **you** or a **relative** or furnished or available for the regular use of **you** or a **relative**;
  - b. operated on rails or crawler treads;
  - c. designed mainly for use off public roads, while not on public roads;
  - d. while located for use as a residence or premises;
  - e. that is a **covered auto**; or
  - f. that is an **uninsured motor vehicle**.
4. **"Uninsured motor vehicle"** means a land motor vehicle or trailer of any type:
- a. to which no bodily injury liability bond or policy applies at the time of the accident;
  - b. to which a bodily injury liability bond or policy applies at the time of the accident, but the bonding or insuring company:
    - (i) denies coverage; or
    - (ii) is insolvent, or becomes so within one year of the date of the accident; or
  - c. that is a hit-and-run vehicle whose owner or operator cannot be identified and which strikes:
    - (i) **you** or a **relative**;
    - (ii) a vehicle that **you** or a **relative** are **occupying**; or
    - (iii) a **covered auto**;
 provided that the **insured person**, or someone on his or her behalf, reports the accident to the police or civil authority within 24 hours or as soon as practicable after the accident.

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

- a. owned by **you** or a **relative** or furnished or available for the regular use of **you** or a **relative**;
- b. owned or operated by a self-insurer under any applicable motor vehicle law, except a self-insurer that is or becomes insolvent;
- c. operated on rails or crawler treads;
- d. designed mainly for use off public roads, while not on public roads;
- e. while located for use as a residence or premises;
- f. that is a **covered auto**; or
- g. that is an **underinsured motor vehicle**.

**EXCLUSIONS - READ THE FOLLOWING EXCLUSIONS CAREFULLY. IF AN EXCLUSION APPLIES, COVERAGE WILL NOT BE AFFORDED UNDER THIS PART III.**

- A. Coverage under this Part III will not apply:
1. to **bodily injury** sustained by any person while using or **occupying**:
    - a. a **covered auto** while being used:
      - (i) to carry persons or property for compensation or a fee; or
      - (ii) for retail or wholesale delivery, including, but not limited to, the pick-up, transport, or delivery of magazines, newspapers, mail, or food.  
This exclusion does not apply to shared-expense car pools; or
    - b. a motor vehicle that is owned by or available for the regular use of **you** or a **relative**. This exclusion does not apply to a **covered auto** that is insured under this Part III;
  2. to **bodily injury** sustained by **you** or a **relative** while using any vehicle, other than a **covered auto**, without the permission of the owner of the vehicle or the person in lawful possession of the vehicle;
  3. directly or indirectly to benefit any insurer or self-insurer under any of the following or similar laws:
    - a. workers' compensation law; or
    - b. disability benefits law;
  4. to any **punitive or exemplary damages**; or
  5. to **bodily injury** sustained by any person if that person or the legal representative of that person settles without **our** written consent.
- B. Coverage under this Part III will not apply to **property damage**:
1. sustained while a **covered auto** is being used:
    - a. to carry persons or property for compensation or a fee; or
    - b. for retail or wholesale delivery, including, but not limited to, the pickup, transport, or delivery of magazines, newspapers, mail, or food.  
This exclusion does not apply to shared-expense car pools;
  2. resulting from, or sustained during practice or preparation for:
    - a. any pre-arranged or organized racing, stunting, speed, or demolition contest or activity; or
    - b. any driving activity conducted on a permanent or temporary racetrack or racecourse;
  3. to a **covered auto** for which insurance:
    - a. is afforded under a nuclear energy liability insurance contract; or
    - b. would be afforded under a nuclear energy liability insurance contract but for its termination upon exhaustion of its limit of liability; or
  4. to a trailer.

**LIMITS OF LIABILITY**

The limit of liability shown on the **declarations page** for Uninsured/Underinsured Motorist Coverage is the most **we** will pay regardless of the number of:

1. claims made;

2. **covered autos;**
3. **insured persons;**
4. lawsuits brought;
5. vehicles involved in the accident; or
6. premiums paid.

If **your declarations page** shows a split limit:

1. the amount shown for “each person” is the most **we** will pay for all damages due to **bodily injury** to one person;
2. subject to the “each person” limit, the amount shown for “each accident” is the most **we** will pay for all damages due to **bodily injury** sustained by two or more persons in any one accident; and
3. the amount shown for “**property damage**” is the most **we** will pay for the aggregate of all **property damage** caused by any one accident.

The “each person” limit of liability includes the total of all claims made for **bodily injury** to an **insured person** and all claims of others derived from such **bodily injury**, including, but not limited to, emotional injury or mental anguish resulting from the **bodily injury** of another or from witnessing the **bodily injury** to another, loss of society, loss of companionship, loss of services, loss of consortium, and wrongful death.

If the **declarations page** shows that “combined single limit” or “CSL” applies, the amount shown is the most **we** will pay for the total of all damages resulting from any one accident. However, without changing this total limit of liability, **we** will comply with any law that requires **us** to provide any separate limits.

In determining the amount payable under this Part III, the amount of the damages sustained by the **insured person** due to **bodily injury** will be reduced by all sums:

1. paid by or on behalf of any persons or organizations that may be legally responsible;
2. paid under Part I - Liability To Others; and
3. paid or payable because of **bodily injury** under any of the following or similar laws:
  - a. workers’ compensation law; or
  - b. disability benefits law.

The limit of liability for **property damage** to a **covered auto** is the lowest of:

1. the actual cash value of the **covered auto** at the time of the accident;
2. the amount necessary to replace the **covered auto**;
3. the amount necessary to repair the **covered auto** to its pre-loss condition; or
4. the limit of liability shown on the **declarations page** for Uninsured Motorist Property Damage.

The limit of liability for **property damage** under this Part III will be reduced by all sums paid because of **property damage** by or on behalf of any persons or organizations that may be legally responsible, including, but not limited to, all sums paid under Part I - Liability To Others.

Payments for **property damage** under this Part III are subject to the following provisions:

1. any amount payable under this Part III for **property damage** shall be subject to the deductible shown on the **declarations page**;
2. no more than one deductible shall be applied to any one accident;
3. the deductible under this Part III shall not apply if:
  - a. the operator of the **uninsured motor vehicle** has been positively identified and is solely at fault; and
  - b. the **covered auto** is insured for Collision Coverage under Part IV - Damage To A Vehicle; and
4. IN THE REPAIR OF **YOUR COVERED MOTOR VEHICLE UNDER THE PHYSICAL DAMAGE COVERAGE PROVISIONS OF THIS POLICY, WE MAY REQUIRE OR SPECIFY THE USE OF MOTOR VEHICLE PARTS NOT MADE BY THE ORIGINAL MANUFACTURER. THESE PARTS ARE REQUIRED TO BE AT LEAST EQUAL IN TERMS OF FIT, QUALITY, PERFORMANCE, AND WARRANTY TO THE ORIGINAL MANUFACTURER PARTS THEY REPLACE.**

No one will be entitled to duplicate payments for the same elements of damages.

If multiple auto policies issued by **us** are in effect for **you**, **we** will pay no more than the highest limit of liability for this coverage available under any one policy.

## **OTHER INSURANCE**

If there is other applicable uninsured or underinsured motorist coverage, **we** will pay only **our** share of the damages. **Our** share is the proportion that **our** limit of liability bears to the total of all available coverage limits. However, any insurance **we** provide under this Part III will be excess over any other uninsured or underinsured motorist coverage, except with respect to:

1. coverage for **bodily injury to you** or a **relative** when **occupying a covered auto**; and
2. similar insurance provided by a policy issued to the owner of the **loaner vehicle** if **you** are operating the **loaner vehicle** involved in an accident and:
  - a. an **insured person** sustains **bodily injury**; or
  - b. the **loaner vehicle** sustains **property damage**.

## **ARBITRATION**

If **we** and an **insured person** cannot agree on:

1. the legal liability of the operator or owner of an **underinsured motor vehicle** or **uninsured motor vehicle**; or
  2. the amount of the damages sustained by the **insured person**;
- this will be determined by arbitration if **we** and the **insured person** mutually agree to arbitration prior to the expiration of the bodily injury statute of limitations in the state in which the accident occurred.

In the event of arbitration, each party will select an arbitrator. The two arbitrators will select a third. If the two arbitrators cannot agree on a third arbitrator within 30 days,

then on joint application by the **insured person** and **us**, the third arbitrator will be appointed by a court having jurisdiction.

Each party will pay the costs and fees of its arbitrator and any other expenses it incurs. The costs and fees of the third arbitrator will be shared equally.

Unless both parties agree otherwise, arbitration will take place in the county in which the **insured person** resides. Local rules of procedure and evidence will apply.

A decision agreed to by two of the arbitrators will determine:

1. the legal liability of the operator or owner of an **underinsured motor vehicle** or **uninsured motor vehicle**; and
  2. the amount of the damages sustained by the **insured person**;
- but will not be binding on either the **insured person** or **us**. The arbitrators will have no authority to award an amount in excess of the limit of liability.

**We** and an **insured person** may agree to an alternate form of arbitration.

## **PART IV - DAMAGE TO A VEHICLE**

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

If **you** pay the premium for this coverage, **we** will pay for sudden, direct, and accidental loss to a:

1. **covered auto**, including an attached **trailer**; or
  2. **non-owned auto**;
- and its **custom parts or equipment**, resulting from **collision**.

In addition, **we** will pay the reasonable cost to replace any child safety seat damaged in an accident to which this coverage applies.

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

If **you** pay the premium for this coverage, **we** will pay for sudden, direct, and accidental loss to a:

1. **covered auto**, including an attached **trailer**; or
  2. **non-owned auto**;
- and its **custom parts or equipment**, that is not caused by **collision**.

A loss not caused by **collision** includes:

1. contact with an animal (including a bird);
2. explosion or earthquake;
3. fire;
4. malicious mischief or vandalism;
5. missiles or falling objects;
6. riot or civil commotion;

7. theft or larceny;
8. windstorm, hail, water, or flood; or
9. breakage of glass not caused by **collision**.

In addition, **we** will pay for:

1. reasonable transportation expenses incurred by **you** if a **covered auto** is stolen; and
2. loss of use damages that **you** are legally liable to pay if a **non-owned auto** is stolen.

A combined maximum of \$900, not exceeding \$30 per day, will apply to these additional benefits. The additional benefit for transportation expenses will not apply if **you** purchased Rental Reimbursement Coverage for the stolen **covered auto**.

Coverage for transportation expenses and loss of use damages begins 48 hours after **you** report the theft to **us** and ends the earliest of:

1. when the **auto** has been recovered and returned to **you** or its owner;
2. when the **auto** has been recovered and repaired;
3. when the **auto** has been replaced; or
4. 72 hours after **we** make an offer to settle the loss if the **auto** is deemed by **us** to be a total loss.

**We** must receive written proof of transportation expenses and loss of use damages.

## **INSURING AGREEMENT - ADDITIONAL CUSTOM PARTS OR EQUIPMENT COVERAGE**

**We** will pay for sudden, direct, and accidental loss to **custom parts or equipment** on a **covered auto** for which this coverage has been purchased. This coverage applies only if **you** have purchased both Comprehensive Coverage and Collision Coverage for that **covered auto** and the loss is covered under one of those coverages. This coverage applies in addition to any coverage automatically provided for **custom parts or equipment** under Comprehensive Coverage or Collision Coverage.

## **INSURING AGREEMENT - RENTAL REIMBURSEMENT COVERAGE**

**We** will reimburse rental charges incurred when **you** rent an **auto** from a rental agency or auto repair shop due to a loss to a **covered auto** for which Rental Reimbursement Coverage has been purchased. This coverage applies only if **you** have purchased both Comprehensive Coverage and Collision Coverage for that **covered auto** and the loss is covered under one of those coverages.

Additional fees or charges for insurance, damage waivers, optional equipment, fuel, or accessories are not covered.

This coverage is limited to the each day limit shown on the **declarations page** for a maximum of 30 days.

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

Rental charges will be reimbursed beginning:

1. when the **covered auto** cannot be driven due to a loss; or
2. if the **covered auto** can be driven, when **you** deliver the **covered auto** to an auto repair shop or one of **our** Claims Service Centers for repairs due to the loss;

and ending the earliest of:

1. when the **covered auto** has been returned to **you**;
2. when the **covered auto** has been repaired;
3. when the **covered auto** has been replaced;
4. 72 hours after **we** make an offer to settle the loss if the **covered auto** is deemed by **us** to be a total loss; or
5. when **you** incur 30 days worth of rental charges.

**You** must provide **us** written proof of **your** rental charges to be reimbursed.

## **INSURING AGREEMENT - LOAN/LEASE PAYOFF COVERAGE**

If **you** pay the premium for this coverage, and the **covered auto** for which this coverage was purchased is deemed by **us** to be a total loss, **we** will pay, in addition to any amounts otherwise payable under this Part IV, the difference between:

1. the actual cash value of the **covered auto** at the time of the total loss; and
2. any greater amount the owner of the **covered auto** is legally obligated to pay under a written loan or lease agreement to which the **covered auto** is subject at the time of the total loss, reduced by:
  - a. unpaid finance charges or refunds due to the owner for such charges;
  - b. excess mileage charges or charges for wear and tear;
  - c. charges for extended warranties or refunds due to the owner for extended warranties;
  - d. charges for credit insurance or refunds due to the owner for credit insurance;
  - e. past due payments and charges for past due payments; and
  - f. collection or repossession expenses.

However, **our** payment under this coverage shall not exceed the limit of liability shown on the **declarations page**. The limit of liability is a percentage of the actual cash value of the **covered auto** at the time of the loss.

This coverage applies only if **you** have purchased both Comprehensive Coverage and Collision Coverage for that **covered auto** and the loss is covered under one of those coverages.

## **ADDITIONAL DEFINITIONS**

When used in this Part IV:

1. "**Collision**" means the upset of a vehicle or its impact with another vehicle or object.

2. “**Custom parts or equipment**” means equipment, devices, accessories, enhancements, and changes, other than those that are offered by the manufacturer specifically for that **auto** model, or that are installed by the auto dealership as part of the original sale of a new **auto**, that:
  - a. are permanently installed or attached; and
  - b. alter the appearance or performance of the **auto**.
3. “**Mechanical parts**” means operational parts on a vehicle that wear out over time or have a finite useful life or duration typically shorter than the life of the vehicle as a whole. **Mechanical parts** do not include external crash parts, wheels, paint, or windshields and other glass.
4. “**Non-owned auto**” means an **auto** that is not owned by or furnished or available for the regular use of **you** or a **relative** while in the custody of or being operated by **you** or a **relative** with the permission of the owner of the **auto** or the person in lawful possession of the **auto**.

**EXCLUSIONS - READ THE FOLLOWING EXCLUSIONS CAREFULLY. IF AN EXCLUSION APPLIES, COVERAGE WILL NOT BE AFFORDED UNDER THIS PART IV.**

Coverage under this Part IV will not apply for loss:

1. to any vehicle while being used:
  - a. to carry persons or property for compensation or a fee; or
  - b. for retail or wholesale delivery, including, but not limited to, the pickup, transport, or delivery of magazines, newspapers, mail, or food.This exclusion does not apply to shared-expense car pools;
2. to a **non-owned auto** while being maintained or used by a person while employed or engaged in any **auto business**;
3. to any vehicle resulting from, or sustained during practice or preparation for:
  - a. any pre-arranged or organized racing, stunting, speed, or demolition contest or activity; or
  - b. any driving activity conducted on a permanent or temporary racetrack or racecourse;
4. to any vehicle for which insurance:
  - a. is afforded under a nuclear energy liability insurance contract; or
  - b. would be afforded under a nuclear energy liability insurance contract but for its termination upon exhaustion of its limit of liability;
5. to any vehicle caused by an intentional act committed by or at the direction of **you**, a **relative**, or the owner of a **non-owned auto**, even if the actual damage is different than that which was intended or expected;
6. to a **covered auto** while it is leased or rented to others or given in exchange for compensation. This exclusion does not apply to the operation of a **covered auto** by **you** or a **relative**;
7. due to destruction or confiscation by governmental or civil authorities of any vehicle because **you** or any **relative** engaged in illegal activities;
8. to any vehicle that is due and confined to:
  - a. wear and tear;
  - b. freezing;

- c. mechanical, electrical, or electronic breakdown or failure; or
  - d. road damage to tires.
- This exclusion does not apply if the damage results from the theft of a vehicle;
9. to portable equipment, devices, accessories, and any other personal effects that are not permanently installed. This includes, but is not limited to:
    - a. tapes, compact discs, cassettes, DVDs, and other recording or recorded media;
    - b. any case or other container designed for use in storing or carrying tapes, compact discs, cassettes, DVDs, or other recording or recorded media;
    - c. any device used for the detection or location of radar, laser, or other speed measuring equipment or its transmissions; and
    - d. CB radios, telephones, two-way mobile radios, DVD players, personal computers, personal digital assistants, or televisions;
  10. to any vehicle for diminution of value;
  11. to any vehicle caused directly or indirectly by:
    - a. war (declared or undeclared) or civil war;
    - b. warlike action by any military force of any government, sovereign or other authority using military personnel or agents. This includes any action taken to hinder or defend against an actual or expected attack; or
    - c. insurrection, rebellion, revolution, usurped power, or any action taken by a governmental authority to hinder or defend against any of these acts;
  12. to any vehicle caused directly or indirectly by:
    - a. any accidental or intentional discharge, dispersal or release of radioactive, nuclear, pathogenic or poisonous biological material; or
    - b. any intentional discharge, dispersal or release of chemical or hazardous material for any purpose other than its safe and useful purpose; or
  13. to any vehicle caused by, or reasonably expected to result from, a criminal act or omission of **you**, a **relative**, or the owner of a **non-owned auto**. This exclusion applies regardless of whether **you**, the **relative**, or the owner of the **non-owned auto** is actually charged with, or convicted of, a crime. For purposes of this exclusion, criminal acts or omissions do not include traffic violations.

## LIMITS OF LIABILITY

1. The limit of liability for loss to a **covered auto**, **non-owned auto**, or **custom parts or equipment** is the lowest of:
  - a. the actual cash value of the stolen or damaged property at the time of the loss reduced by the applicable deductible;
  - b. the amount necessary to replace the stolen or damaged property reduced by the applicable deductible;
  - c. the amount necessary to repair the damaged property to its pre-loss condition reduced by the applicable deductible; or
  - d. the Stated Amount shown on the **declarations page** for that **covered auto**.

However, the most **we** will pay for loss to:

  - a. **custom parts or equipment** is \$1,000 unless **you** purchased Additional Custom Parts or Equipment Coverage (“ACPE”). If **you** purchased ACPE, the most **we** will pay is \$1,000 plus the amount of ACPE **you** purchased;

- b. a **trailer** is the limit of liability shown on the **declarations page** for that **trailer**. If the **trailer** is not shown on the **declarations page**, the limit of liability is \$500.
2. Payments for loss to a **covered auto, non-owned auto, or custom parts or equipment** are subject to the following provisions:
- a. If coverage applies to a **non-owned auto**, we will provide the broadest coverage applicable to any **covered auto** shown on the **declarations page**.
  - b. If **you** have elected a Stated Amount for a **covered auto**, the Stated Amount is the most **we** will pay for all loss to that **covered auto**, including its **custom parts or equipment**.
  - c. Coverage for **custom parts or equipment** will not cause **our** limit of liability for loss to an **auto** under this Part IV to be increased to an amount in excess of the actual cash value of the **auto**, including its **custom parts or equipment**.
  - d. In determining the amount necessary to repair damaged property to its pre-loss condition, the amount to be paid by **us**:
    - (i) will not exceed the prevailing competitive labor rates charged in the area where the property is to be repaired and the cost of repair or replacement parts and equipment, as reasonably determined by **us**; and
    - (ii) will be based on the cost of repair or replacement parts and equipment which may be new, reconditioned, remanufactured, or used, including, but not limited to:
      - (a) original manufacturer parts or equipment; and
      - (b) nonoriginal manufacturer parts or equipment.
  - e. To determine the amount necessary to repair or replace the damaged property as referred to in subsection 1, the total cost of necessary repair or replacement may be reduced by unrepaired prior damage. Unrepaired prior damage includes broken, cracked, or missing parts; rust; dents; scrapes; gouges; and peeling paint. The reduction for unrepaired prior damage is the cost of labor, parts, and materials necessary to repair or replace damage, deterioration, defects, or wear and tear on exterior body parts, windshields and other glass, wheels, and paint, that existed prior to the accident and that is eliminated as a result of the repair or replacement of property damaged in the loss.
  - f. To determine the amount necessary to repair or replace the damaged property as referred to in subsection 1, an adjustment may be made for betterment or depreciation and physical condition on:
    - (i) batteries;
    - (ii) tires;
    - (iii) engines and transmissions, if the engine has greater than 80,000 miles; and
    - (iv) any other **mechanical parts** that are nonfunctioning or inoperative.**We** will not make an adjustment for the labor costs associated with the replacement or repair of these parts.
  - g. The actual cash value is determined by the market value, age, and condition of the vehicle at the time the loss occurs.
3. No deductible will apply to a loss to window glass when the glass is repaired instead of replaced.
4. Duplicate recovery for the same elements of damages is not permitted.

5. Any amount paid or payable under this Part IV shall be reduced by any amount paid for **property damage** to the vehicle under Part III - Uninsured/Underinsured Motorist Coverage.
6. IN THE REPAIR OF **YOUR** COVERED MOTOR VEHICLE UNDER THE PHYSICAL DAMAGE COVERAGE PROVISIONS OF THIS POLICY, **WE** MAY REQUIRE OR SPECIFY THE USE OF MOTOR VEHICLE PARTS NOT MADE BY THE ORIGINAL MANUFACTURER. THESE PARTS ARE REQUIRED TO BE AT LEAST EQUAL IN TERMS OF FIT, QUALITY, PERFORMANCE, AND WARRANTY TO THE ORIGINAL MANUFACTURER PARTS THEY REPLACE.

## PAYMENT OF LOSS

**We** may, at **our** option:

1. pay for the loss in money; or
2. repair or replace the damaged or stolen property.

At **our** expense, **we** may return any recovered stolen property to **you** or to the address shown on the **declarations page**, with payment for any damage resulting from the theft. **We** may keep all or part of the property at the agreed or appraised value.

**We** may settle any loss with **you** or the owner or lienholder of the property.

## NO BENEFIT TO BAILEE

Coverage under this Part IV will not directly or indirectly benefit any carrier or other bailee for hire.

## LOSS PAYABLE CLAUSE

Payment under this Part IV for a loss to a **covered auto** will be made according to **your** interest and the interest of any lienholder shown on the **declarations page** or designated by **you**. At **our** option, payment may be made to both jointly, or to either separately. Either way, **we** will protect the interest of both. However, if the **covered auto** is not a total loss, **we** may make payment to **you** and the repairer of the **auto**.

Protection of the lienholder's financial interest will not be affected by any act or omission by any person entitled to coverage under this policy. However, protection under this clause does not apply:

1. in any case of conversion, embezzlement, secretion, or willful damaging or destruction, of the **covered auto** by or at the direction of **you**, a **relative**, or the owner of the **covered auto**; or
2. to any loss caused by, or reasonably expected to result from, a criminal act or omission of **you**, a **relative**, or the owner of the **covered auto**. This applies regardless of whether **you**, the **relative**, or the owner of the **covered auto** is actually charged with, or convicted of, a crime. For purposes of this clause, criminal acts or omissions do not include traffic violations.

If this policy is cancelled, nonrenewed, or voided, the interest of any lienholder under this agreement will also terminate.

When **we** make payment to a lienholder for loss under this policy, **we** will be subrogated to the rights of the party **we** pay, to the extent of **our** payment. When **we** pay a lienholder for a loss for which **you** are not covered, **we** are entitled to the lienholder's right of recovery against **you** to the extent of **our** payment. **Our** right to subrogation will not impair the lienholder's right to recover the full amount of its claim.

## **OTHER SOURCES OF RECOVERY**

If other sources of recovery also cover the loss, **we** will pay only **our** share of the loss. **Our** share is the proportion that **our** limit of liability bears to the total of all applicable limits. However, any insurance **we** provide for a **non-owned auto**, or **trailer** not shown on the **declarations page**, will be excess over any other collectible source of recovery including, but not limited to:

1. any coverage provided by the owner of the **non-owned auto** or **trailer**;
2. any other applicable physical damage insurance; and
3. any other source of recovery applicable to the loss.

Any insurance **we** provide for a **loaner vehicle** will be primary over any applicable insurance provided by a policy issued to the owner of the **loaner vehicle** for loss arising out of **your** use of the **loaner vehicle**.

## **APPRAISAL**

If **we** cannot agree with **you** on the amount of a loss, then **we** and the **insured person** may mutually agree to an appraisal of the loss. Within 30 days of any agreement to an appraisal, each party shall appoint a competent appraiser and shall notify the other party of that appraiser's identity. The appraisers will determine the amount of loss. If they fail to agree, the disagreement will be submitted to a qualified umpire chosen by the appraisers. If the two appraisers are unable to agree upon an umpire within 15 days, **we** or **you** may request that a judge of a court of record, in the county where **you** reside, select an umpire. The appraisers and umpire will determine the amount of loss. The amount of loss agreed to by both appraisers, or by one appraiser and the umpire, will determine the amount payable under this Part IV, but will not be binding. **You** will pay **your** appraiser's fees and expenses. **We** will pay **our** appraiser's fees and expenses. All other expenses of the appraisal, including payment of the umpire if one is selected, will be shared equally between **us** and **you**. Neither **we** nor **you** waive any rights under this policy by agreeing to an appraisal.

## **PART V - ROADSIDE ASSISTANCE COVERAGE**

### **INSURING AGREEMENT**

If **you** pay the premium for this coverage, **we** will pay for **our** authorized service representative to provide the following services when necessary due to a **covered emergency**:

1. towing of a **covered disabled auto** to the nearest qualified repair facility; and

- labor on a **covered disabled auto** at the place of disablement.

If a **covered disabled auto** is towed to any place other than the nearest qualified repair facility, **you** will be responsible for any additional charges incurred.

## **ADDITIONAL DEFINITIONS**

When used in this Part V:

- "Covered disabled auto"** means a **covered auto** for which this coverage has been purchased that sustains a **covered emergency**.
- "Covered emergency"** means a disablement that is a result of:
  - mechanical or electrical breakdown;
  - battery failure;
  - insufficient supply of fuel, oil, water, or other fluid;
  - flat tire;
  - lock-out; or
  - entrapment in snow, mud, water, or sand, within 100 feet of a road or highway.

## **EXCLUSIONS - READ THE FOLLOWING EXCLUSIONS CAREFULLY. IF AN EXCLUSION APPLIES, COVERAGE WILL NOT BE AFFORDED UNDER THIS PART V.**

Coverage under this Part V will not apply to:

- the cost of purchasing parts, fluid, lubricants, fuel, or replacement keys, or the labor to make replacement keys;
- installation of products or material not related to the disablement;
- labor not related to the disablement;
- labor on a **covered disabled auto** for any time period in excess of 60 minutes per disablement;
- towing or storage related to impoundment, abandonment, illegal parking, or other violations of law;
- assistance with jacks, levelers, airbags, or awnings;
- towing from a service station, garage, or repair shop;
- labor or repair work performed at a service station, garage, or repair shop;
- auto storage charges;
- a second service call or tow for a single disablement;
- disablement that occurs on roads not regularly maintained, sand beaches, open fields, or areas designated as not passable due to construction, weather, or earth movement;
- mounting or removing of snow tires or chains;
- tire repair;
- repeated service calls for a **covered disabled auto** in need of routine maintenance or repair;
- disablement that results from an intentional or willful act or action by **you**, a **relative**, or the operator of a **covered disabled auto**; or
- a trailer.

## UNAUTHORIZED SERVICE PROVIDER

When service is rendered by a provider in the business of providing roadside assistance and towing services, other than one of **our** authorized service representatives, **we** will pay only reasonable charges, as determined by **us**, for:

1. towing of a **covered disabled auto** to the nearest qualified repair facility; and
2. labor on a **covered disabled auto** at the place of disablement; which is necessary due to a **covered emergency**.

## OTHER INSURANCE

Any coverage provided under this Part V for service rendered by an unauthorized service provider will be excess over any other collectible insurance or towing protection coverage.

## PART VI - DUTIES IN CASE OF AN ACCIDENT OR LOSS

For coverage to apply under this policy, **you** or the person seeking coverage must promptly report each accident or loss even if **you** or the person seeking coverage is not at fault. **You** or the person seeking coverage must provide **us** with all accident or loss information including time, place, and how the accident or loss happened. **You** or the person seeking coverage must also obtain and provide **us** the names and addresses of all persons involved in the accident or loss, the names and addresses of any witnesses, and the license plate numbers of the vehicles involved.

If **you** or the person seeking coverage cannot identify the owner or operator of a vehicle involved in the accident, or if theft or vandalism has occurred, **you** or the person seeking coverage must notify the police within 24 hours or as soon as practicable.

A person seeking coverage must:

1. cooperate with **us** in any matter concerning a claim or lawsuit;
2. provide any written proof of loss **we** may reasonably require;
3. allow **us** to take signed and recorded statements, including sworn statements and examinations under oath, which **we** may conduct outside the presence of **you** or any other person seeking coverage, and answer all reasonable questions **we** may ask as often as **we** may reasonably require;
4. promptly call to notify **us** about any claim or lawsuit and send **us** any and all legal papers relating to the claim or suit;
5. attend hearings and trials as **we** require;
6. take reasonable steps after a loss to protect the **covered auto**, or any other vehicle for which coverage is sought, from further loss. **We** will pay reasonable expenses incurred in providing that protection. If failure to provide such protection results in further loss, any additional damages will not be covered under this policy;
7. allow **us** to have the damaged **covered auto**, or any other damaged vehicle for which coverage is sought, inspected and appraised before its repair or disposal;

- submit to medical examinations at **our** expense by doctors **we** select as often as **we** may reasonably require; and
- authorize **us** to obtain medical and other records.

## **PART VII - GENERAL PROVISIONS**

### **POLICY PERIOD AND TERRITORY**

This policy applies only to accidents and losses occurring during the policy period shown on the **declarations page** and that occur within a state, territory, or possession of the United States of America, or a province or territory of Canada, or while a **covered auto** is being transported between their ports.

### **CHANGES**

This policy contract, **your** insurance application (which is made a part of this policy as if attached hereto), the **declarations page**, and all endorsements to this policy issued by **us**, contain all the agreements between **you** and **us**. Subject to the following, the terms of this policy may not be changed or waived except by an endorsement issued by **us**.

The premium for this policy is based on information **we** received from **you** and other sources. **You** agree to cooperate with **us** in determining if this information is correct and complete, and to notify **us** if it changes during the policy period. If this information is incorrect, incomplete, or changes during the policy period, **you** agree that **we** may adjust **your** premium accordingly. Changes that may result in a premium adjustment are contained in **our** rates and rules. These include, but are not limited to, **you** or a **relative** obtaining a driver's license or operator's permit, or changes in:

- the number, type, or use classification of **covered autos**;
- operators using **covered autos**;
- an operator's marital status;
- the place of principal garaging of any **covered auto**;
- coverage, deductibles, or limits of liability; or
- rating territory or discount eligibility.

The coverage provided in **your** policy may be changed only by the issuance of a new policy or an endorsement by **us**. However, if during the policy period **we** broaden any coverage afforded under the current edition of **your** policy without additional premium charge, that change will automatically apply to **your** policy as of the date the coverage change is implemented in **your** state.

If **you** ask **us** to delete a vehicle from this policy, no coverage will apply to that vehicle as of the date and time **you** ask **us** to delete it.

### **DUTY TO REPORT CHANGES**

**You** must promptly notify **us** when:

- your** mailing or residence address changes;

2. the principal garaging address for a **covered auto** changes;
3. there is a change with respect to the residents in **your** household or the persons who regularly operate a **covered auto**;
4. an operator's marital status changes; or
5. **you** or a **relative** obtain a driver's license or operator's permit.

## SETTLEMENT OF CLAIMS

**We** may use estimating, appraisal, or injury evaluation systems to assist **us** in adjusting claims under this policy and to assist **us** in determining the amount of damages, expenses, or loss payable under this policy. Such systems may be developed by **us** or a third party and may include computer software, databases, and specialized technology.

## TERMS OF POLICY CONFORMED TO STATUTES

If any provision of this policy fails to conform to the statutes of the state listed on **your** application as **your** residence, the provision shall be deemed amended to conform to such statutes. All other provisions shall be given full force and effect. Any disputes as to the coverages provided or the provisions of this policy shall be governed by the law of the state listed on **your** application as **your** residence.

## TRANSFER OF INTEREST

The rights and duties under this policy may not be transferred to another person without **our** written consent. However, if a named insured shown on the **declarations page** dies, this policy will provide coverage until the end of the policy period for the legal representative of the named insured, while acting as such, and for persons covered under this policy on the date of the named insured's death.

## FRAUD OR MISREPRESENTATION

This policy was issued in reliance upon the information provided on **your** insurance application. **We** may void this policy at any time, including after the occurrence of an accident or loss, if **you**:

1. made incorrect statements or representations to **us** with regard to any material fact or circumstance;
2. concealed or misrepresented any material fact or circumstance; or
3. engaged in fraudulent conduct;

at the time of application. If **we** void this policy, this shall not affect coverage under Part I - Liability To Others for an accident that occurs before **we** notify the named insured that the policy is void. No payment will be made to any person who concealed or misrepresented any material fact or circumstance, or engaged in fraudulent conduct. If **we** void this policy, **you** must reimburse **us** if **we** make a payment.

**We** may deny coverage for an accident or loss if **you** or a person seeking coverage has knowingly concealed or misrepresented any material fact or circumstance, or engaged in fraudulent conduct, in connection with the presentation or settlement of a claim.

## PAYMENT OF PREMIUM AND FEES

If **your** initial premium payment is by check, draft, electronic funds transfer, or similar form of remittance, coverage under this policy is conditioned on payment to **us** by the financial institution. If the financial institution upon presentment does not honor the check, draft, electronic funds transfer, or similar form of remittance, this policy may, at **our** option, be deemed void from its inception. This means **we** will not be liable under this policy for any claims or damages that would otherwise be covered if the check, draft, electronic funds transfer, or similar form of remittance had been honored by the financial institution. Any action by **us** to present the remittance for payment more than once shall not affect **our** right to void this policy.

In addition to premium, fees may be charged on **your** policy. **We** may charge fees for installment payments, late payments, and other transactions. Payments made on **your** policy will be applied first to fees, then to premium due.

## CANCELLATION

**You** may cancel this policy during the policy period by calling or writing **us** and stating the future date **you** wish the cancellation to be effective.

**We** may cancel this policy during the policy period by mailing a notice of cancellation to the named insured shown on the **declarations page** at the last known address appearing in **our** records.

**We** will give at least 10 days notice of cancellation if the policy is cancelled for nonpayment of premium.

**We** will give at least 20 days notice of cancellation in all other cases.

**We** may cancel this policy for any reason if the notice is mailed within the first 59 days of the initial policy period.

After this policy is in effect for more than 59 days, or if this is a renewal or continuation policy, **we** may cancel only for one or more of the following reasons:

1. nonpayment of premium;
2. material misrepresentation or fraud with respect to any material fact in the procurement or renewal of this policy;
3. material misrepresentation or fraud in the submission of any claim under this policy;
4. loss of driving privileges during the policy period, or, if this is a renewal policy, during the policy period or the 180 days immediately preceding the effective date of renewal, through suspension or revocation of an operator's license or motor vehicle registration issued to **you**, any driver in **your** household, or any regular operator of a **covered auto**. However, **we** will not cancel **your** policy solely due to an administrative revocation or suspension of an operator's license pursuant to Arkansas Code Annotated §5-65-104;

5. **you** or any driver of the **covered auto** have been convicted of:
  - a. driving while intoxicated;
  - b. homicide or assault arising out of the use of a motor vehicle; or
  - c. three separate convictions of speeding or reckless driving, or any combination of the two, during the policy period or the three months prior to the effective date of the policy; or
6. any other reason permitted by law.

Proof of mailing will be sufficient proof of notice. If this policy is cancelled, coverage will not be provided as of the effective date and time shown in the notice of cancellation. For purposes of cancellation, this policy is neither severable nor divisible. Any cancellation will be effective for all coverages for all persons and all vehicles.

## **CANCELLATION REFUND**

Upon cancellation, **you** may be entitled to a premium refund. However, **our** making or offering of a refund is not a condition of cancellation.

If this policy is cancelled, any refund due will be computed on a daily pro rata basis. However, **we** will retain a cancellation fee if this policy is cancelled at **your** request or if cancellation is for nonpayment of premium. A cancellation fee will be charged only during the initial policy period.

## **NONRENEWAL**

If neither **we** nor one of **our** affiliates offers to renew or continue this policy, other than for nonpayment of premium, **we** will mail notice of nonrenewal to the named insured shown on the **declarations page** at the last known address appearing in **our** records. Proof of mailing will be sufficient proof of notice. Notice will be mailed at least 30 days before the end of the policy period.

## **AUTOMATIC TERMINATION**

If **we** or an affiliate offers to renew or continue this policy and **you** or **your** representative does not accept, this policy will automatically terminate at the end of the current policy period. Failure to pay the required renewal or continuation premium when due will mean that **you** have not accepted **our** offer.

If **you** obtain other insurance on a **covered auto**, any similar insurance provided by this policy will terminate as to that **covered auto** on the effective date of the other insurance.

If a **covered auto** is sold or transferred to someone other than **you** or a **relative**, any insurance provided by this policy will terminate as to that **covered auto** on the effective date of the sale or transfer.

## LEGAL ACTION AGAINST US

**We** may not be sued unless there is full compliance with all the terms of this policy.

**We** may not be sued for payment under Part I - Liability To Others until the obligation of an insured person under Part I to pay is finally determined either by judgment after trial against that person or by written agreement of the insured person, the claimant, and **us**. No one will have any right to make **us** a party to a lawsuit to determine the liability of an insured person.

If **we** retain salvage, **we** have no duty to preserve or otherwise retain the salvage for any purpose, including evidence for any civil or criminal proceeding.

## OUR RIGHTS TO RECOVER PAYMENT

**We** are entitled to the rights of recovery that the insured person to whom payment was made has against another after the insured person has been fully compensated for his or her loss, to the extent of **our** payment. That insured person may be required to sign documents related to the recovery and must do whatever else **we** require to help **us** exercise those recovery rights, and do nothing after an accident or loss to prejudice those rights.

When an insured person has been paid by **us** and also recovers from another, the amount recovered will be held by the insured person in trust for **us** and reimbursed to **us** to the extent of **our** payment. However, this shall not apply to payment by **us** under any Accidental Death Benefits Coverage provided under Part II - Personal Injury Protection Coverage. If **we** are not reimbursed, **we** may pursue recovery of that amount directly against that insured person.

If an insured person recovers from another without **our** written consent, the insured person's right to payment under any affected coverage will no longer exist.

**Our** right of recovery does not apply to underinsured motorist benefits if:

1. the **insured person** sends **us** written notice, in accordance with the requirements of the Notice And Consent Requirement provision in Part III - Uninsured/Underinsured Motorist Coverage, of any tentative settlement agreement reached with the owner or operator of an underinsured motor vehicle, or such person's liability insurer; and
2. **we** fail to pay the sum offered in settlement to the **insured person** by the owner or operator of the underinsured motor vehicle, or that person's liability insurer, within 30 days of **our** receipt of such notice.

**Our** right of recovery does not apply to underinsured motorist benefits to the extent of any payment **we** have made to the **insured person** under a policy of liability insurance issued by **us** to the owner or operator of an underinsured motor vehicle.

If **we** elect to exercise **our** rights of recovery against another, **we** will also attempt to recover any deductible incurred by an insured person under this policy unless **we** are specifically instructed by that person not to pursue the deductible. **We** have no obligation to pursue recovery against another for any loss not covered by this policy.

**We** reserve the right to compromise or settle the deductible and property damage claims against the responsible parties for less than the full amount. **We** also reserve the right to incur reasonable expenses and attorney fees in pursuit of the recovery.

If the total recovery is less than the total of **our** payment and the deductible, **we** will reduce reimbursement of the deductible based on the proportion that the actual recovery bears to the total of **our** payment and the deductible. A proportionate share of collection expenses and attorney fees incurred in connection with these recovery efforts will also reduce reimbursement of the deductible.

These provisions will be applied in accordance with state law.

## **JOINT AND INDIVIDUAL INTERESTS**

If there is more than one named insured on this policy, any named insured may cancel or change this policy. The action of one named insured will be binding on all persons provided coverage under this policy.

## **BANKRUPTCY**

The bankruptcy or insolvency of an insured person will not relieve **us** of any obligations under this policy. If execution of a judgment against an **insured person** under Part I - Liability To Others is returned unsatisfied because of the insolvency or bankruptcy of the **insured person**, the person claiming payment for damages under Part I may maintain an action against **us** for the amount of the judgment not exceeding **our** limits of liability.

**PROGRESSIVE**<sup>®</sup>  
*DRIVE Insurance*



\*9610A AR 0507\*

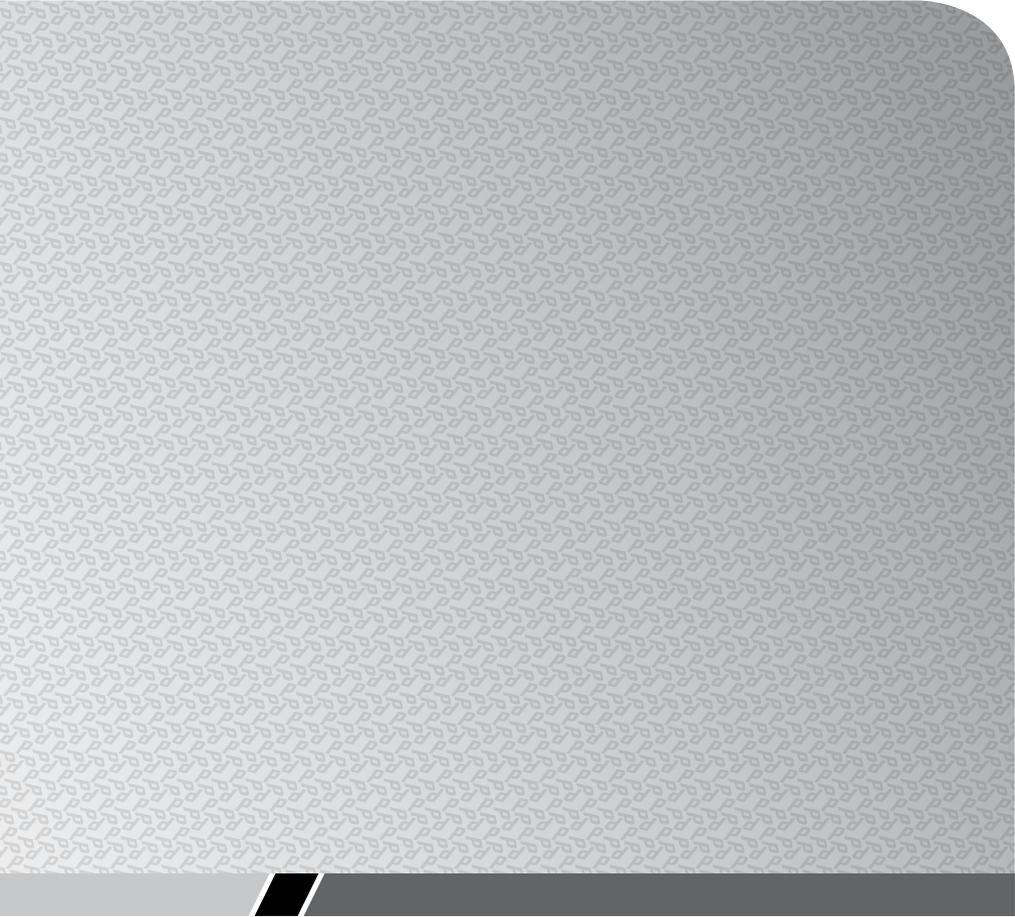


\*9610D AR 0507\*



# ARKANSAS

## AUTO POLICY



Form 9610D AR (05/07)  
version 3.0

***PROGRESSIVE***<sup>®</sup>  
*DIRECT*



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# ARKANSAS AUTO POLICY

## INSURING AGREEMENT

In return for **your** payment of the premium, **we** agree to insure **you** subject to all the terms, conditions, and limitations of this policy. **We** will insure **you** for the coverages and the limits of liability shown on this policy's **declarations page**. **Your** policy consists of the policy contract, **your** insurance application, the **declarations page**, and all endorsements to this policy.

## GENERAL DEFINITIONS

The following definitions apply throughout the policy. Defined terms are printed in boldface type and have the same meaning whether in the singular, plural, or any other form.

1. **"Additional auto"** means an **auto you** become the owner of during the policy period that does not permanently replace an **auto** shown on the **declarations page** if:
  - a. **we** insure all other **autos you** own;
  - b. the **additional auto** is not covered by any other insurance policy;
  - c. **you** notify **us** within 30 days of becoming the owner of the **additional auto**; and
  - d. **you** pay any additional premium due.

An **additional auto** will have the broadest coverage **we** provide for any **auto** shown on the **declarations page**. If **you** ask **us** to insure an **additional auto** more than 30 days after **you** become the owner, any coverage **we** provide will begin at the time **you** request coverage.

2. **"Auto"** means a land motor vehicle:
  - a. of the private passenger, pickup body, or cargo van type;
  - b. designed for operation principally upon public roads;
  - c. with at least four wheels; and
  - d. with a gross vehicle weight rating of 12,000 pounds or less, according to the manufacturer's specifications.

However, **"auto"** does not include step-vans, parcel delivery vans, or cargo cut-away vans or other vans with cabs separate from the cargo area.

3. **"Auto business"** means the business of selling, leasing, repairing, parking, storing, servicing, delivering, or testing vehicles.
4. **"Bodily injury"** means bodily harm, sickness, or disease, including death that results from bodily harm, sickness, or disease.
5. **"Covered auto"** means:
  - a. any **auto** or **trailer** shown on the **declarations page** for the coverages applicable to that **auto** or **trailer**;
  - b. any **additional auto**;
  - c. any **replacement auto**; or
  - d. a **trailer** owned by **you**.
6. **"Declarations page"** means the document showing **your** coverages, limits of liability, **covered autos**, premium, and other policy-related information. The **declarations page** may also be referred to as the Auto Insurance Coverage Summary.

7. **“Loaner vehicle”** means an **auto** operated by **you** that is:
  - a. loaned to **you** by a duly licensed automobile dealer:
    - i. as a temporary substitute for a **covered auto** while the **covered auto** is out of use because of breakdown, repair, or servicing; or
    - ii. for use as a demonstrator vehicle; or
  - b. rented or leased from a rental company that is in the business of providing primarily private passenger vehicles to the public under a rental agreement for a period not to exceed 90 days.
8. **“Occupying”** means in, on, entering, or exiting.
9. **“Property damage”** means physical damage to, destruction of, or loss of use of, tangible property.
10. **“Punitive or exemplary damages”** means damages which may be imposed to punish a wrongdoer and to deter others from similar conduct.
11. **“Relative”** means a person residing in the same household as **you**, and related to **you** by blood, marriage, or adoption, and includes a ward, stepchild, or foster child. **Your** unmarried dependent children temporarily away from home will qualify as a **relative** if they intend to continue to reside in **your** household.
12. **“Replacement auto”** means an **auto** that permanently replaces an **auto** shown on the **declarations page**. A **replacement auto** will have the same coverage as the **auto** it replaces if the **replacement auto** is not covered by any other insurance policy. However, if the **auto** being replaced had coverage under Part IV - Damage To A Vehicle, such coverage will apply to the **replacement auto** only during the first 30 days after **you** become the owner unless **you** notify **us** within that 30-day period that **you** want **us** to extend coverage beyond the initial 30 days. If the **auto** being replaced did not have coverage under Part IV - Damage To A Vehicle, such coverage may be added, but the **replacement auto** will have no coverage under Part IV until **you** notify **us** of the **replacement auto** and ask **us** to add the coverage.
13. **“Trailer”** means a non-motorized trailer, including a farm wagon or farm implement, designed to be towed on public roads by an **auto** and not being used:
  - a. for commercial purposes;
  - b. as an office, store, or for display purposes; or
  - c. as a passenger conveyance.
14. **“We”, “us”, and “our”** mean the underwriting company providing the insurance, as shown on the **declarations page**.
15. **“You” and “your”** mean:
  - a. a person shown as a named insured on the **declarations page**; and
  - b. the spouse of a named insured if residing in the same household at the time of the loss.

## **PART I - LIABILITY TO OTHERS**

### **INSURING AGREEMENT**

If **you** pay the premium for this coverage, **we** will pay damages for **bodily injury** and **property damage** for which an **insured person** becomes legally responsible because of an accident.

Damages include prejudgment interest awarded against an **insured person**.

**We** will settle or defend, at **our** option, any claim for damages covered by this Part I.

## **ADDITIONAL DEFINITIONS**

When used in this Part I:

1. **"Insured person"** means:
  - a. **you** or a **relative** with respect to an accident arising out of the ownership, maintenance, or use of an **auto** or **trailer**;
  - b. any person with respect to an accident arising out of that person's use of a **covered auto** with the permission of **you** or a **relative**;
  - c. any person or organization with respect only to vicarious liability for the acts or omissions of a person described in a or b above; and
  - d. any Additional Interest shown on the **declarations page** with respect only to its liability for the acts or omissions of a person described in a or b above.
2. **"Property damage"** means physical damage to, destruction of, or loss of use of, tangible property.

## **ADDITIONAL PAYMENTS**

In addition to **our** limit of liability, **we** will pay for an **insured person**:

1. all expenses **we** incur in the settlement of any claim or defense of any lawsuit;
2. interest accruing after entry of judgment, until **we** have paid, offered to pay, or deposited in court, that portion of the judgment which does not exceed **our** limit of liability. This does not apply if **we** have not been given notice of suit or the opportunity to defend an **insured person**;
3. the premium on any appeal bond or attachment bond required in any lawsuit **we** defend. **We** have no duty to purchase a bond in an amount exceeding **our** limit of liability, and **we** have no duty to apply for or furnish these bonds;
4. up to \$250 for a bail bond required because of an accident resulting in **bodily injury** or **property damage** covered under this Part I. **We** have no duty to apply for or furnish this bond; and
5. reasonable expenses, including loss of earnings up to \$200 per day, incurred at **our** request.

## **EXCLUSIONS - READ THE FOLLOWING EXCLUSIONS CAREFULLY. IF AN EXCLUSION APPLIES, COVERAGE WILL NOT BE AFFORDED UNDER THIS PART I.**

Coverage under this Part I, including **our** duty to defend, will not apply to any **insured person** for:

1. **bodily injury** or **property damage** arising out of the ownership, maintenance, or use of any vehicle or trailer while being used:
  - a. to carry persons or property for compensation or a fee; or
  - b. for retail or wholesale delivery, including, but not limited to, the pickup, transport, or delivery of magazines, newspapers, mail, or food.This exclusion does not apply to shared-expense car pools;

2. any liability assumed under any contract or agreement by **you** or a **relative**;
3. **bodily injury** to an employee of that **insured person** arising out of or within the course of employment. This exclusion does not apply to domestic employees if benefits are neither paid nor required to be provided under workers' compensation, disability benefits, or similar laws;
4. **bodily injury** or **property damage** arising out of an accident involving any vehicle while being maintained or used by a person while employed or engaged in any **auto business**. This exclusion does not apply to **you**, a **relative**, or an agent or employee of **you** or a **relative**, when using a **covered auto**;
5. **bodily injury** or **property damage** resulting from, or sustained during practice or preparation for:
  - a. any pre-arranged or organized racing, stunting, speed, or demolition contest or activity; or
  - b. any driving activity conducted on a permanent or temporary racetrack or race-course;
6. **bodily injury** or **property damage** due to a nuclear reaction or radiation;
7. **bodily injury** or **property damage** for which insurance:
  - a. is afforded under a nuclear energy liability insurance contract; or
  - b. would be afforded under a nuclear energy liability insurance contract but for its termination upon exhaustion of its limit of liability;
8. any obligation for which the United States Government is liable under the Federal Tort Claims Act;
9. **bodily injury** or **property damage** caused by an intentional act of that **insured person**, or at the direction of that **insured person**, even if the actual injury or damage is different than that which was intended or expected;
10. **property damage** to any property owned by, rented to, being transported by, used by, or in the charge of that **insured person**. This exclusion does not apply to a rented residence or a rented garage;
11. **bodily injury** to **you** or a **relative**;
12. **bodily injury** or **property damage** arising out of the ownership, maintenance, or use of any vehicle owned by **you** or furnished or available for **your** regular use, other than a **covered auto** for which this coverage has been purchased;
13. **bodily injury** or **property damage** arising out of the ownership, maintenance, or use of any vehicle owned by a **relative** or furnished or available for the regular use of a **relative**, other than a **covered auto** for which this coverage has been purchased. This exclusion does not apply to **your** maintenance or use of such vehicle;
14. **bodily injury** or **property damage** arising out of **your** or a **relative's** use of a vehicle, other than a **covered auto**, without the permission of the owner of the vehicle or the person in lawful possession of the vehicle;
15. **bodily injury** or **property damage** arising out of the use of a **covered auto** while leased or rented to others or given in exchange for any compensation. This exclusion does not apply to the operation of a **covered auto** by **you** or a **relative**;
16. **punitive or exemplary damages**; or

17. **bodily injury** or **property damage** caused by, or reasonably expected to result from, a criminal act or omission of that **insured person**. This exclusion applies regardless of whether that **insured person** is actually charged with, or convicted of, a crime. For purposes of this exclusion, criminal acts or omissions do not include traffic violations.

## LIMITS OF LIABILITY

The limit of liability shown on the **declarations page** for liability coverage is the most **we** will pay regardless of the number of:

1. claims made;
2. **covered autos**;
3. **insured persons**;
4. lawsuits brought;
5. vehicles involved in the accident; or
6. premiums paid.

If **your declarations page** shows a split limit:

1. the amount shown for “each person” is the most **we** will pay for all damages due to **bodily injury** to one person resulting from any one accident;
2. subject to the “each person” limit, the amount shown for “each accident” is the most **we** will pay for all damages due to **bodily injury** sustained by two or more persons in any one accident; and
3. the amount shown for “property damage” is the most **we** will pay for the total of all **property damage** resulting from any one accident.

The “each person” limit of liability applies to the total of all claims made for **bodily injury** to a person and all claims of others, if allowed by law, derived from such **bodily injury**, including, but not limited to, emotional injury or mental anguish resulting from the **bodily injury** of another or from witnessing the **bodily injury** to another, loss of society, loss of companionship, loss of services, loss of consortium, and wrongful death.

If the **declarations page** shows that “combined single limit” or “CSL” applies, the amount shown is the most **we** will pay for the total of all damages resulting from any one accident. However, without changing this limit of liability, **we** will comply with any law that requires **us** to provide any separate limits.

No one is entitled to duplicate payments for the same elements of damages.

If multiple auto policies issued by **us** are in effect for **you**, **we** will pay no more than the highest limit of liability for this coverage available under any one policy.

An **auto** and attached **trailer** are considered one **auto**. Therefore, the limits of liability will not be increased for an accident involving an **auto** that has an attached **trailer**.

## FINANCIAL RESPONSIBILITY LAWS

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

## OTHER INSURANCE

If there is any other applicable liability insurance or bond, **we** will pay only **our** share of the damages. **Our** share is the proportion that **our** limit of liability bears to the total of all applicable limits. However, any insurance **we** provide for a vehicle or trailer, other than a **covered auto**, will be excess over any other collectible insurance, self-insurance, or bond.

Any insurance **we** provide for a **loaner vehicle** will be primary over any applicable insurance provided by a policy issued to the owner of the **loaner vehicle** for liability arising out of **your** use of the **loaner vehicle**.

## OUT-OF-STATE COVERAGE

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

1. a financial responsibility or similar law requiring limits of liability for **bodily injury** or **property damage** higher than the limits shown on the **declarations page**, this policy will provide the higher limits; or
2. a compulsory insurance or similar law requiring a non-resident to maintain insurance whenever the non-resident uses an **auto** in that state, province, territory, or possession, this policy will provide the greater of:
  - a. the required minimum amounts and types of coverage; or
  - b. the limits of liability under this policy.

## RIGHT OF DIRECT ACTION

Any person entitled to payment of damages covered under this Part I, or his or her personal representative, shall be subrogated to the right of the person shown as the named insured on the **declarations page** for payment under this Part I. If a judgment against an **insured person** remains unsatisfied after 30 days from the date notice of entry of judgment was served on either the **insured person**, the attorney for the **insured person**, or **us**, the injured person, or his or her personal representative, may maintain an action against **us** for the amount of the judgment not exceeding **our** Limits of Liability.

## **PART II - PERSONAL INJURY PROTECTION COVERAGE**

### **INSURING AGREEMENT - MEDICAL AND HOSPITAL BENEFITS COVERAGE**

If **you** pay the premium for this coverage, **we** will pay for reasonable and necessary **medical and hospital benefits** because of **bodily injury**:

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

### **INSURING AGREEMENT - INCOME DISABILITY BENEFITS COVERAGE**

If **you** pay the premium for this coverage, **we** will pay for **income disability benefits** because of **bodily injury**:

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

### **INSURING AGREEMENT - ACCIDENTAL DEATH BENEFITS COVERAGE**

If **you** pay the premium for this coverage, **we** will pay the amount stated on the **declarations page** if an **insured person** dies within one year of the date of an accident as a result of **bodily injury**:

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

### **ADDITIONAL DEFINITIONS**

When used in this Part II:

1. **"Income disability benefits"** means loss of income from work the **insured person** would have performed had the **insured person** not sustained **bodily injury**. However if the **insured person** is a non-income earner, **income disability benefits** means expenses reasonably incurred for essential services in lieu of those the **insured person** would have performed without income had the **insured person** not sustained **bodily injury**. **Income disability benefits** apply only to the period beginning eight days after the date of the accident and not exceeding 52 weeks. **Income disability benefits** do not include any loss or expense after the death of the **insured person**.
2. **"Insured person"** and **"insured persons"** mean:
  - a. **you** or any **relative**; and
  - b. any other person:
    - (i) while **occupying a covered auto**; or
    - (ii) when struck by a **covered auto** while a pedestrian, bicyclist, or motorcyclist, or while riding on an animal or in a horse-drawn wagon or cart.
3. **"Medical and hospital benefits"** means all reasonable and necessary expenses for medical, hospital, nursing, dental, surgical, ambulance, funeral and prosthetic

services incurred within 24 months after the accident, and may include any non-medical remedial care and treatment rendered in accordance with a recognized religious method of healing. Expenses for hospital charges are limited to semi-private accommodations.

**EXCLUSIONS - READ THE FOLLOWING EXCLUSIONS CAREFULLY. IF AN EXCLUSION APPLIES, COVERAGE WILL NOT BE AFFORDED UNDER THIS PART II.**

Coverage under this Part II will not apply to **bodily injury**:

1. sustained by any person, other than **you** or a **relative**, who is a named insured or additional insured under any other valid and collectible automobile insurance policy providing the minimum personal injury protection coverages required by law;
2. sustained by any person who intentionally caused such **bodily injury**;
3. sustained by any person while in the commission of a felony or while seeking to elude lawful apprehension or arrest by a law enforcement official;
4. to the extent benefits are paid or payable under any workers' compensation law, disability benefits law or similar law. This exclusion does not apply to Accidental Death Benefits Coverage;
5. to any person resulting from, or sustained during practice or preparation for:
  - a. any pre-arranged or organized racing, stunting, speed, or demolition contest or activity; or
  - b. any driving activity conducted on a permanent or temporary racetrack or racecourse;
6. sustained by any person while **occupying** or when struck by any vehicle owned by **you** or furnished or available for **your** regular use, other than a **covered auto** for which this coverage has been purchased;
7. sustained by any person while **occupying** or when struck by any vehicle owned by a **relative** or furnished or available for the regular use of a **relative**, other than a **covered auto** for which this coverage has been purchased. This exclusion does not apply to **your** maintenance or use of such vehicle;
8. sustained by any person while **occupying** any vehicle or trailer while located for use as a residence or premises;
9. sustained by any person while **occupying a covered auto** while it is being used:
  - a. to carry persons or property for compensation or a fee; or
  - b. for retail or wholesale delivery, including, but not limited to, the pickup, transport, or delivery of magazines, newspapers, mail, or food.This exclusion does not apply to shared-expense car pools;
10. arising out of an accident involving any vehicle while being maintained or used by a person while employed or engaged in any **auto business**. This exclusion does not apply to **you**, a **relative**, or an agent or employee of **you** or a **relative**, when using a **covered auto**;
11. due to a nuclear reaction or radiation;
12. for which insurance:
  - a. is afforded under a nuclear energy liability insurance contract; or

- b. would be afforded under a nuclear energy liability insurance contract but for its termination upon exhaustion of its limit of liability;
13. caused directly or indirectly by:
    - a. war (declared or undeclared) or civil war;
    - b. warlike action by any military force of any government, sovereign or other authority using military personnel or agents. This includes any action taken to hinder or defend against an actual or expected attack; or
    - c. insurrection, rebellion, revolution, usurped power, or any action taken by a governmental authority to hinder or defend against any of these acts;
  14. caused directly or indirectly by:
    - a. any accidental or intentional discharge, dispersal, or release of radioactive, nuclear, pathogenic, or poisonous biological material; or
    - b. any intentional discharge, dispersal, or release of chemical or hazardous material for any purpose other than its safe and useful purpose; or
  15. to **you** or a **relative** while **occupying** any vehicle, other than a **covered auto**, without the permission of the owner of the vehicle or the person in lawful possession of the vehicle.

## LIMITS OF LIABILITY

The limits of liability shown on the **declarations page** for the coverages provided under this Part II - Personal Injury Protection Coverage is the most **we** will pay for each **insured person** in any one accident, regardless of the number of:

1. claims made;
2. **covered autos**;
3. **insured persons**;
4. lawsuits brought;
5. vehicles involved in the accident; or
6. premiums paid.

The limit of liability for Medical and Hospital Benefits is shown on the **declarations page**.

The limit of liability for Accidental Death Benefits is shown on the **declarations page**.

The limit of liability for Income Disability Benefits is:

1. 70% of the loss of gross income per week, not to exceed \$140 per week, if the **insured person** earned income from work at the time of the accident; or
2. \$70 per week, or any fractional part of a week, if the **insured person** did not earn income from work at the time of the accident.

In determining the amount payable under this Part II, the amount of damages sustained by the **insured person** due to **bodily injury** will be reduced by all sums paid or payable for the same elements of damages under:

1. Part I - Liability To Others; and
2. Part III - Uninsured/Underinsured Motorist Coverage.

## OTHER INSURANCE

1. With respect to **bodily injury** sustained by a **relative**, any Medical And Hospital Benefits Coverage or Income Disability Benefits Coverage afforded by this Part II shall be excess over any other similar coverage provided by a motor vehicle insurance policy under which the **relative** is a named insured.
2. If **you** or a **relative** are insured under any other motor vehicle insurance policy providing coverage for income disability benefits or similar coverage, the most that **you** or a **relative** may recover for **income disability benefits** shall not exceed the amount payable under the policy providing the highest limits of liability.
3. No coverage will be provided under this Part II for any person, other than **you** or a **relative**, who is a named insured or additional insured under any other valid and collectible motor vehicle insurance policy providing the minimum personal injury protection coverages required by law.

Subject to 1, 2, and 3 above, if there is other applicable personal injury protection insurance, **we** will pay only **our** share of the loss. **Our** share is the proportion that **our** limit of liability bears to the total of all applicable limits.

However, any coverage provided under this Part II arising out of the operation of a **loaner vehicle** by **you** will be primary over any applicable insurance provided by a policy issued to the owner of the **loaner vehicle** for personal injury protection insurance.

No one shall be entitled to recover duplicate payments for **income disability benefits** or **medical and hospital benefits** under this or any other motor vehicle insurance policy.

## PART III - UNINSURED/UNDERINSURED MOTORIST COVERAGE

### INSURING AGREEMENT - UNINSURED MOTORIST BODILY INJURY COVERAGE

If **you** pay the premium for this coverage, **we** will pay for damages that an **insured person** is legally entitled to recover from the owner or operator of an **uninsured motor vehicle** because of **bodily injury**:

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

### INSURING AGREEMENT - UNDERINSURED MOTORIST BODILY INJURY COVERAGE

If **you** pay the premium for this coverage, **we** will pay for damages that an **insured person** is legally entitled to recover from the owner or operator of an **underinsured motor vehicle** because of **bodily injury**:

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

**We** will pay under this Part III only after the limits of liability under all applicable bodily injury liability bonds and policies have been exhausted by payment of judgments or settlements.

## **INSURING AGREEMENT - UNINSURED MOTORIST PROPERTY DAMAGE COVERAGE**

If **you** pay the premium for this coverage, **we** will pay for damages that an **insured person** is legally entitled to recover from the owner or operator of an **uninsured motor vehicle** due to **property damage**:

1. to a **covered auto** listed on the **declarations page** as a vehicle for which Uninsured Motorist Property Damage Coverage is provided;
2. caused by an accident; and
3. arising out of the ownership, maintenance or use of an **uninsured motor vehicle**.

## **NOTICE AND CONSENT REQUIREMENT**

In order for coverage under this Part III to apply, an **insured person** must send to **us**, by certified mail, return receipt requested, written notice of any tentative settlement agreement reached with the owner or operator of an **underinsured motor vehicle**, or that person's liability insurer. However, this notice requirement shall not apply when **we** are making that offer of settlement as insurer of the owner or operator of the **underinsured motor vehicle**. The notice shall include:

1. written documentation of economic losses incurred, including copies of all medical bills;
2. written authorization or a court order allowing **us** to obtain medical reports from all employers and medical providers; and
3. written confirmation from the owner or operator's liability insurer as to the amount of the liability limits and the terms of the settlement agreement. The agreement shall not include any sum representing **punitive or exemplary damages**.

Within 30 days of **our** receipt of written notice of the tentative settlement agreement, **we** may pay the sum offered in settlement to the **insured person**. If **we** do this, **we** are subrogated to the **insured person's** right of recovery against the owner or operator of the **underinsured motor vehicle**, to the extent of **our** payment, and the **insured person** must assign to **us** all rights to any amount subsequently paid from all applicable liability bonds and policies.

Any judgment or settlement for damages against an owner or operator of an **uninsured motor vehicle** or an **underinsured motor vehicle** that arises out of a lawsuit brought without **our** written consent is not binding on **us**.

## **ADDITIONAL DEFINITIONS**

When used in this Part III:

1. "**Insured person**" means:
  - a. **you** or a **relative**;

- b. any person while operating a **covered auto** with the permission of **you** or a **relative**;
  - c. any person **occupying**, but not operating, a **covered auto**; and
  - d. any person who is entitled to recover damages covered by this Part III because of **bodily injury** sustained by a person described in a, b, or c above.
2. **"Property damage"** means physical damage to, destruction of, or loss of use of, a **covered auto**.
3. **"Underinsured motor vehicle"** means a land motor vehicle or trailer of any type to which a bodily injury liability bond or policy applies at the time of the accident, but its limit of liability for bodily injury is less than the amount of the **insured person's bodily injury** damages.

An **underinsured motor vehicle** does not include any vehicle or equipment:

- a. owned by **you** or a **relative** or furnished or available for the regular use of **you** or a **relative**;
  - b. operated on rails or crawler treads;
  - c. designed mainly for use off public roads, while not on public roads;
  - d. while located for use as a residence or premises;
  - e. that is a **covered auto**; or
  - f. that is an **uninsured motor vehicle**.
4. **"Uninsured motor vehicle"** means a land motor vehicle or trailer of any type:
- a. to which no bodily injury liability bond or policy applies at the time of the accident;
  - b. to which a bodily injury liability bond or policy applies at the time of the accident, but the bonding or insuring company:
    - (i) denies coverage; or
    - (ii) is insolvent, or becomes so within one year of the date of the accident; or
  - c. that is a hit-and-run vehicle whose owner or operator cannot be identified and which strikes:
    - (i) **you** or a **relative**;
    - (ii) a vehicle that **you** or a **relative** are **occupying**; or
    - (iii) a **covered auto**;
 provided that the **insured person**, or someone on his or her behalf, reports the accident to the police or civil authority within 24 hours or as soon as practicable after the accident.

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

- a. owned by **you** or a **relative** or furnished or available for the regular use of **you** or a **relative**;
- b. owned or operated by a self-insurer under any applicable motor vehicle law, except a self-insurer that is or becomes insolvent;
- c. operated on rails or crawler treads;
- d. designed mainly for use off public roads, while not on public roads;
- e. while located for use as a residence or premises;
- f. that is a **covered auto**; or
- g. that is an **underinsured motor vehicle**.

**EXCLUSIONS - READ THE FOLLOWING EXCLUSIONS CAREFULLY. IF AN EXCLUSION APPLIES, COVERAGE WILL NOT BE AFFORDED UNDER THIS PART III.**

- A. Coverage under this Part III will not apply:
1. to **bodily injury** sustained by any person while using or **occupying**:
    - a. a **covered auto** while being used:
      - (i) to carry persons or property for compensation or a fee; or
      - (ii) for retail or wholesale delivery, including, but not limited to, the pick-up, transport, or delivery of magazines, newspapers, mail, or food.  
This exclusion does not apply to shared-expense car pools; or
    - b. a motor vehicle that is owned by or available for the regular use of **you** or a **relative**. This exclusion does not apply to a **covered auto** that is insured under this Part III;
  2. to **bodily injury** sustained by **you** or a **relative** while using any vehicle, other than a **covered auto**, without the permission of the owner of the vehicle or the person in lawful possession of the vehicle;
  3. directly or indirectly to benefit any insurer or self-insurer under any of the following or similar laws:
    - a. workers' compensation law; or
    - b. disability benefits law;
  4. to any **punitive or exemplary damages**; or
  5. to **bodily injury** sustained by any person if that person or the legal representative of that person settles without **our** written consent.
- B. Coverage under this Part III will not apply to **property damage**:
1. sustained while a **covered auto** is being used:
    - a. to carry persons or property for compensation or a fee; or
    - b. for retail or wholesale delivery, including, but not limited to, the pickup, transport, or delivery of magazines, newspapers, mail, or food.  
This exclusion does not apply to shared-expense car pools;
  2. resulting from, or sustained during practice or preparation for:
    - a. any pre-arranged or organized racing, stunting, speed, or demolition contest or activity; or
    - b. any driving activity conducted on a permanent or temporary racetrack or racecourse;
  3. to a **covered auto** for which insurance:
    - a. is afforded under a nuclear energy liability insurance contract; or
    - b. would be afforded under a nuclear energy liability insurance contract but for its termination upon exhaustion of its limit of liability; or
  4. to a trailer.

**LIMITS OF LIABILITY**

The limit of liability shown on the **declarations page** for Uninsured/Underinsured Motorist Coverage is the most **we** will pay regardless of the number of:

1. claims made;

2. **covered autos**;
3. **insured persons**;
4. lawsuits brought;
5. vehicles involved in the accident; or
6. premiums paid.

If **your declarations page** shows a split limit:

1. the amount shown for “each person” is the most **we** will pay for all damages due to **bodily injury** to one person;
2. subject to the “each person” limit, the amount shown for “each accident” is the most **we** will pay for all damages due to **bodily injury** sustained by two or more persons in any one accident; and
3. the amount shown for “**property damage**” is the most **we** will pay for the aggregate of all **property damage** caused by any one accident.

The “each person” limit of liability includes the total of all claims made for **bodily injury** to an **insured person** and all claims of others derived from such **bodily injury**, including, but not limited to, emotional injury or mental anguish resulting from the **bodily injury** of another or from witnessing the **bodily injury** to another, loss of society, loss of companionship, loss of services, loss of consortium, and wrongful death.

If the **declarations page** shows that “combined single limit” or “CSL” applies, the amount shown is the most **we** will pay for the total of all damages resulting from any one accident. However, without changing this total limit of liability, **we** will comply with any law that requires **us** to provide any separate limits.

In determining the amount payable under this Part III, the amount of the damages sustained by the **insured person** due to **bodily injury** will be reduced by all sums:

1. paid by or on behalf of any persons or organizations that may be legally responsible;
2. paid under Part I - Liability To Others; and
3. paid or payable because of **bodily injury** under any of the following or similar laws:
  - a. workers’ compensation law; or
  - b. disability benefits law.

The limit of liability for **property damage** to a **covered auto** is the lowest of:

1. the actual cash value of the **covered auto** at the time of the accident;
2. the amount necessary to replace the **covered auto**;
3. the amount necessary to repair the **covered auto** to its pre-loss condition; or
4. the limit of liability shown on the **declarations page** for Uninsured Motorist Property Damage.

The limit of liability for **property damage** under this Part III will be reduced by all sums paid because of **property damage** by or on behalf of any persons or organizations that may be legally responsible, including, but not limited to, all sums paid under Part I - Liability To Others.

Payments for **property damage** under this Part III are subject to the following provisions:

1. any amount payable under this Part III for **property damage** shall be subject to the deductible shown on the **declarations page**;
2. no more than one deductible shall be applied to any one accident;
3. the deductible under this Part III shall not apply if:
  - a. the operator of the **uninsured motor vehicle** has been positively identified and is solely at fault; and
  - b. the **covered auto** is insured for Collision Coverage under Part IV - Damage To A Vehicle; and
4. IN THE REPAIR OF **YOUR COVERED MOTOR VEHICLE UNDER THE PHYSICAL DAMAGE COVERAGE PROVISIONS OF THIS POLICY, WE MAY REQUIRE OR SPECIFY THE USE OF MOTOR VEHICLE PARTS NOT MADE BY THE ORIGINAL MANUFACTURER. THESE PARTS ARE REQUIRED TO BE AT LEAST EQUAL IN TERMS OF FIT, QUALITY, PERFORMANCE, AND WARRANTY TO THE ORIGINAL MANUFACTURER PARTS THEY REPLACE.**

No one will be entitled to duplicate payments for the same elements of damages.

If multiple auto policies issued by **us** are in effect for **you**, **we** will pay no more than the highest limit of liability for this coverage available under any one policy.

## **OTHER INSURANCE**

If there is other applicable uninsured or underinsured motorist coverage, **we** will pay only **our** share of the damages. **Our** share is the proportion that **our** limit of liability bears to the total of all available coverage limits. However, any insurance **we** provide under this Part III will be excess over any other uninsured or underinsured motorist coverage, except with respect to:

1. coverage for **bodily injury to you** or a **relative** when **occupying a covered auto**; and
2. similar insurance provided by a policy issued to the owner of the **loaner vehicle** if **you** are operating the **loaner vehicle** involved in an accident and:
  - a. an **insured person** sustains **bodily injury**; or
  - b. the **loaner vehicle** sustains **property damage**.

## **ARBITRATION**

If **we** and an **insured person** cannot agree on:

1. the legal liability of the operator or owner of an **underinsured motor vehicle** or **uninsured motor vehicle**; or
  2. the amount of the damages sustained by the **insured person**;
- this will be determined by arbitration if **we** and the **insured person** mutually agree to arbitration prior to the expiration of the bodily injury statute of limitations in the state in which the accident occurred.

In the event of arbitration, each party will select an arbitrator. The two arbitrators will select a third. If the two arbitrators cannot agree on a third arbitrator within 30 days,

then on joint application by the **insured person** and **us**, the third arbitrator will be appointed by a court having jurisdiction.

Each party will pay the costs and fees of its arbitrator and any other expenses it incurs. The costs and fees of the third arbitrator will be shared equally.

Unless both parties agree otherwise, arbitration will take place in the county in which the **insured person** resides. Local rules of procedure and evidence will apply.

A decision agreed to by two of the arbitrators will determine:

1. the legal liability of the operator or owner of an **underinsured motor vehicle** or **uninsured motor vehicle**; and
  2. the amount of the damages sustained by the **insured person**;
- but will not be binding on either the **insured person** or **us**. The arbitrators will have no authority to award an amount in excess of the limit of liability.

**We** and an **insured person** may agree to an alternate form of arbitration.

## **PART IV - DAMAGE TO A VEHICLE**

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

If **you** pay the premium for this coverage, **we** will pay for sudden, direct, and accidental loss to a:

1. **covered auto**, including an attached **trailer**; or
  2. **non-owned auto**;
- and its **custom parts or equipment**, resulting from **collision**.

In addition, **we** will pay the reasonable cost to replace any child safety seat damaged in an accident to which this coverage applies.

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

If **you** pay the premium for this coverage, **we** will pay for sudden, direct, and accidental loss to a:

1. **covered auto**, including an attached **trailer**; or
  2. **non-owned auto**;
- and its **custom parts or equipment**, that is not caused by **collision**.

A loss not caused by **collision** includes:

1. contact with an animal (including a bird);
2. explosion or earthquake;
3. fire;
4. malicious mischief or vandalism;
5. missiles or falling objects;
6. riot or civil commotion;

7. theft or larceny;
8. windstorm, hail, water, or flood; or
9. breakage of glass not caused by **collision**.

In addition, **we** will pay for:

1. reasonable transportation expenses incurred by **you** if a **covered auto** is stolen; and
2. loss of use damages that **you** are legally liable to pay if a **non-owned auto** is stolen.

A combined maximum of \$900, not exceeding \$30 per day, will apply to these additional benefits. The additional benefit for transportation expenses will not apply if **you** purchased Rental Reimbursement Coverage for the stolen **covered auto**.

Coverage for transportation expenses and loss of use damages begins 48 hours after **you** report the theft to **us** and ends the earliest of:

1. when the **auto** has been recovered and returned to **you** or its owner;
2. when the **auto** has been recovered and repaired;
3. when the **auto** has been replaced; or
4. 72 hours after **we** make an offer to settle the loss if the **auto** is deemed by **us** to be a total loss.

**We** must receive written proof of transportation expenses and loss of use damages.

## **INSURING AGREEMENT - ADDITIONAL CUSTOM PARTS OR EQUIPMENT COVERAGE**

**We** will pay for sudden, direct, and accidental loss to **custom parts or equipment** on a **covered auto** for which this coverage has been purchased. This coverage applies only if **you** have purchased both Comprehensive Coverage and Collision Coverage for that **covered auto** and the loss is covered under one of those coverages. This coverage applies in addition to any coverage automatically provided for **custom parts or equipment** under Comprehensive Coverage or Collision Coverage.

## **INSURING AGREEMENT - RENTAL REIMBURSEMENT COVERAGE**

**We** will reimburse rental charges incurred when **you** rent an **auto** from a rental agency or auto repair shop due to a loss to a **covered auto** for which Rental Reimbursement Coverage has been purchased. This coverage applies only if **you** have purchased both Comprehensive Coverage and Collision Coverage for that **covered auto** and the loss is covered under one of those coverages.

Additional fees or charges for insurance, damage waivers, optional equipment, fuel, or accessories are not covered.

This coverage is limited to the each day limit shown on the **declarations page** for a maximum of 30 days.

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

Rental charges will be reimbursed beginning:

1. when the **covered auto** cannot be driven due to a loss; or
2. if the **covered auto** can be driven, when **you** deliver the **covered auto** to an auto repair shop or one of **our** Claims Service Centers for repairs due to the loss;

and ending the earliest of:

1. when the **covered auto** has been returned to **you**;
2. when the **covered auto** has been repaired;
3. when the **covered auto** has been replaced;
4. 72 hours after **we** make an offer to settle the loss if the **covered auto** is deemed by **us** to be a total loss; or
5. when **you** incur 30 days worth of rental charges.

**You** must provide **us** written proof of **your** rental charges to be reimbursed.

## **INSURING AGREEMENT - LOAN/LEASE PAYOFF COVERAGE**

If **you** pay the premium for this coverage, and the **covered auto** for which this coverage was purchased is deemed by **us** to be a total loss, **we** will pay, in addition to any amounts otherwise payable under this Part IV, the difference between:

1. the actual cash value of the **covered auto** at the time of the total loss; and
2. any greater amount the owner of the **covered auto** is legally obligated to pay under a written loan or lease agreement to which the **covered auto** is subject at the time of the total loss, reduced by:
  - a. unpaid finance charges or refunds due to the owner for such charges;
  - b. excess mileage charges or charges for wear and tear;
  - c. charges for extended warranties or refunds due to the owner for extended warranties;
  - d. charges for credit insurance or refunds due to the owner for credit insurance;
  - e. past due payments and charges for past due payments; and
  - f. collection or repossession expenses.

However, **our** payment under this coverage shall not exceed the limit of liability shown on the **declarations page**. The limit of liability is a percentage of the actual cash value of the **covered auto** at the time of the loss.

This coverage applies only if **you** have purchased both Comprehensive Coverage and Collision Coverage for that **covered auto** and the loss is covered under one of those coverages.

## **ADDITIONAL DEFINITIONS**

When used in this Part IV:

1. "**Collision**" means the upset of a vehicle or its impact with another vehicle or object.

2. “**Custom parts or equipment**” means equipment, devices, accessories, enhancements, and changes, other than those that are offered by the manufacturer specifically for that **auto** model, or that are installed by the auto dealership as part of the original sale of a new **auto**, that:
  - a. are permanently installed or attached; and
  - b. alter the appearance or performance of the **auto**.
3. “**Mechanical parts**” means operational parts on a vehicle that wear out over time or have a finite useful life or duration typically shorter than the life of the vehicle as a whole. **Mechanical parts** do not include external crash parts, wheels, paint, or windshields and other glass.
4. “**Non-owned auto**” means an **auto** that is not owned by or furnished or available for the regular use of **you** or a **relative** while in the custody of or being operated by **you** or a **relative** with the permission of the owner of the **auto** or the person in lawful possession of the **auto**.

**EXCLUSIONS - READ THE FOLLOWING EXCLUSIONS CAREFULLY. IF AN EXCLUSION APPLIES, COVERAGE WILL NOT BE AFFORDED UNDER THIS PART IV.**

Coverage under this Part IV will not apply for loss:

1. to any vehicle while being used:
  - a. to carry persons or property for compensation or a fee; or
  - b. for retail or wholesale delivery, including, but not limited to, the pickup, transport, or delivery of magazines, newspapers, mail, or food.This exclusion does not apply to shared-expense car pools;
2. to a **non-owned auto** while being maintained or used by a person while employed or engaged in any **auto business**;
3. to any vehicle resulting from, or sustained during practice or preparation for:
  - a. any pre-arranged or organized racing, stunting, speed, or demolition contest or activity; or
  - b. any driving activity conducted on a permanent or temporary racetrack or racecourse;
4. to any vehicle for which insurance:
  - a. is afforded under a nuclear energy liability insurance contract; or
  - b. would be afforded under a nuclear energy liability insurance contract but for its termination upon exhaustion of its limit of liability;
5. to any vehicle caused by an intentional act committed by or at the direction of **you**, a **relative**, or the owner of a **non-owned auto**, even if the actual damage is different than that which was intended or expected;
6. to a **covered auto** while it is leased or rented to others or given in exchange for compensation. This exclusion does not apply to the operation of a **covered auto** by **you** or a **relative**;
7. due to destruction or confiscation by governmental or civil authorities of any vehicle because **you** or any **relative** engaged in illegal activities;
8. to any vehicle that is due and confined to:
  - a. wear and tear;
  - b. freezing;

- c. mechanical, electrical, or electronic breakdown or failure; or
  - d. road damage to tires.
- This exclusion does not apply if the damage results from the theft of a vehicle;
9. to portable equipment, devices, accessories, and any other personal effects that are not permanently installed. This includes, but is not limited to:
    - a. tapes, compact discs, cassettes, DVDs, and other recording or recorded media;
    - b. any case or other container designed for use in storing or carrying tapes, compact discs, cassettes, DVDs, or other recording or recorded media;
    - c. any device used for the detection or location of radar, laser, or other speed measuring equipment or its transmissions; and
    - d. CB radios, telephones, two-way mobile radios, DVD players, personal computers, personal digital assistants, or televisions;
  10. to any vehicle for diminution of value;
  11. to any vehicle caused directly or indirectly by:
    - a. war (declared or undeclared) or civil war;
    - b. warlike action by any military force of any government, sovereign or other authority using military personnel or agents. This includes any action taken to hinder or defend against an actual or expected attack; or
    - c. insurrection, rebellion, revolution, usurped power, or any action taken by a governmental authority to hinder or defend against any of these acts;
  12. to any vehicle caused directly or indirectly by:
    - a. any accidental or intentional discharge, dispersal or release of radioactive, nuclear, pathogenic or poisonous biological material; or
    - b. any intentional discharge, dispersal or release of chemical or hazardous material for any purpose other than its safe and useful purpose; or
  13. to any vehicle caused by, or reasonably expected to result from, a criminal act or omission of **you**, a **relative**, or the owner of a **non-owned auto**. This exclusion applies regardless of whether **you**, the **relative**, or the owner of the **non-owned auto** is actually charged with, or convicted of, a crime. For purposes of this exclusion, criminal acts or omissions do not include traffic violations.

## LIMITS OF LIABILITY

1. The limit of liability for loss to a **covered auto**, **non-owned auto**, or **custom parts or equipment** is the lowest of:
  - a. the actual cash value of the stolen or damaged property at the time of the loss reduced by the applicable deductible;
  - b. the amount necessary to replace the stolen or damaged property reduced by the applicable deductible;
  - c. the amount necessary to repair the damaged property to its pre-loss condition reduced by the applicable deductible; or
  - d. the Stated Amount shown on the **declarations page** for that **covered auto**.

However, the most **we** will pay for loss to:

  - a. **custom parts or equipment** is \$1,000 unless **you** purchased Additional Custom Parts or Equipment Coverage (“ACPE”). If **you** purchased ACPE, the most **we** will pay is \$1,000 plus the amount of ACPE **you** purchased;

- b. a **trailer** is the limit of liability shown on the **declarations page** for that **trailer**. If the **trailer** is not shown on the **declarations page**, the limit of liability is \$500.
2. Payments for loss to a **covered auto, non-owned auto, or custom parts or equipment** are subject to the following provisions:
- a. If coverage applies to a **non-owned auto**, we will provide the broadest coverage applicable to any **covered auto** shown on the **declarations page**.
  - b. If **you** have elected a Stated Amount for a **covered auto**, the Stated Amount is the most **we** will pay for all loss to that **covered auto**, including its **custom parts or equipment**.
  - c. Coverage for **custom parts or equipment** will not cause **our** limit of liability for loss to an **auto** under this Part IV to be increased to an amount in excess of the actual cash value of the **auto**, including its **custom parts or equipment**.
  - d. In determining the amount necessary to repair damaged property to its pre-loss condition, the amount to be paid by **us**:
    - (i) will not exceed the prevailing competitive labor rates charged in the area where the property is to be repaired and the cost of repair or replacement parts and equipment, as reasonably determined by **us**; and
    - (ii) will be based on the cost of repair or replacement parts and equipment which may be new, reconditioned, remanufactured, or used, including, but not limited to:
      - (a) original manufacturer parts or equipment; and
      - (b) nonoriginal manufacturer parts or equipment.
  - e. To determine the amount necessary to repair or replace the damaged property as referred to in subsection 1, the total cost of necessary repair or replacement may be reduced by unrepaired prior damage. Unrepaired prior damage includes broken, cracked, or missing parts; rust; dents; scrapes; gouges; and peeling paint. The reduction for unrepaired prior damage is the cost of labor, parts, and materials necessary to repair or replace damage, deterioration, defects, or wear and tear on exterior body parts, windshields and other glass, wheels, and paint, that existed prior to the accident and that is eliminated as a result of the repair or replacement of property damaged in the loss.
  - f. To determine the amount necessary to repair or replace the damaged property as referred to in subsection 1, an adjustment may be made for betterment or depreciation and physical condition on:
    - (i) batteries;
    - (ii) tires;
    - (iii) engines and transmissions, if the engine has greater than 80,000 miles; and
    - (iv) any other **mechanical parts** that are nonfunctioning or inoperative.**We** will not make an adjustment for the labor costs associated with the replacement or repair of these parts.
  - g. The actual cash value is determined by the market value, age, and condition of the vehicle at the time the loss occurs.
3. No deductible will apply to a loss to window glass when the glass is repaired instead of replaced.
4. Duplicate recovery for the same elements of damages is not permitted.

5. Any amount paid or payable under this Part IV shall be reduced by any amount paid for **property damage** to the vehicle under Part III - Uninsured/Underinsured Motorist Coverage.
6. IN THE REPAIR OF **YOUR** COVERED MOTOR VEHICLE UNDER THE PHYSICAL DAMAGE COVERAGE PROVISIONS OF THIS POLICY, **WE** MAY REQUIRE OR SPECIFY THE USE OF MOTOR VEHICLE PARTS NOT MADE BY THE ORIGINAL MANUFACTURER. THESE PARTS ARE REQUIRED TO BE AT LEAST EQUAL IN TERMS OF FIT, QUALITY, PERFORMANCE, AND WARRANTY TO THE ORIGINAL MANUFACTURER PARTS THEY REPLACE.

## PAYMENT OF LOSS

**We** may, at **our** option:

1. pay for the loss in money; or
2. repair or replace the damaged or stolen property.

At **our** expense, **we** may return any recovered stolen property to **you** or to the address shown on the **declarations page**, with payment for any damage resulting from the theft. **We** may keep all or part of the property at the agreed or appraised value.

**We** may settle any loss with **you** or the owner or lienholder of the property.

## NO BENEFIT TO BAILEE

Coverage under this Part IV will not directly or indirectly benefit any carrier or other bailee for hire.

## LOSS PAYABLE CLAUSE

Payment under this Part IV for a loss to a **covered auto** will be made according to **your** interest and the interest of any lienholder shown on the **declarations page** or designated by **you**. At **our** option, payment may be made to both jointly, or to either separately. Either way, **we** will protect the interest of both. However, if the **covered auto** is not a total loss, **we** may make payment to **you** and the repairer of the **auto**.

Protection of the lienholder's financial interest will not be affected by any act or omission by any person entitled to coverage under this policy. However, protection under this clause does not apply:

1. in any case of conversion, embezzlement, secretion, or willful damaging or destruction, of the **covered auto** by or at the direction of **you**, a **relative**, or the owner of the **covered auto**; or
2. to any loss caused by, or reasonably expected to result from, a criminal act or omission of **you**, a **relative**, or the owner of the **covered auto**. This applies regardless of whether **you**, the **relative**, or the owner of the **covered auto** is actually charged with, or convicted of, a crime. For purposes of this clause, criminal acts or omissions do not include traffic violations.

If this policy is cancelled, nonrenewed, or voided, the interest of any lienholder under this agreement will also terminate.

When **we** make payment to a lienholder for loss under this policy, **we** will be subrogated to the rights of the party **we** pay, to the extent of **our** payment. When **we** pay a lienholder for a loss for which **you** are not covered, **we** are entitled to the lienholder's right of recovery against **you** to the extent of **our** payment. **Our** right to subrogation will not impair the lienholder's right to recover the full amount of its claim.

## **OTHER SOURCES OF RECOVERY**

If other sources of recovery also cover the loss, **we** will pay only **our** share of the loss. **Our** share is the proportion that **our** limit of liability bears to the total of all applicable limits. However, any insurance **we** provide for a **non-owned auto**, or **trailer** not shown on the **declarations page**, will be excess over any other collectible source of recovery including, but not limited to:

1. any coverage provided by the owner of the **non-owned auto** or **trailer**;
2. any other applicable physical damage insurance; and
3. any other source of recovery applicable to the loss.

Any insurance **we** provide for a **loaner vehicle** will be primary over any applicable insurance provided by a policy issued to the owner of the **loaner vehicle** for loss arising out of **your** use of the **loaner vehicle**.

## **APPRAISAL**

If **we** cannot agree with **you** on the amount of a loss, then **we** and the **insured person** may mutually agree to an appraisal of the loss. Within 30 days of any agreement to an appraisal, each party shall appoint a competent appraiser and shall notify the other party of that appraiser's identity. The appraisers will determine the amount of loss. If they fail to agree, the disagreement will be submitted to a qualified umpire chosen by the appraisers. If the two appraisers are unable to agree upon an umpire within 15 days, **we** or **you** may request that a judge of a court of record, in the county where **you** reside, select an umpire. The appraisers and umpire will determine the amount of loss. The amount of loss agreed to by both appraisers, or by one appraiser and the umpire, will determine the amount payable under this Part IV, but will not be binding. **You** will pay **your** appraiser's fees and expenses. **We** will pay **our** appraiser's fees and expenses. All other expenses of the appraisal, including payment of the umpire if one is selected, will be shared equally between **us** and **you**. Neither **we** nor **you** waive any rights under this policy by agreeing to an appraisal.

## **PART V - ROADSIDE ASSISTANCE COVERAGE**

### **INSURING AGREEMENT**

If **you** pay the premium for this coverage, **we** will pay for **our** authorized service representative to provide the following services when necessary due to a **covered emergency**:

1. towing of a **covered disabled auto** to the nearest qualified repair facility; and

- labor on a **covered disabled auto** at the place of disablement.

If a **covered disabled auto** is towed to any place other than the nearest qualified repair facility, **you** will be responsible for any additional charges incurred.

## **ADDITIONAL DEFINITIONS**

When used in this Part V:

- “Covered disabled auto”** means a **covered auto** for which this coverage has been purchased that sustains a **covered emergency**.
- “Covered emergency”** means a disablement that is a result of:
  - mechanical or electrical breakdown;
  - battery failure;
  - insufficient supply of fuel, oil, water, or other fluid;
  - flat tire;
  - lock-out; or
  - entrapment in snow, mud, water, or sand, within 100 feet of a road or highway.

## **EXCLUSIONS - READ THE FOLLOWING EXCLUSIONS CAREFULLY. IF AN EXCLUSION APPLIES, COVERAGE WILL NOT BE AFFORDED UNDER THIS PART V.**

Coverage under this Part V will not apply to:

- the cost of purchasing parts, fluid, lubricants, fuel, or replacement keys, or the labor to make replacement keys;
- installation of products or material not related to the disablement;
- labor not related to the disablement;
- labor on a **covered disabled auto** for any time period in excess of 60 minutes per disablement;
- towing or storage related to impoundment, abandonment, illegal parking, or other violations of law;
- assistance with jacks, levelers, airbags, or awnings;
- towing from a service station, garage, or repair shop;
- labor or repair work performed at a service station, garage, or repair shop;
- auto storage charges;
- a second service call or tow for a single disablement;
- disablement that occurs on roads not regularly maintained, sand beaches, open fields, or areas designated as not passable due to construction, weather, or earth movement;
- mounting or removing of snow tires or chains;
- tire repair;
- repeated service calls for a **covered disabled auto** in need of routine maintenance or repair;
- disablement that results from an intentional or willful act or action by **you**, a **relative**, or the operator of a **covered disabled auto**; or
- a trailer.

## UNAUTHORIZED SERVICE PROVIDER

When service is rendered by a provider in the business of providing roadside assistance and towing services, other than one of **our** authorized service representatives, **we** will pay only reasonable charges, as determined by **us**, for:

1. towing of a **covered disabled auto** to the nearest qualified repair facility; and
2. labor on a **covered disabled auto** at the place of disablement; which is necessary due to a **covered emergency**.

## OTHER INSURANCE

Any coverage provided under this Part V for service rendered by an unauthorized service provider will be excess over any other collectible insurance or towing protection coverage.

## PART VI - DUTIES IN CASE OF AN ACCIDENT OR LOSS

For coverage to apply under this policy, **you** or the person seeking coverage must promptly report each accident or loss even if **you** or the person seeking coverage is not at fault. **You** or the person seeking coverage must provide **us** with all accident or loss information including time, place, and how the accident or loss happened. **You** or the person seeking coverage must also obtain and provide **us** the names and addresses of all persons involved in the accident or loss, the names and addresses of any witnesses, and the license plate numbers of the vehicles involved.

If **you** or the person seeking coverage cannot identify the owner or operator of a vehicle involved in the accident, or if theft or vandalism has occurred, **you** or the person seeking coverage must notify the police within 24 hours or as soon as practicable.

A person seeking coverage must:

1. cooperate with **us** in any matter concerning a claim or lawsuit;
2. provide any written proof of loss **we** may reasonably require;
3. allow **us** to take signed and recorded statements, including sworn statements and examinations under oath, which **we** may conduct outside the presence of **you** or any other person seeking coverage, and answer all reasonable questions **we** may ask as often as **we** may reasonably require;
4. promptly call to notify **us** about any claim or lawsuit and send **us** any and all legal papers relating to the claim or suit;
5. attend hearings and trials as **we** require;
6. take reasonable steps after a loss to protect the **covered auto**, or any other vehicle for which coverage is sought, from further loss. **We** will pay reasonable expenses incurred in providing that protection. If failure to provide such protection results in further loss, any additional damages will not be covered under this policy;
7. allow **us** to have the damaged **covered auto**, or any other damaged vehicle for which coverage is sought, inspected and appraised before its repair or disposal;

- submit to medical examinations at **our** expense by doctors **we** select as often as **we** may reasonably require; and
- authorize **us** to obtain medical and other records.

## **PART VII - GENERAL PROVISIONS**

### **POLICY PERIOD AND TERRITORY**

This policy applies only to accidents and losses occurring during the policy period shown on the **declarations page** and that occur within a state, territory, or possession of the United States of America, or a province or territory of Canada, or while a **covered auto** is being transported between their ports.

### **CHANGES**

This policy contract, **your** insurance application (which is made a part of this policy as if attached hereto), the **declarations page**, and all endorsements to this policy issued by **us**, contain all the agreements between **you** and **us**. Subject to the following, the terms of this policy may not be changed or waived except by an endorsement issued by **us**.

The premium for this policy is based on information **we** received from **you** and other sources. **You** agree to cooperate with **us** in determining if this information is correct and complete, and to notify **us** if it changes during the policy period. If this information is incorrect, incomplete, or changes during the policy period, **you** agree that **we** may adjust **your** premium accordingly. Changes that may result in a premium adjustment are contained in **our** rates and rules. These include, but are not limited to, **you** or a **relative** obtaining a driver's license or operator's permit, or changes in:

- the number, type, or use classification of **covered autos**;
- operators using **covered autos**;
- an operator's marital status;
- the place of principal garaging of any **covered auto**;
- coverage, deductibles, or limits of liability; or
- rating territory or discount eligibility.

The coverage provided in **your** policy may be changed only by the issuance of a new policy or an endorsement by **us**. However, if during the policy period **we** broaden any coverage afforded under the current edition of **your** policy without additional premium charge, that change will automatically apply to **your** policy as of the date the coverage change is implemented in **your** state.

If **you** ask **us** to delete a vehicle from this policy, no coverage will apply to that vehicle as of the date and time **you** ask **us** to delete it.

### **DUTY TO REPORT CHANGES**

**You** must promptly notify **us** when:

- your** mailing or residence address changes;

2. the principal garaging address for a **covered auto** changes;
3. there is a change with respect to the residents in **your** household or the persons who regularly operate a **covered auto**;
4. an operator's marital status changes; or
5. **you** or a **relative** obtain a driver's license or operator's permit.

## SETTLEMENT OF CLAIMS

**We** may use estimating, appraisal, or injury evaluation systems to assist **us** in adjusting claims under this policy and to assist **us** in determining the amount of damages, expenses, or loss payable under this policy. Such systems may be developed by **us** or a third party and may include computer software, databases, and specialized technology.

## TERMS OF POLICY CONFORMED TO STATUTES

If any provision of this policy fails to conform to the statutes of the state listed on **your** application as **your** residence, the provision shall be deemed amended to conform to such statutes. All other provisions shall be given full force and effect. Any disputes as to the coverages provided or the provisions of this policy shall be governed by the law of the state listed on **your** application as **your** residence.

## TRANSFER OF INTEREST

The rights and duties under this policy may not be transferred to another person without **our** written consent. However, if a named insured shown on the **declarations page** dies, this policy will provide coverage until the end of the policy period for the legal representative of the named insured, while acting as such, and for persons covered under this policy on the date of the named insured's death.

## FRAUD OR MISREPRESENTATION

This policy was issued in reliance upon the information provided on **your** insurance application. **We** may void this policy at any time, including after the occurrence of an accident or loss, if **you**:

1. made incorrect statements or representations to **us** with regard to any material fact or circumstance;
2. concealed or misrepresented any material fact or circumstance; or
3. engaged in fraudulent conduct;

at the time of application. If **we** void this policy, this shall not affect coverage under Part I - Liability To Others for an accident that occurs before **we** notify the named insured that the policy is void. No payment will be made to any person who concealed or misrepresented any material fact or circumstance, or engaged in fraudulent conduct. If **we** void this policy, **you** must reimburse **us** if **we** make a payment.

**We** may deny coverage for an accident or loss if **you** or a person seeking coverage has knowingly concealed or misrepresented any material fact or circumstance, or engaged in fraudulent conduct, in connection with the presentation or settlement of a claim.

## PAYMENT OF PREMIUM AND FEES

If **your** initial premium payment is by check, draft, electronic funds transfer, or similar form of remittance, coverage under this policy is conditioned on payment to **us** by the financial institution. If the financial institution upon presentment does not honor the check, draft, electronic funds transfer, or similar form of remittance, this policy may, at **our** option, be deemed void from its inception. This means **we** will not be liable under this policy for any claims or damages that would otherwise be covered if the check, draft, electronic funds transfer, or similar form of remittance had been honored by the financial institution. Any action by **us** to present the remittance for payment more than once shall not affect **our** right to void this policy.

In addition to premium, fees may be charged on **your** policy. **We** may charge fees for installment payments, late payments, and other transactions. Payments made on **your** policy will be applied first to fees, then to premium due.

## CANCELLATION

**You** may cancel this policy during the policy period by calling or writing **us** and stating the future date **you** wish the cancellation to be effective.

**We** may cancel this policy during the policy period by mailing a notice of cancellation to the named insured shown on the **declarations page** at the last known address appearing in **our** records.

**We** will give at least 10 days notice of cancellation if the policy is cancelled for nonpayment of premium.

**We** will give at least 20 days notice of cancellation in all other cases.

**We** may cancel this policy for any reason if the notice is mailed within the first 59 days of the initial policy period.

After this policy is in effect for more than 59 days, or if this is a renewal or continuation policy, **we** may cancel only for one or more of the following reasons:

1. nonpayment of premium;
2. material misrepresentation or fraud with respect to any material fact in the procurement or renewal of this policy;
3. material misrepresentation or fraud in the submission of any claim under this policy;
4. loss of driving privileges during the policy period, or, if this is a renewal policy, during the policy period or the 180 days immediately preceding the effective date of renewal, through suspension or revocation of an operator's license or motor vehicle registration issued to **you**, any driver in **your** household, or any regular operator of a **covered auto**. However, **we** will not cancel **your** policy solely due to an administrative revocation or suspension of an operator's license pursuant to Arkansas Code Annotated §5-65-104;

5. **you** or any driver of the **covered auto** have been convicted of:
  - a. driving while intoxicated;
  - b. homicide or assault arising out of the use of a motor vehicle; or
  - c. three separate convictions of speeding or reckless driving, or any combination of the two, during the policy period or the three months prior to the effective date of the policy; or
6. any other reason permitted by law.

Proof of mailing will be sufficient proof of notice. If this policy is cancelled, coverage will not be provided as of the effective date and time shown in the notice of cancellation. For purposes of cancellation, this policy is neither severable nor divisible. Any cancellation will be effective for all coverages for all persons and all vehicles.

## **CANCELLATION REFUND**

Upon cancellation, **you** may be entitled to a premium refund. However, **our** making or offering of a refund is not a condition of cancellation.

If this policy is cancelled, any refund due will be computed on a daily pro rata basis. However, **we** will retain a cancellation fee if this policy is cancelled at **your** request or if cancellation is for nonpayment of premium. A cancellation fee will be charged only during the initial policy period.

## **NONRENEWAL**

If neither **we** nor one of **our** affiliates offers to renew or continue this policy, other than for nonpayment of premium, **we** will mail notice of nonrenewal to the named insured shown on the **declarations page** at the last known address appearing in **our** records. Proof of mailing will be sufficient proof of notice. Notice will be mailed at least 30 days before the end of the policy period.

## **AUTOMATIC TERMINATION**

If **we** or an affiliate offers to renew or continue this policy and **you** or **your** representative does not accept, this policy will automatically terminate at the end of the current policy period. Failure to pay the required renewal or continuation premium when due will mean that **you** have not accepted **our** offer.

If **you** obtain other insurance on a **covered auto**, any similar insurance provided by this policy will terminate as to that **covered auto** on the effective date of the other insurance.

If a **covered auto** is sold or transferred to someone other than **you** or a **relative**, any insurance provided by this policy will terminate as to that **covered auto** on the effective date of the sale or transfer.

## LEGAL ACTION AGAINST US

**We** may not be sued unless there is full compliance with all the terms of this policy.

**We** may not be sued for payment under Part I - Liability To Others until the obligation of an insured person under Part I to pay is finally determined either by judgment after trial against that person or by written agreement of the insured person, the claimant, and **us**. No one will have any right to make **us** a party to a lawsuit to determine the liability of an insured person.

If **we** retain salvage, **we** have no duty to preserve or otherwise retain the salvage for any purpose, including evidence for any civil or criminal proceeding.

## OUR RIGHTS TO RECOVER PAYMENT

**We** are entitled to the rights of recovery that the insured person to whom payment was made has against another after the insured person has been fully compensated for his or her loss, to the extent of **our** payment. That insured person may be required to sign documents related to the recovery and must do whatever else **we** require to help **us** exercise those recovery rights, and do nothing after an accident or loss to prejudice those rights.

When an insured person has been paid by **us** and also recovers from another, the amount recovered will be held by the insured person in trust for **us** and reimbursed to **us** to the extent of **our** payment. However, this shall not apply to payment by **us** under any Accidental Death Benefits Coverage provided under Part II - Personal Injury Protection Coverage. If **we** are not reimbursed, **we** may pursue recovery of that amount directly against that insured person.

If an insured person recovers from another without **our** written consent, the insured person's right to payment under any affected coverage will no longer exist.

**Our** right of recovery does not apply to underinsured motorist benefits if:

1. the **insured person** sends **us** written notice, in accordance with the requirements of the Notice And Consent Requirement provision in Part III - Uninsured/Underinsured Motorist Coverage, of any tentative settlement agreement reached with the owner or operator of an underinsured motor vehicle, or such person's liability insurer; and
2. **we** fail to pay the sum offered in settlement to the **insured person** by the owner or operator of the underinsured motor vehicle, or that person's liability insurer, within 30 days of **our** receipt of such notice.

**Our** right of recovery does not apply to underinsured motorist benefits to the extent of any payment **we** have made to the **insured person** under a policy of liability insurance issued by **us** to the owner or operator of an underinsured motor vehicle.

If **we** elect to exercise **our** rights of recovery against another, **we** will also attempt to recover any deductible incurred by an insured person under this policy unless **we** are specifically instructed by that person not to pursue the deductible. **We** have no obligation to pursue recovery against another for any loss not covered by this policy.

**We** reserve the right to compromise or settle the deductible and property damage claims against the responsible parties for less than the full amount. **We** also reserve the right to incur reasonable expenses and attorney fees in pursuit of the recovery.

If the total recovery is less than the total of **our** payment and the deductible, **we** will reduce reimbursement of the deductible based on the proportion that the actual recovery bears to the total of **our** payment and the deductible. A proportionate share of collection expenses and attorney fees incurred in connection with these recovery efforts will also reduce reimbursement of the deductible.

These provisions will be applied in accordance with state law.

## **JOINT AND INDIVIDUAL INTERESTS**

If there is more than one named insured on this policy, any named insured may cancel or change this policy. The action of one named insured will be binding on all persons provided coverage under this policy.

## **BANKRUPTCY**

The bankruptcy or insolvency of an insured person will not relieve **us** of any obligations under this policy. If execution of a judgment against an **insured person** under Part I - Liability To Others is returned unsatisfied because of the insolvency or bankruptcy of the **insured person**, the person claiming payment for damages under Part I may maintain an action against **us** for the amount of the judgment not exceeding **our** limits of liability.

***PROGRESSIVE***<sup>®</sup>  
*DIRECT*



\*9610D AR 0507\*



## Named Driver Exclusion Endorsement

If **you** have asked **us** to exclude any person from coverage under this policy, then **we** will not provide coverage for any claim arising from an accident or loss involving a motorized vehicle being operated by that excluded driver. This includes any claim for damages made against **you**, a **relative**, or any other person or organization that is vicariously liable for an accident arising out of the operation of a motorized vehicle by the excluded driver.

**All other terms, limits and provisions of this policy remain unchanged.**

I acknowledge and accept that coverage is restricted for any driver excluded from this policy.

**Signature of named insured**

**Date**

X

.....

*SERFF Tracking Number:* PRGS-125314399 *State:* Arkansas  
*First Filing Company:* Progressive Casualty Insurance Company, ... *State Tracking Number:* AR-PC-07-026393  
*Company Tracking Number:* L060289-AR-AU-A/D  
*TOI:* 19.0 Personal Auto *Sub-TOI:* 19.0001 Private Passenger Auto (PPA)  
*Product Name:* Auto  
*Project Name/Number:* 9610A AR, 9610D AR, Z194 AR, Z195 AR/L060289-AR-AU-A/D

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*TOI:* 19.0 Personal Auto *Sub-TOI:* 19.0001 Private Passenger Auto (PPA)  
*Product Name:* Auto  
*Project Name/Number:* 9610A AR, 9610D AR, Z194 AR, Z195 AR/L060289-AR-AU-A/D

Attachment "96100705AR02.pdf" is larger than 3MB and cannot be reproduced here.



October 10, 2007

**FILED VIA SERFF**

Property and Casualty Division  
Arkansas Insurance Department  
1200 West 3<sup>rd</sup> Street  
Little Rock, AR 72201-1904

**RE: Independent Company Form Filing – Private Passenger Auto – Company File # L060289-AR-AU-A/D**

**Agency:**

<b>PROGRESSIVE CASUALTY INSURANCE COMPANY</b>	<b>(NAIC # 155-24260)</b>
<b>PROGRESSIVE CLASSIC INSURANCE COMPANY</b>	<b>(NAIC # 155-42994)</b>
<b>PROGRESSIVE NORTHWESTERN INSURANCE COMPANY</b>	<b>(NAIC # 155-42919)</b>
<b>PROGRESSIVE SPECIALTY INSURANCE COMPANY</b>	<b>(NAIC # 155-32786)</b>
<b>UNITED FINANCIAL CASUALTY COMPANY</b>	<b>(NAIC # 155-11770)</b>

**Arkansas Auto Policy – Form 9610A AR (05/07)**  
**Named Driver Exclusion Endorsement – Form Z195 AR (05/07)**  
**Named Non-Owner Coverage Endorsement – Form Z194 AR (05/07)**

**Direct:**

**PROGRESSIVE DIRECT INSURANCE COMPANY (NAIC # 155-16322)**

**Arkansas Auto Policy – Form 9610D AR (05/07)**  
**Named Driver Exclusion Endorsement – Form Z195 AR (05/07)**  
**Named Non-Owner Coverage Endorsement – Form Z194 AR (05/07)**

**SERFF Tracking # PRGS-125314399**

Included in this filing are the above-referenced forms for your review and approval. The proposed effective date is **January 31, 2008**. We will notify you if this date changes.

The **Arkansas Auto Policy – Form 9610A AR (05/07)** and **Arkansas Auto Policy – Form 9610D AR (05/07)** replace the following forms:

- Arkansas Motor Vehicle Policy – Form 9608A AR (11/04)
- Arkansas Motor Vehicle Policy – Form 9608D AR (11/04)
- Cancellation Fee Waiver Endorsement – Form 0101 (08/02)
- Motor Vehicle Policy Endorsement – Form 7951 AR (09/02)

These forms were approved in the following companies:

- Progressive Casualty Insurance Company
- Progressive Classic Insurance Company
- Progressive Direct Insurance Company
- Progressive Northwestern Insurance Company
- Progressive Specialty Insurance Company
- United Financial Casualty Company

The **Arkansas Auto Policy – Form 9610A AR (05/07)** will be used for our agency business channel under the “Drive Insurance from Progressive” brand. The **Arkansas Auto Policy – Form 9610D AR (05/07)** will be used for our direct business channel under the “Progressive Direct” brand. Both policies are identical except for the branded logo on the policy jacket.

The revised Arkansas Auto Policy is based on a new model auto policy we have developed for use in all states where we do business. This new model was modified to comply with Arkansas law. The changes to the policy involve both increases and decreases in coverage. Overall, we think the net effect of these changes should be neutral or possibly a slight increase in coverage.

Please refer to the attached Summary of Changes document for further details. The Summary of Changes is submitted for informational purposes only and not for review and approval.

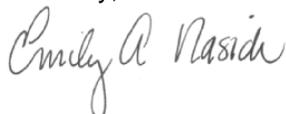
The **Named Driver Exclusion Endorsement – Form Z195 AR (05/07)** will be used with the Arkansas Auto Policy – Form 9610A AR (05/07) and Arkansas Auto Policy – Form 9610D AR (05/07). This endorsement will be issued to any insured with an excluded driver on their policy. This endorsement is identical to the endorsement that was contained in the Arkansas Motor Vehicle Policy, Forms 9608A AR (11/04) and 9608D AR (11/04).

The **Named Non-Owner Coverage Endorsement – Form Z194 AR (05/07)** will be used with the Arkansas Auto Policy – Form 9610A AR (05/07) and Arkansas Auto Policy – Form 9610D AR (05/07). This endorsement will be issued to any insured purchasing named non-owner coverage.

Also included is the required NAIC Property & Casualty Transmittal Document. The filing fee of \$50.00 is being submitted via EFT in SERFF.

If you have any questions or want to discuss this filing, please contact me via SERFF, e-mail, or call me at 1-800-321-9843, extension 625-2456. Thank you for your attention to this filing.

Sincerely,



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Corporate Counsel  
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E-mail: emily\_a\_vlasich@progressive.com

EAV/aml