

SERFF Tracking Number: PRGS-125804472 State: Arkansas
Filing Company: United Financial Casualty Company State Tracking Number: EFT \$50
Company Tracking Number: L080109-AR-PCA-1
TOI: 20.0 Commercial Auto Sub-TOI: 20.0001 Business Auto
Product Name: Commercial Auto
Project Name/Number: CAI7234/L080109-AR-PCA-1

Filing at a Glance

Company: United Financial Casualty Company

Product Name: Commercial Auto

TOI: 20.0 Commercial Auto

Sub-TOI: 20.0001 Business Auto

Filing Type: Form

Effective Date Requested (New): 11/01/2008

Effective Date Requested (Renewal):

State Filing Description:

SERFF Tr Num: PRGS-125804472 State: Arkansas

SERFF Status: Closed

Co Tr Num: L080109-AR-PCA-1

Co Status:

Author: Pdpg 4

Date Submitted: 09/09/2008

State Tr Num: EFT \$50

State Status: Fees verified and received

Reviewer(s): Betty Montesi,
Llyweyia Rawlins

Disposition Date: 09/11/2008

Disposition Status: Approved

Effective Date (New): 11/01/2008

Effective Date (Renewal):

General Information

Project Name: CAI7234

Project Number: L080109-AR-PCA-1

Reference Organization:

Reference Title:

Filing Status Changed: 09/11/2008

State Status Changed: 09/09/2008

Corresponding Filing Tracking Number:

Filing Description:

The Cancellation and Nonrenewal Endorsement - Form 4852 AR (05/07) replaces form 4852 AR (11/04), which was approved on August 18, 2005. We had to make some modifications to our endorsement due to the passage of HB 2440.

The Arkansas Amendatory Endorsement - Form 4881 AR (05/07) replaces form 4881 AR (10/05), which was approved on August 18, 2005. We had to make some changes to this endorsement due to the passage of HB 2243.

Status of Filing in Domicile:

Domicile Status Comments:

Reference Number:

Advisory Org. Circular:

Deemer Date:

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The Rental Reimbursement Coverage Endorsement - Form Z311 (11/07) provides reimbursement for rental expenses resulting from a comprehensive, collision, or fire/theft loss, including physical damage coverage for the rented auto.

The Rental Reimbursement with Downtime Protection Coverage Endorsement - Form Z312 (11/07) provides reimbursement for rental expenses resulting from a covered cause of loss. In the event no suitable replacement vehicle is available, this coverage will also provide protection against lost business revenue resulting from the inability of the policyholder to continue operating the business due to a covered vehicle being out of service due to the covered loss.

The Roadside Assistance Coverage Endorsement - Form Z313 (05/07) provides roadside assistance for specified emergencies.

The Drive Other Car Coverage - Broadened Coverage for Named Individuals - Form Z314 AR (05/08) allows corporations, partnerships, and other business entities to designate an individual for broadened coverage under the business auto policy. It provides the designated individual with personal auto type coverages, such as liability and physical damage coverage while operating a non-listed auto, and personal coverages (UM, UIM, PIP, Medical Payments, as appropriate) while occupying a non-listed vehicle.

The Commercial General Liability Endorsement - Form Z433 AR (04/08) provides broad general liability coverage for a limited class of policyholders. This coverage is only available to certain trucking risks. The intent is to provide general liability coverage to those risks where the primary liability would arise principally from the use of a vehicle. We do not intend to offer general liability coverage independent from commercial automobile coverage.

The Motor Truck Cargo Legal Liability Coverage Endorsement - Form Z434 (09/06) provides coverage for the legal liability of our insureds for loss or damage to cargo that they transport on behalf of others. We do not intend to offer cargo coverage independent from commercial automobile coverage.

The Garage Operations Physical Damage Legal Liability Coverage Endorsement - Form Z438 (11/07) provides coverage for the legal liability of our insureds for loss or damage to property being towed by the insured or held by the insured at a storage location. The form also provides optional additional coverage on a direct loss basis as well as on a legal liability basis. We do not intend to offer garage operations physical damage liability coverage independent from commercial automobile coverage.

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The date we propose to begin using these forms is November 1, 2008. We will notify you if these dates change.

If you have any comments or questions with respect to this filing, please feel free to e-mail me at the address below or call me at 800-321-9843, network extension 625-3764. Thank you in advance for your attention to this filing.

Sincerely,

Gregory E. Schwartz

Assistant General Counsel

Direct: (440) 395-3764

FAX: (440) 395-3790

E-mail: gregory_e_schwartz@progressive.com

Company and Contact

Filing Contact Information

Gregory E. Schwartz, Assistant General
Counsel

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6300 Wilson Mills Rd N72

(440) 395-3764 [Phone]

Mayfield Village, OH 44143

(440) 395-3790[FAX]

Filing Company Information

United Financial Casualty Company

CoCode: 11770

State of Domicile: Ohio

6300 Wilson Mills Rd, N72

Group Code: 155

Company Type:

Mayfield Village, OH 44143-2182

Group Name:

State ID Number:

(440) 461-5000 ext. [Phone]

FEIN Number: 36-3298008

Filing Fees

Fee Required? Yes

Fee Amount: \$50.00

Retaliatory? No

Fee Explanation:

Per Company: No

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COMPANY	AMOUNT	DATE PROCESSED	TRANSACTION #
United Financial Casualty Company	\$50.00	09/09/2008	22372122

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Correspondence Summary

Dispositions

Status	Created By	Created On	Date Submitted
Approved	Llyweyia Rawlins	09/11/2008	09/11/2008

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Disposition

Disposition Date: 09/11/2008

Effective Date (New): 11/01/2008

Effective Date (Renewal):

Status: Approved

Comment:

Rate data does NOT apply to filing.

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Item Type	Item Name	Item Status	Public Access
Supporting Document	Uniform Transmittal Document-Property & Casualty	Approved	Yes
Supporting Document	Comparison Documents	Approved	Yes
Form	Cancellation and Nonrenewal Endorsement	Approved	Yes
Form	Arkansas Amendatory Endorsement	Approved	Yes
Form	Rental Reimbursement Coverage Endorsement	Approved	Yes
Form	Rental Reimbursement with Downtime Protection Coverage Endorsement	Approved	Yes
Form	Roadside Assistance Coverage Endorsement	Approved	Yes
Form	Drive Other Car Coverage - Broadened Coverage for Named Individuals	Approved	Yes
Form	Commercial General Liability Endorsement	Approved	Yes
Form	Motor Truck Cargo Legal Liability Coverage Endorsement	Approved	Yes
Form	Garage Operations Physical Damage Legal Liability Coverage Endorsement	Approved	Yes

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Form Schedule

Review Status	Form Name	Form #	Edition Date	Form Type Action	Action Specific Data	Readability	Attachment
Approved	Cancellation and Nonrenewal Endorsement	4852 AR	05/07	Endorsement/Amendment/Conditions	Replaced Form #: 4852 AR (11/04) Previous Filing #:		4852 AR (0507).pdf
Approved	Arkansas Amendatory Endorsement	4881 AR	05/07	Endorsement/Amendment/Conditions	Replaced Form #: 4881 AR (10/05) Previous Filing #:		AR 4881 (0507).pdf
Approved	Rental Reimbursement Coverage Endorsement	Z311	11/07	Endorsement/Amendment/Conditions			MODEL Z311 (1107) final.pdf
Approved	Rental Reimbursement with Downtime Protection Coverage Endorsement	Z312	11/07	Endorsement/Amendment/Conditions			MODEL Z312 (1107) final.pdf
Approved	Roadside Assistance Coverage Endorsement	Z313	05/07	Endorsement/Amendment/Conditions			MODEL Z313 (0507) final.pdf
Approved	Drive Other Car Coverage - Broadened Coverage for Named Individuals	Z314 AR	05/08	Endorsement/Amendment/Conditions			Z314 AR (0508).pdf
Approved	Commercial General Liability Endorsement	Z433 AR	04/08	Endorsement/Amendment/Conditions			Z433 AR 0408 2c.pdf
Approved	Motor Truck	Z434	09/06	Endorsement New			Z434 (0906)

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	Cargo Legal			nt/Amendm	Final.pdf
	Liability Coverage			ent/Condi	
	Endorsement			ons	
Approved	Garage	Z438	11/07	Endorseme New	Z438 (1107)
	Operations			nt/Amendm	final
	Physical Damage			ent/Condi	proof.pdf
	Legal Liability			ons	
	Coverage				
	Endorsement				

CANCELLATION AND NONRENEWAL ENDORSEMENT

Except as specifically modified in this Endorsement, all provisions of the Commercial Auto Policy apply.

We agree with **you** that the insurance provided under **your** Commercial Auto Policy is modified as follows:

CANCELLATION

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

We may cancel this policy by mailing a notice of cancellation to the named insured shown on the **Declarations Page** and any lienholder or loss payee named in the policy at the last known address appearing in **our** records. If **we** cancel this policy at any time due to nonpayment of premium, notice of cancellation will be mailed at least ten (10) days before the effective date of cancellation. Notice of cancellation due to any reason other than nonpayment of premium will be mailed at least twenty (20) days before the effective date of cancellation.

We may cancel this policy for any reason if this policy has been in effect less than sixty (60) days of the initial policy period.

If this policy has been in effect for sixty (60) days, or if this is a renewal or continuation policy, **we** may only cancel for one or more of the following reasons:

1. **you** do not pay the required premium for this policy when due;
2. misrepresentation by **you** of any material fact in the procurement or renewal of this policy or in the submission of any claim under this policy;
3. the occurrence of a material change in the risk which substantially increases any hazard insured against after policy issuance;
4. material violation of a material provision of the policy;
5. the named insured or any driver of the **insured auto** shall be 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, including three months prior to the effective date of the policy;
6. the driver's license or motor vehicle registration of the named insured or of any other operator who either resides in the same household or customarily operates an automobile insured under this policy has been under suspension or revocation during the policy period or, if the policy is a renewal, during its policy period or the 180 days immediately preceding its effective date; or
7. any other reason specified by law.

With respect to cancellation, this policy is neither severable nor divisible. Any cancellation will be effective for all coverage for all persons and all **autos**.

If this policy is canceled, coverage will not be provided as of the effective date and time shown in the notice of cancellation.

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 canceled, any refund due will be computed on a daily pro-rata basis.

NONRENEWAL

If **we** decide not to renew or continue this policy, other than for non-payment of premium, **we** will mail notice of nonrenewal to the first named insured shown on the **Declarations Page** at the last known address appearing in **our** records. Notice will be mailed at least sixty (60) days before the end of the policy period.¹

PROOF OF NOTICE

Proof of mailing of any notice will be sufficient proof of notice.

ALL OTHER TERMS, LIMITS AND PROVISIONS OF THE POLICY REMAIN UNCHANGED.

Form 4852 AR (05/07)

¹ Even though H-2440 is not clearly written that way, it appears that the intent of its passage applies to cancellations only. Further other requirements that apply to commercial insurance policies mandate giving 60 days notice instead of 30 days for nonrenewals (AR Stat. §23-79-307(7), Directive 1A-2004), so to be prudent, we should still give 60 days notice.

ARKANSAS AMENDATORY ENDORSEMENT

Except as specifically modified in this endorsement, all provisions of the Commercial Auto Policy apply.

We agree with **you** that the insurance provided under **your** Commercial Auto Policy is modified as follows:

GENERAL DEFINITIONS

A. The following is added to the General Definitions:

“**Punitive or exemplary damages**” means damages which may be imposed to punish a wrongdoer and to deter others from similar conduct.

B. The definition of “**Temporary substitute auto**” under the General Definitions section is deleted in its entirety and replaced by the following:

“**Temporary substitute auto**” means any **auto**:

- a. Used, with the permission of the owner, as a substitute for an **insured auto** that has been withdrawn from normal use due to breakdown, repair, servicing, loss, or destruction;
- b. Loaned by a duly licensed automobile dealer for use as a demonstrator **auto**; or
- c. Rented or leased from any person or entity in the business of providing primarily **private passenger autos** to the public under a rental agreement for a period not to exceed 90 days;

“**Temporary substitute auto**” does not mean an **auto**:

- (i) Owned by or registered to **you**, or if you are a natural person, not owned by or registered to **you, your** nonresident spouse, or a resident of the household in which **you** reside;
- (ii) Leased by **you** under a written contract for a period of 6 months or more, or if **you** are a natural person, not leased by **you, your** nonresident spouse, or a resident of the household in which **you** reside under a written contract for a period of 6 months or more;
- (iii) Owned by **your** employee or leased by **your** employee under a written contract for a period of 6 months or more; and
- (iv) Borrowed from **your** employees or members of their households.

PART I – LIABILITY TO OTHERS

The following is added to Part I – Liability To Others:

RIGHT OF DIRECT ACTION

Any person entitled to payment of damages covered under Part I – Liability To Others, 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 Part I – Liability To Others. If a judgment against an **insured** remains unsatisfied after thirty (30) days from the date notice of entry of judgment was served on

either the **insured**, the attorney for the **insured**, 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 – DAMAGE TO YOUR AUTO

A. The following is added to Additional Definition Used In This Part Only section:

When used in Part II – Damage To Your Auto:

“**Insured auto**” includes:

1. An **auto** that is loaned by a duly licensed automobile dealer:
 - a. As a temporary substitute, with our without compensation, to the insured for use as a temporary substitute auto while the **insured auto** is out of use because of breakdown, repair, or servicing; or
 - b. For use as a demonstrator **auto**; or
2. An **auto** rented or leased from any person or entity in the business of providing primarily **private passenger autos** to the public under a rental agreement for a period not to exceed 90 days.

B. The following is added to the Limits of Liability provision in Part II – Damage To Your Auto:

IN THE REPAIR OF YOUR INSURED AUTO 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.

C. The Appraisal section is deleted in its entirety and replaced by the following:

APPRAISAL

If **we** cannot agree with **you** on the amount of a **loss**, then **we** and **you** may agree to appraisal of the **loss**. If the parties agree to appraisal, each party shall appoint a competent and impartial appraiser. The appraisers will determine the amount of **loss**. If they fail to agree, the disagreement will be submitted to a qualified and impartial umpire chosen by the appraisers. If the two appraisers are unable to agree upon an umpire within fifteen (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 II, but will not be binding. **You** will pay **your** appraiser's fees and expenses. **We** will pay **our** appraiser's fees and expenses. Payment of the umpire and all other expenses of the appraisal will be shared

equally between **us** and **you**. Neither **we** nor **you** waive any rights under this policy by agreeing to an appraisal.

GENERAL PROVISIONS

A. Subpart 3 - Other Insurance is deleted in its entirety and replaced by the following:

3. Other Insurance

- a. For any **insured auto** that is specifically described on the **declarations page**, this policy provides primary coverage. For an **insured auto**, which is not specifically described on the **declarations page**, coverage under this policy will be excess over any and all other valid and collectible insurance, whether primary, excess, or contingent.
- b. If coverage under more than one policy applies on the same basis, either excess or primary, **we** will pay only **our** proportionate share. **Our** proportionate share is the proportion that the limit of liability of this policy bears to the total of the limits of all the coverage forms and policies covering on the same basis.
- c. Notwithstanding paragraphs a. and b. above,
 - (i) If the **insured auto**, which is specifically described on the **declarations page** is a **trailer**, this policy will be primary only if the **trailer** is attached to an **insured auto** that is a power unit **you** own and is specifically described on the **declarations page**, and excess in all other circumstances; and
 - (ii) If an **insured auto** is a **temporary substitute auto**, then this policy is primary to any insurance or self-insurance maintained by a duly licensed automobile dealer, or a rental company in the business of providing primarily private passenger autos to the public under a rental agreement for a period not exceeding 90 days, and excess in all other circumstances.

B. Subpart 6 – Our Recover Rights is deleted and replaced by the following:

6. Our Recovery Rights

In the event of any payment under this policy, **we** are entitled to all 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. That insured person must sign and deliver to **us** any legal papers relating to that recovery, do whatever else is necessary to help **us** exercise those rights, and do nothing after an **accident** or **loss** to prejudice **our** rights.

However, **we** may not assert rights of recovery against any person who was using an **insured auto** with **your** express or implied permission for any payment made under Part II – Damage To Your Auto.

When an insured person has been paid by **us** under this policy and also recovers from another person, entity, or organization, the amount recovered will be held by the insured person 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 any applicable Personal Injury Protection Coverage.

If recovery is made by an insured person under this policy from a responsible person, entity or organization without **our** written consent, the insured person's right to payment under any affected coverage will no longer exist.

- C. The following is added to Subpart 11 – Fraud, Misrepresentation and Concealment:

If **we** void this policy, this shall not affect coverage under Part I – Liability To Others of this policy 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.

ALL OTHER TERMS, LIMITS AND PROVISIONS OF THE POLICY REMAIN UNCHANGED.

Form 4881 AR (05/07)

Rental Reimbursement Coverage Endorsement

Except as specifically modified in this endorsement, all provisions of the Commercial Auto Policy apply.

We agree with **you** that the insurance provided under **your** Commercial Auto Policy is modified as follows:

Insuring Agreement

Subject to the Limits of Liability, if **you** pay the premium for Rental Reimbursement Coverage, **we** will reimburse rental charges incurred when **you** rent an **auto** pursuant to a written rental agreement due to a **loss** to an **insured auto** that has Rental Reimbursement Coverage under this policy. This coverage applies only if **you** have purchased Collision Coverage and either Comprehensive Coverage or Fire and Theft With Combined Additional Coverage for that **insured auto** and the **loss** is covered under one of those coverages.

Additional fees or charges for fuel are not covered. **We** will pay no more than the specified daily limit, including additional insurance, damage waivers, and/or equipment.

The maximum **we** will pay is the daily amount shown on the **Declarations Page** up to the number of days shown on the **Declarations Page**.

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 **insured auto** cannot be used for its intended purpose due to a **loss**; or
2. If the **insured auto** can be operated for its intended purpose, when **you** deliver the **insured 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 **insured auto** has been returned to **you**;
 2. When the **insured auto** has been repaired;
 3. When the **insured auto** has been replaced;
 4. 72 hours after **we** make an offer to settle the **loss** if the **insured 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.

Additional Coverage

When Rental Reimbursement Coverage applies, **we** will consider the rented **auto** to be an **insured auto** for coverage under Part II - Damage To Your Auto. The rented **auto** will have the same coverages that **you** have purchased for the **insured auto** that the rented **auto** replaces, and the same deductible will apply.

Limits of Liability

The limit shown on the **Declarations Page** is the most **we** will pay under this endorsement for a **loss** to any one **insured auto**.

ALL OTHER TERMS, LIMITS AND PROVISIONS OF THE POLICY REMAIN UNCHANGED.

Rental Reimbursement with Downtime Protection Coverage Endorsement

Except as specifically modified in this endorsement, all provisions of the Commercial Auto Policy apply.

We agree with **you** that the insurance provided under **your** Commercial Auto Policy is modified as follows:

Insuring Agreement – Rental Reimbursement Coverage

Subject to the Limits of Liability, if **you** pay the premium for Rental Reimbursement Coverage, **we** will reimburse rental charges incurred when **you** rent an **auto** pursuant to a written rental agreement due to a **covered cause of loss** to an **insured auto**. **We** will provide assistance to **you** in locating a **reasonable replacement auto** to keep **your** business operating. If **you** or **we** cannot locate a **reasonable replacement auto**, **we** will pay for **downtime**. **We** will also pay **downtime**, subject to the **waiting period**, if **you** elect not to make use of a **reasonable replacement auto** that **we** locate for **you**.

Rental charges will be reimbursed beginning:

1. When the **insured auto** cannot be used for its intended purpose due to a **covered cause of loss**; or
 2. If the **insured auto** can be operated for its intended purpose, when **you** deliver the **insured auto** to an auto repair shop or one of **our** Claims Service Centers for repairs due to a **covered cause of loss**;
- and ending the earliest of:
1. When the **insured auto** has been returned to **you**;
 2. When the **insured auto** has been repaired;
 3. When the **insured auto** has been replaced;
 4. 72 hours after **we** make an offer to settle the **loss** if the **insured auto** is deemed by **us** to be a **total loss**;
- or
5. When **you** incur rental charges equaling the maximum number of days as described on the **Declarations Page**.

This coverage applies only if **you** have purchased Collision Coverage and either Comprehensive Coverage or Fire and Theft with Combined Additional Coverage for that **insured auto** and the **loss** is covered under one of those coverages.

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

Additional fees or charges for fuel are not covered. **We** will pay no more than the specified daily limit, including additional insurance, damage waivers, and/or equipment.

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

Additional Coverage

When Rental Reimbursement Coverage applies, **we** will consider the rented **auto** to be an **insured auto** for coverage under Part II – Damage To Your Auto. The rented **auto** will have the same coverages that **you** have purchased on the **insured auto** that the rented **auto** replaces, and the same deductible will apply.

Definitions

1. "**Business income**" means:
 - a. Net income (Net Profit or Loss before income taxes) that would have been earned or incurred; and
 - b. Continuing normal operating expenses incurred, including payroll.

At **our** option, **we** may use a schedule to establish an average **business income** based upon vehicle and business type, without further proof of **business income** by **you**. **You** shall provide proof of actual **business income** if **you** believe **your business income** exceeds the scheduled amount.
2. "**Covered cause of loss**" means losses covered under:
 - a. Comprehensive Coverage if the **Declarations Page** indicates that Comprehensive Coverage is provided for the **insured auto**;
 - b. Collision Coverage if the **Declarations Page** indicates that Collision Coverage is provided for the **insured auto**; or

- c. Fire and Theft with Combined Additional Coverage if the **Declarations Page** indicates that Fire and Theft with Combined Additional Coverage is provided for the **insured auto**.
3. **"Downtime"** means:
 - a. The actual **loss of business income** incurred by **you** as a result of the necessary suspension of **your** business operations during the **period of restoration** following the **waiting period**, if applicable. The suspension must be due to the direct physical **loss** to an **insured auto** used in **your** business that is caused by a **covered cause of loss**; or
 - b. The actual costs to minimize the suspension of **your** business operations that **you** would not have incurred if there had been no direct physical **loss** of or damage to **your insured auto** caused by or resulting from a **covered cause of loss**.
4. **"Period of restoration"** means the period of time that:
 - a. Begins with the date of direct physical **loss** caused by or resulting from any **covered cause of loss**; and
 - b. Ends on the date when the **insured auto** should be repaired, rebuilt, or replaced with reasonable speed and similar quality.

Period of restoration does not include any increased period required due to the enforcement of any ordinance or law that requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize or in any way respond to or assess the effects of **pollutants**.

The expiration date of this policy will not cut short the **period of restoration**.
5. **"Reasonable replacement auto"** means an **auto** of the same type as the **insured auto** that is out of service, or an **auto** of a different type that can be used in a manner comparable to the **insured auto** that will permit **you** to continue **your** business operations. This may include the rental of a larger or heavier duty **auto** if it will allow **you** to continue to operate **your** business, if the rental is within the daily rate stated on the **Declarations Page**.
6. **"Waiting period"** means six (6) days beginning with the date **you** or someone on **your** behalf reports the **covered cause of loss** involving the **insured auto** to **us**. There is no **waiting period** for rental reimbursement when used to minimize the suspension of **your** business operations during the **period of restoration**, or if **you** or **we** are unable to locate a **reasonable replacement auto**.

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

In addition to the Exclusions found in Part II – Damage To Your Insured Auto of the Commercial Auto Policy, **we** will not pay for:

1. Any increase in **loss** caused by or resulting from the suspension, lapse, or cancellation of any lease, contract, or order;
2. Any increase in **loss** caused by or resulting from interference by strikers or other persons with rebuilding, repairing, or replacing the **insured auto**, or with the resumption or continuation of **your** business operations;
3. Any **loss** arising out of any dishonest or illegal act by **you**, acting alone or in collusion with others, including anyone under **your** employment or service, or any person or persons to whom the **insured auto** may be entrusted;
4. Any **loss** if **you** have suitable substitute equipment available; or
5. Any **loss** if **you** do not repair or replace the **insured auto**.

Conditions

Payment for a **loss** is required only if **you** have fully complied with the terms of the Commercial Auto Policy and this endorsement, and the **loss** meets the following conditions:

1. The **loss** to the **insured auto** must be covered under Part II – Damage To Your Insured Auto of the Commercial Auto Policy;
2. The **loss** to the **insured auto** must exceed the deductible shown on the **Declarations Page** for that vehicle; and
3. **You** must resume all or part of **your** business operations as quickly as possible.

Limits of Liability

The limit shown on the **Declarations Page** is the most **we** will pay under this endorsement due to a **covered cause of loss** to any one **insured auto**.

ALL OTHER TERMS, LIMITS AND PROVISIONS OF THE POLICY REMAIN UNCHANGED.

Form Z312 (11/07)

(Programming note: footer must appear at the bottom of every page)

Roadside Assistance Coverage Endorsement

Except as specifically modified in this endorsement, all provisions of the Commercial Auto Policy apply.

We agree with **you** that the insurance provided under **your** Commercial Auto Policy is modified as follows:

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 endorsement:

1. "**Covered disabled auto**" means an **insured auto** for which this coverage has been purchased that sustains a **covered emergency**. **Covered disabled auto** includes a trailer attached to an **insured auto** for which this coverage has been purchased.
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 ENDORSEMENT.

Coverage under this endorsement 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; or
15. disablement that results from an intentional or willful act or action by **you** or, if the named insured is a natural person, a **relative**, or by the operator of a **covered disabled auto**.

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 endorsement for service rendered by an unauthorized service provider will be excess over any other collectible insurance or towing protection coverage.

ALL OTHER TERMS, LIMITS AND PROVISIONS OF THE POLICY REMAIN UNCHANGED.

Form Z313 (05/07)

(Programming note: footer must appear at the bottom of every page)

DRIVE OTHER CAR COVERAGE – BROADENED COVERAGE
FOR NAMED INDIVIDUALS

This endorsement changes your policy. Please read it carefully.

Except as specifically modified in this endorsement, all provisions of the Commercial Auto Policy apply.

We agree with you that the insurance provided under **your** Commercial Auto Policy is modified as follows:

A. Changes in PART I - LIABILITY TO OTHERS

If the **Declarations Page** shows a premium for Liability To Others Coverage, then:

1. Subsection A of Additional Definitions Used In This Part Only is deleted and replaced by the following:
 - A. When used in PART I - LIABILITY TO OTHERS, **insured** means:
 1. **You** with respect to an **insured auto**.
 2. Any person while using, with **your** permission and within the scope of that permission, an **insured auto you** own, hire, or borrow except:
 - (a) A person while he or she is working in a business of selling, leasing, repairing, parking, storing, servicing, delivering or testing **autos**, unless that business is **yours** and it was so represented in **your** application.
 - (b) A person, other than one of **your** employees, while he or she is moving property to or from an **insured auto**.
 - (c) The owner or anyone else from whom the **insured auto** is leased, hired, or borrowed unless the **insured auto** is a **trailer** connected to a power unit that is an **insured auto**. However, this exception does not apply if the **insured auto** is specifically described on the **Declarations Page**, but only for that **insured auto**.

For purposes of this subsection A.2., an **insured auto you** own includes any **auto** specifically described on the **Declarations Page**.
 3. Any individual named in the Schedule, and his or her spouse while a resident of the same household, while using any **insured auto you** own, hire, or borrow, with **your** permission and within the scope of that permission.
 4. Any other person or organization, but only with respect to the legal liability of that person or organization for acts or omissions of any person otherwise covered under this PART I - LIABILITY TO OTHERS.

If **we** make a filing or submit a certificate of insurance on **your** behalf with a regulatory or governmental agency, the term “**insured**” as used in such filing or certificate, and in any related endorsement, refers only to the person or organization named on such filing, certificate or endorsement.

2. When used in Part I:

Any **auto you** do not **own**, hire or borrow is an **insured auto** under this Part I while being used by any individual named in the Schedule, or by his or her spouse while a resident of the same household, except:

- a. Any **auto owned** by the individual or by any member of his or her household.
- b. Any **auto** used by that individual or his or her spouse while working in a business of selling, servicing, repairing or parking **autos**.

B. Changes in Medical Payments Coverage Endorsement And Uninsured and Underinsured Motorists Coverage Endorsement

If the **Declarations Page** shows a premium for these coverages, then for each such coverage:

The following is added to the definition of **insured** for each endorsement:

Insured also means any individual named in the schedule, and his or her **family members**, while occupying or while a pedestrian when being struck by any **auto you** do not **own** except any **auto owned** by that individual or by one of his or her **family members**.

C. Changes in Part II – Damage To Your Auto

If the **Declarations Page** shows a premium for Comprehensive, Collision, or Fire And Theft With Combined Additional Coverage, then:

Any **private passenger auto you** do not **own**, hire or borrow is an **insured auto** while in the care, custody or control of any individual named in the Schedule, or his or her spouse while a resident of the same household, except:

1. Any **auto owned** by that individual or by any member of his or her household.
2. Any **auto** used by that individual, or his or her spouse, while working in a business of selling, servicing, repairing or parking **autos**.

The broadest physical damage coverage on the policy will be applied to a **loss** for such non-owned **auto**. The applicable deductible will be the lowest deductible for any vehicle shown on the **Declarations Page**.

D. Changes in Personal Injury Protection Coverage

If the **declarations page** shows a premium for Personal Injury Protection Coverage, then the individual named in the Schedule shall be considered an **insured** as defined in, and for the benefits provided under the Personal Injury Protection Coverage endorsement.

E. Additional Definitions

As used in this endorsement:

1. “**Family member**” means a person related to the individual named in the Schedule by blood, marriage or adoption, and who is a resident of that individual’s household, including a ward or foster child.

2. **“Own”** or **“Owned”** means the person:
- a. holds legal title to the vehicle;
 - b. has legal possession of the vehicle that is subject to a written security agreement with an original term of six (6) months or more;
 - c. has legal possession of the vehicle that is leased to that person under a written agreement for a continuous period of six (6) months or more; or
 - d. has legal possession of the vehicle pursuant to a bill of sale or other evidence of payment in consideration for the vehicle, whether or not title has been transferred.

ALL OTHER TERMS, LIMITS AND PROVISIONS OF THE POLICY REMAIN UNCHANGED.
Form Z314 AR (05/08)

COMMERCIAL GENERAL LIABILITY ENDORSEMENT

Various provisions in this endorsement restrict coverage. Read the entire endorsement carefully to determine **your** rights, duties, and what is and is not covered.

We agree with **you** that the following coverage is added to your Commercial Auto Policy:

ADDITIONAL DEFINITIONS USED IN THIS ENDORSEMENT

The following definitions are in addition to those found in the Commercial Auto Policy. Except as otherwise defined in this endorsement, terms appearing in boldface type, whether in the singular, plural or possessive, will have the following meanings.

1. “**Advertisement**” means a notice that is broadcast or published to the general public or specific market segments about **your** goods, products or services for the purpose of attracting customers or supporters. **Advertisement** includes material placed on the Internet or on similar electronic means of communication; however, regarding websites, only that part of a website that is about **your** goods, products or services for the purpose of attracting customers or supporters is considered an **advertisement**.
2. “**Coverage territory**” means:
 - a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
 - b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in a. above; or
 - c. All other parts of the world if the injury or damage arises out of:
 - (i) Goods or products made or sold by **you** in the territory described in a. above;
 - (ii) The activities of a person whose home is in the territory described in a. above, but who is away for a short time on **your** business; or
 - (iii) Personal and advertising injury offenses that take place through the Internet or similar electronic means of communication;provided that the **insured’s** responsibility to pay damages is determined in a **suit** on the merits, in the territory described in a. above or in a settlement agreed to by **us**.
3. “**Executive officer**” means a person holding any of the officer positions created by **your** charter, constitution, by-laws or any other similar governing document.
4. “**Fungi**” means any type of form of fungus, including mold or mildew and any mycotoxins, spores, scents or byproducts produced or released by fungi.
5. “**Hostile fire**” means a fire or explosion that is uncontrolled or breaks out from where it was intended to be.
6. “**Impaired property**” means tangible property, other than **your product** or **your work**, that cannot be used or is less useful than intended by its manufacturer or designer because:
 - a. It incorporates **your product** or **your work** that is known or thought to be defective, deficient, inadequate or dangerous; or
 - b. **You** have failed to fulfill the terms of a contract or agreement;
if such property can be restored to use by:

- a. The repair, replacement, adjustment or removal of **your product** or **your work**; or
- b. **Your** fulfilling the terms of the contract or agreement.

7. “**Insured**” means:

a. If **you** are designated in on the **Declarations Page** as:

- i. An individual: **you** and **your** spouse, but only with respect to the conduct of a business of which **you** are the sole owner.
- ii. A partnership or joint venture: **you**. **Your** members, partners, and their spouses, are also **insureds**, but only with respect to the conduct of **your** business.
- iii. A limited liability company: **you**. **Your** members are also **insureds**, but only with respect to the conduct of **your** business. **Your** managers are **insureds**, but only with respect to their duties as **your** managers.
- iv. An organization other than a partnership, joint venture or limited liability company: **you**. **Your** “executive officers” and directors are also **insureds**, but only with respect to their duties as **your** officers or directors. **Your** stockholders are also insureds, but only with respect to their liability as stockholders.
- v. A trust: **you**. **Your** trustees are also insureds, but only with respect to their duties as trustees.

b. Each of the following is also an **insured**:

- i. **Your** volunteer workers, but only while performing duties related to the conduct of **your** business.
- ii. **Your** employees, other than **your executive officers** (if **you** are an organization other than a partnership, joint venture or limited liability company) or **your** managers (if **you** are a limited liability company), but only for acts within the scope of their employment by **you** or while performing duties related to the conduct of **your** business.

No employee or volunteer worker is an insured for:

(1) **Bodily injury** or **personal and advertising injury**:

- (a) to **you**, to **your** partners or members (if **you** are a partnership or joint venture), to **your** members (if **you** are a limited liability company), to a co-employee while in the course of his or her employment or performing duties related to the conduct of **your** business, or to **your** other volunteer workers while performing duties related to the conduct of **your** business;
- (b) to the spouse, child, parent, brother, or sister of the co-employee or volunteer worker as a consequence of paragraph (1)(a) above;
- (c) for which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in paragraphs (1)(a) or (b) above; or
- (d) arising out of his or her providing or failing to provide professional health care services.

(2) **Property damage** to property:

- (a) owned, occupied, or used by,
- (b) rented to, in the care, custody, or control of, or over which physical control is being exercised for any purpose by **you**, any of **your** employees, volunteer workers, any partner or member (if **you** are a partnership or joint venture), or any member (if **you** are a limited liability company).
- iii. Any person (other than **your** employee or volunteer worker), or any organization while acting as **your** real estate manager.

- iv. Any person or organization having proper temporary custody of your property if **you** die, but only:
 - A. with respect to liability arising out of the maintenance or use of that property; and
 - B. until **your** legal representative has been appointed.
- v. **Your** legal representative if **you** die, but only with respect to duties as such. That representative will have all **your** rights and duties under this endorsement.
- c. Any organization **you** newly acquire or form, other than a partnership, joint venture or limited liability company, and over which **you** maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to the organization. However:
 - i. Coverage under this provision is afforded only until the 90th day after **you** acquire or form the organization or the end of the policy period, whichever is earlier;
 - ii. Coverage A does not apply to **bodily injury** or **property damage** that occurred before **you** acquired or formed the organization; and
 - iii. Coverage B does not apply to **personal and advertising injury** arising out of an offense committed before **you** acquired or formed the organization.

No person or organization is an **insured** with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

8. “**Insured contract**” for purposes of this endorsement only, means:

- a. A contract for a lease of premises. However, any portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to **you** or temporarily occupied by **you** with permission of the owner is not an **insured contract**;
- b. A sidetrack agreement;
- c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement; and
- f. That part of any other contract or agreement pertaining to **your** business (including an indemnification of a municipality in connection with work performed for a municipality) under which **you** assume the tort liability of another party to pay for **bodily injury** or **property damage** to a third person or organization. Tort liability, as referred to in this provision, means a liability that would be imposed by law in the absence of any contract or agreement.

However, this paragraph f. does not include that part of any contract or agreement:

- (1) That indemnifies a railroad for **bodily injury** or **property damage** arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing;
- (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (3) Under which the **insured**, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the **insured’s** rendering or failure to render professional services, including those listed in (2) above and supervisory, inspection, architectural or engineering activities.

9. “**Loading or unloading**” means the handling of property:
- After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or **auto**;
 - While it is in or on an aircraft, watercraft or **auto**; or
 - While it is being moved from an aircraft, watercraft or **auto** to the place where it is finally delivered; however, **loading or unloading** does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or **auto**.
10. “**Occurrence**” means an **accident**, happening or event, including continuous or repeated exposure to substantially the same general harmful conditions.
11. “**Personal and advertising injury**” means injury, including consequential **bodily injury**, arising out of one or more of the following offenses:
- False arrest, detention or imprisonment;
 - Malicious prosecution;
 - The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
 - Oral or written publication in any manner, including, but not limited to, e-mail, blogs, and other electronic publication, of material that slanders or libels a person or organization or disparages a person’s or organization’s goods, products or services;
 - Oral or written publication, in any manner including but not limited to e-mail, blogs, and other electronic publication, of material that violates a person’s right of privacy;
 - The use of another’s advertising idea in **your advertisement**; or
 - Infringing upon another’s copyright, trademark, trade dress or slogan in **your advertisement**.
12. “**Product/completed operations hazard**”:
- Includes all **bodily injury** and **property damage** occurring away from premises **you** own or rent and arising out of **your product** or **your work** except:
 - Injury or damage caused by products that are still in **your** physical possession; or
 - Work that has not yet been completed or abandoned. **Your work** will be deemed completed at the earliest of the following times:
 - When all of the work called for in **your** contract has been completed;
 - When all of the work to be done at the job site has been completed if **your** contract calls for work at more than one job site; or
 - When that part of the work done at a particular job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.
 - Does not include **bodily injury** or **property damage** arising out of:
 - The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle, including an aircraft or watercraft, not owned or operated by **you**, and that condition was created by the **loading or unloading** of that vehicle by any **insured**;
 - The existence of tools, uninstalled equipment, or abandoned or unused materials
13. “**Property damage**” for purposes of this endorsement only, means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the **occurrence** that caused it.

For the purposes of this insurance, electronic data is not tangible property.

As used in this definition, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

- 14. “**Punitive or exemplary damages**” means damages which may be imposed to punish a wrongdoer and to deter others from similar conduct.
- 15. “**Silica**” means silicon dioxide (occurring in crystalline, amorphous and impure forms), silica particles, silica dust or silica compounds.
- 16. “**Silica-related dust**” means a mixture or combination of silica and other dust or particles.
- 17. “**Suit**” means a civil proceeding involving allegations of damages because of **bodily injury, property damage** or **personal and advertising injury** to which this insurance applies. **Suit** includes but is not limited to:
 - a. An arbitration proceeding in which such damages are claimed and to which the **insured** must submit or does submit with **our** consent; or
 - b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the **insured** submits with **our** consent.
- 18. “**Your product**” means:
 - a. Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - (i) **You**;
 - (ii) Others trading under **your** name; or
 - (iii) A person or organization whose business or assets **you** have acquired: and
 - b. Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

Your product includes:

- a. Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of **your product**; and
- b. The providing of or failure to provide warnings or instructions.

Your product does not include vending machines or other property rented to or located for the use of others but not sold.

- 19. “**Your work**” means:
 - a. Work or operations performed by **you** or on **your** behalf; and
 - b. Materials, parts or equipment furnished in connection with such work or operations.

Your work includes:

- a. Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of **your work**; and
- b. The providing of or failure to provide warnings or instructions.

SECTION I – COVERAGES

COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY

1. Insuring Agreement

- a. **We** will pay those sums, OTHER THAN PUNITIVE OR EXEMPLARY DAMAGES, that the **insured** becomes legally obligated to pay as damages because of **bodily injury** or **property damage** to which this insurance applies. **We** will have the right and duty to defend the **insured** against any **suit** seeking those damages. However, **we** will have no duty to defend the **insured** against any **suit** seeking damages for **bodily injury** or **property damage** to which this insurance does not apply. **We** may, at **our** discretion, investigate any **occurrence** and settle any claim or **suit** that may result.

However:

- (1) The amount **we** will pay for damages is limited as described in Section II – Limits Of Liability; and
- (2) **Our** right and duty to defend ends when **we** have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A and B or medical expenses under Coverage C;

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages A and B.

- b. This insurance applies to **bodily injury** and **property damage** only if:

- (1) The **bodily injury** or **property damage** is caused by an **occurrence** that takes place in the **coverage territory**; and
- (2) The **bodily injury** or **property damage** occurs during the policy period.

Any **bodily injury** or **property damage**, whether such **bodily injury** or **property damage** is known or unknown, that first occurred prior to the inception date of this policy (or the retroactive date of this policy, if any, whichever is earlier), or that is, or alleged to be, in the process of occurring at the inception date of this policy (or the retroactive date of this policy, if any, whichever is earlier), even if the **occurrence** continues during this policy period, will be deemed to have occurred prior to the policy period. Any **bodily injury** or **property damage**, whether known or unknown, which is in the process of settlement, adjustment or **suit** as of the inception date of this policy (or the retroactive date of this policy, if any, whichever is earlier) will also be deemed to have occurred prior to the policy period.

Bodily injury or **property damage** that first occurs during this policy period includes any continuation, change or resumption of that **bodily injury** or **property damage** after the end of this policy period.

- c. Damages because of **bodily injury** or **property damage** include damages claimed by any person or organization for care, loss of services, or death resulting at any time from the **bodily injury**.

- d. In the event that a claim or **suit** seeks damages, some of which are covered and others of which are not covered by this policy, the **insured** must agree to a reasonable allocation of the costs and fees of defense, and the **insured** will be responsible for payment of the costs and fees to defend the damages or claims not covered by this policy. This agreement shall be reached in writing, signed by the **insured** and **us**, prior to the date when a responsive pleading to the claim or **suit** is filed on behalf of the **insured**. In the absence of such agreement, **our** duty to defend will apply only to those specific portions of the **suit** that are covered.

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

Coverage under Coverage A does not apply to:

a. Expected or Intended Injury

Bodily injury or **property damage** expected or intended from the standpoint of any **insured**. This exclusion does not apply to **bodily injury** resulting from the use of reasonable force to protect persons or property.

b. Contractual Liability

Bodily injury or **property damage** for which the **insured** is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the **insured** would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an **insured contract**, provided the **bodily injury** or **property damage** occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an **insured contract**, reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an **insured** are deemed to be damages because of **bodily injury** or **property damage**, provided:
 - (i) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same **insured contract**; and
 - (ii) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

c. Liquor Liability

Bodily injury or **property damage** for which any **insured** may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution, selling, or use of alcoholic beverages.

This exclusion applies only if **you** are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation and Similar Laws

Any obligation for which an **insured** or an insurer of that **insured**, even if one does not exist, may be held liable under workers' compensation, unemployment compensation, disability benefits law, or any similar law.

e. Employer's Liability

Bodily injury to:

- (1) An employee of any **insured** arising out of or within the course of:
 - i. that employee's employment by any **insured**; or
 - ii. performing duties related to the conduct of any **insured's** business; or
- (2) The spouse, child, parent, brother or sister of that employee as a consequence of Paragraph a. above.

This exclusion applies:

- (a) Whether the **insured** may be liable as an employer or in any other capacity; and
- (b) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the **insured** under an **insured contract**.

f. Aircraft, Auto or Watercraft

Bodily injury or **property damage** arising out of:

- (1) The ownership, maintenance, use, or entrustment to others of any aircraft, **auto** or watercraft owned or operated by or rented, leased or loaned to any **insured**; or
- (2) Any **auto you** do not own, lease, hire, rent or borrow that is used in connection with **your** business.

Use includes operation and **loading or unloading**.

This exclusion applies even if the claims against any **insured** allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that **insured**, if the **occurrence** which caused the **bodily injury** or **property damage** involved the ownership, maintenance, use or entrustment to others of any aircraft, **auto** or watercraft that is owned or operated by or rented or loaned to any **insured**.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises **you** own or rent;
- (2) A watercraft **you** do not own that is:
 - (a) Less than 26 feet long; and
 - (b) Not being used to carry persons or property for a charge;
- (3) Parking an **auto** on, or on the ways next to, premises **you** own or rent, provided the **auto** is not owned by or rented or loaned to **you** or the **insured**;
- (4) Liability assumed under any **insured contract** for the ownership, maintenance or use of aircraft or watercraft; or
- (5) **Bodily injury** or **property damage** arising out of:

- (a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of **mobile equipment** if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged; or
- (b) the operation of any of the machinery or equipment listed in Paragraph B or C of the definition of **auto**.

g. Mobile Equipment

Bodily injury or **property damage** arising out of:

- (1) The transportation of **mobile equipment** by an **auto** owned or operated by or rented or loaned to any **insured**; or
- (2) The use of **mobile equipment** in, while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

h. Damage to Property

Property damage to:

- (1) Property **you** own, rent, or occupy, including any costs or expenses incurred by **you**, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises **you** sell, give away, or abandon, if the **property damage** arises out of any part of those premises;
- (3) Property loaned to **you**;
- (4) Personal property in the care, custody or control of the **insured**;
- (5) That particular part of real property on which **you** or any contractors or subcontractors working directly or indirectly on **your** behalf are performing operations, if the **property damage** arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired, or replaced because **your work** was incorrectly performed on it.

Paragraphs (1), (3), and (4) of this exclusion do not apply to **property damage** (other than damage by fire) to premises, including the contents of such premises, rented to **you** for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To **You** as described in Section II – Limits of Insurance, subsection 6.

Paragraph (2) of this exclusion does not apply if the premises are **your work** and were never occupied, rented or held for rental by **you**.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to **property damage** included in the **products-completed operation hazard**.

i. Damage to Your Product

Property damage to your product arising out of it or any part of it.

j. Damage to Your Work

Property damage to your work arising out of it or any part of it and included in the **products/completed operations hazard**.

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on **your** behalf by a subcontractor.

k. Damage to Impaired Property or Property Not Physically Injured

Property damage to impaired property or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in **your product** or **your work**; or
- (2) A delay or failure by **you** or anyone acting on **your** behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to **your product** or **your work** after it has been put to its intended use.

l. Recall of Products, Work or Impaired Property

Damages claimed for any **loss**, cost or expense incurred by **you** or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) **Your product**;
- (2) **Your work**; or
- (3) **Impaired property**;

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

m. Personal and Advertising Injury

Bodily injury arising out of **personal and advertising injury**.

n. Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

As used in this exclusion, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

Exclusions c. through n. under this Coverage A do not apply to damage by fire to premises while rented to **you** or temporarily occupied by **you** with permission of the owner. A separate limit of insurance applies to this coverage as described in Section II – Limits Of Insurance.

COVERAGE B – PERSONAL AND ADVERTISING INJURY LIABILITY

1. Insuring Agreement

- a. **We** will pay those sums, OTHER THAN PUNITIVE OR EXEMPLARY DAMAGES, that the **insured** becomes legally obligated to pay as damages because of **personal and advertising injury** to which this insurance applies. **We** will have the right and duty to defend the **insured** against any **suit** seeking those damages. However, **we** will have no duty to defend the **insured** against any **suit** seeking damages for **personal and advertising injury** to which this insurance does not apply. **We** may, at **our** discretion, investigate any offense and settle any claim or **suit** that may result.

However:

- (1) The amount **we** will pay for damages is limited as described in Section II – Limits Of Liability; and
- (2) **Our** right and duty to defend end when **we** have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A and B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages A and B.

- b. This insurance applies to **personal and advertising injury** caused by an offense arising out of **your** business but only if the offense was committed in the **coverage territory** during the policy period.

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

Coverage under Coverage B does not apply to **personal and advertising injury**:

a. Knowing Violation of Rights of Another

Caused by or at the direction of any **insured** with the knowledge that the act would violate the rights of another and would inflict **personal and advertising injury**.

b. Material Published with Knowledge of Falsity

Arising out of oral or written publication of material, if published by or at the direction of the **insured** with knowledge of its falsity.

c. Material Published Prior to Policy Period

Arising out of oral or written publication of material whose first publication took place before the beginning of the policy period.

d. Criminal Acts

Arising out of a criminal act committed by or at the direction of any **insured**.

e. Contractual Liability

For any **loss** for which the **insured** has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the **insured** would have in the absence of the contract or agreement.

f. Breach of Contract

Arising out of a breach of contract, except an implied contract to use another's advertising idea in **your advertisement**.

g. Quality or Performance of Goods – Failure to Conform to Statements

Arising out of the failure of goods, products or services to conform to any statement of quality or performance made in **your advertisement**.

h. Wrong Description of Prices

Arising out of the wrong description of price of goods, products or services stated in **your advertisement**.

i. Insureds in Media and Internet Type Businesses

Committed by an **insured** whose business is:

- (i) Advertising, broadcasting, publishing or telecasting;
- (ii) Designing or determining content of websites for others; or
- (iii) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs 11.a, 11.b and 11.c. of **personal and advertising injury** under the Additional Definitions Used In This Endorsement Section.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for **you** or others anywhere on the Internet, is not by itself, considered the business of advertising, broadcasting, publishing or telecasting.

j. Infringement of Copyright, Patent, Trademark or Trade Secret

Arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights.

However, this exclusion does not apply to infringement, in **your advertisement**, of copyright, trade dress or slogan.

k. Electronic Chatrooms or Bulletin Boards

Arising out of an electronic chatroom or bulletin board the **insured** hosts, owns, or over which the insured exercises control.

l. Unauthorized Use of Another's Name or Product

Arising out of the unauthorized use of another's name or product in **your** e-mail address, domain name or metatag, or any other similar tactics to mislead another's potential customers.

GENERAL POLICY EXCLUSIONS

The following exclusions are applicable to both Coverage A and Coverage B.

This endorsement provides no coverage for the following:

a. Asbestos

Bodily injury, property damage or personal and advertising injury arising out of, resulting from, caused by, or contributed to, either directly or indirectly, by:

1. inhaling, ingesting, or prolonged physical exposure to asbestos or goods or products containing asbestos; or
2. the use of asbestos in constructing or manufacturing any good, product or structure; or
3. the removal of asbestos from any good, product or structure; or
4. the manufacture, transportation, storage or disposal of asbestos or goods or products containing asbestos;

This exclusion includes, but is not limited to, any cost for investigation, defense, abatement, mitigation, removal or disposal of asbestos or asbestos containing materials.

b. Lead

Bodily injury, property damage or personal and advertising injury arising out of, resulting from, caused by, or contributed to, either directly or indirectly, by lead or lead based products or any exposure or contamination of any person or property to such lead or lead based product. This exclusion includes but is not limited to any cost for abatement, mitigation, removal or disposal of paint, plumbing solder, pipes and fixtures or other items containing lead.

c. Fungi or bacteria

Bodily injury, property damage or personal and advertising injury which would not have occurred, in whole or in part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, any **fungi** or bacteria on or within a building or structure, including its contents, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such injury or damage.

This coverage also does not apply to any **loss**, cost or expenses arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of, **fungi** or bacteria, by any **insured** or by any other person or entity.

This exclusion does not apply to any **fungi** or bacteria that are, are on, or are contained in, a good or product intended for bodily consumption.

d. Silica or silica-related dust

1. **Bodily injury, property damage, or personal and advertising injury** arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, or ingestion of, **silica or silica-related dust**.
2. Any **loss**, cost or expense arising, in whole or in part, out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of,

or in any way responding to or assessing the effects of **silica** or **silica-related dust**, by any **insured** or by any other person or entity.

e. **Employment-Related Practices Exclusion**

Bodily injury or **personal and advertising injury** to:

- (1) A person arising out of any:
 1. Refusal to employ that person;
 2. Termination of that person's employment; or
 3. Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of **bodily injury** to that person at whom any of the employment-related practices described in paragraphs 1, 2 or 3 above is directed.

This exclusion applies:

- (a) Whether the **insured** may be liable as an employer or in any other capacity; and
- (b) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

f. **Assault and/or Battery Exclusion**

The coverage under this policy does not apply to any claim, **suit**, cost or expense arising out of assault and/or battery, or out of any act or omission in connection with the prevention or suppression of such acts, whether caused by or at the instigation or direction of any **insured** or **insured's** employees, patrons or any other person.

g. **Sexual Abuse and/or Molestation Exclusion**

The coverages under this policy do not apply to **bodily injury**, **property damage** or **personal and advertising injury** arising out of

- (1) The actual or threatened abuse or molestation or licentious, immoral or sexual behavior whether or not intended to lead to, or culminating in any sexual act, of any person, whether caused by, or at the instigation of, or at the direction of, or omission by, any **insured**, his/her employees, or any other person; or
- (2) The actual or alleged transmission of any communicable disease.

Abuse includes, but is not limited to, negligent or intentional infliction of physical, emotional or psychological injury or harm.

h. **Firearms Exclusion**

This insurance does not apply to any claims, **suits**, accusations or charges or any **loss**, cost, or expense arising out of **bodily injury**, **property damage**, or **personal or advertising injury** arising out of the ownership, rental, maintenance, use or misuse of any firearms.

i. **War**

Bodily injury, property damage or personal or advertising injury due to war, whether declared or undeclared, civil war, insurrection, rebellion, revolution, or to any act or condition incident to these.

j. Pollution

Bodily injury, property damage, or personal or advertising injury that would not have occurred in whole or part but for the actual, alleged, or threatened discharge, dispersal, seepage, migration, release, or escape of **pollutants** at any time.

This includes any **loss, cost, or expense** arising out of any:

1. Request, demand, order, or statutory or regulatory requirement that any **insured** or others test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize, or in any way respond to, or assess the effects of **pollutants**; or
2. Claim or **suit** by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, or neutralizing, or in any way responding to, or assessing the effects of, "**pollutants**".

s. Nuclear Energy Liability

(1) **Bodily injury or property damage:**

- (a) With respect to which an **insured** under the policy is also an **insured** under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an **insured** under any such policy but for its termination upon exhaustion of its limit of liability; or
- (b) Resulting from the **hazardous properties of nuclear material** and with respect to which:
 1. any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof; or
 2. the **insured** is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

(2) **Bodily injury** resulting from the **hazardous properties of nuclear material** and arising out of the operation of a **nuclear facility** by any person or organization.

(3) **Bodily injury or property damage** resulting from **hazardous properties of nuclear material**, if:

- (a) The **nuclear material**:
 1. is at any **nuclear facility** owned by, or operated by or on behalf of, an **insured**; or
 2. has been discharged or dispersed from any **nuclear facility** owned by, or operated by or on behalf of, an **insured**.
- (b) The **nuclear material** is contained in **spent fuel or waste** at any time possessed, handled, used, processed, stored, transported or disposed of, by or on behalf of an **insured**; or
- (c) The **bodily injury or property damage** arises out of the furnishing by an **insured** of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any **nuclear facility**, but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (c) only applies to **property damage** to such **nuclear facility** and any property threat.

- (4) When used in this exclusion:
- (a) **Hazardous properties** includes radioactive, toxic or explosive properties.
 - (b) **Nuclear material** means **source material, special nuclear material, or by-product material**.
 - (c) **Source material, special nuclear material, and by-product material** have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof.
 - (d) **Spent fuel** means any fuel element or fuel component, solid, or liquid, which has been used or exposed to radiation in a **nuclear reactor**.
 - (e) **Waste** means any waste material:
 - 1. containing **by-product material** other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its **source material** content; and
 - 2. resulting from the operation by any person or organization of any **nuclear facility** included under the first two paragraphs of the definition of **nuclear facility**.
 - (f) **Nuclear facility** means:
 - 1. Any **nuclear reactor**;
 - 2. Any equipment or device designed or used for:
 - a) separating the isotopes of uranium or plutonium;
 - b) processing or utilizing **spent fuel**; or
 - c) handling, processing or packaging **waste**.
 - 3. Any equipment or device used for the processing, fabricating or alloying of **special nuclear material** if at any time the total amount of such material in the custody of the **insured** at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235; or
 - 4. any structure, basic, excavation, premises or place prepared or used for the storage or disposal of **waste**;
 and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations.
 - (g) **Nuclear reactor** means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.
 - (h) **Property damage** includes all forms of radioactive contamination of property.

SUPPLEMENTARY PAYMENT – COVERAGES A AND B

1. **We** will pay, with respect to any claim **we** investigate or settle, or any **suit** against an **insured we** defend:
 - a. All expenses **we** incur.
 - b. Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage under this policy applies. **We** do not have to furnish these bonds.
 - c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. **We** do not have to furnish these bonds.
 - d. All reasonable expenses incurred by the **insured** at **our** request to assist **us** in the investigation or defense of the claim or **suit**, including actual loss earnings up to \$250 a day because of time off from work.
 - e. All cost taxed against the **insured** in the **suit**.

- f. Prejudgment interest awarded against the **insured** on the part of the judgment **we** pay. If **we** make an offer to pay the applicable limit of insurance, **we** will not pay any prejudgment interest based on that period of time after the offer.
- g. All interest on the full amount of any judgment that accrues after entry of the judgment and before **we** have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

- 2. If **we** defend an **insured** against a **suit** and an indemnitee of the **insured** is also named as a party of the **suit**, **we** will defend that indemnitee if all of the following conditions are met:
 - a. The **suit** against the indemnitee seeks damages for which the **insured** has assumed the liability of the indemnitee in a contract or agreement that is an **insured contract**;
 - b. This insurance applies to such liability assumed by the **insured**;
 - c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the **insured** in the same **insured contract**;
 - d. The allegations in the **suit** and the information **we** know about the **occurrence** are such that no conflict appears to exist between the interests of the **insured** and the interests of the indemnitee;
 - e. The indemnitee and the **insured** ask **us** to conduct and control the defense of that indemnitee against such **suit** and agree that **we** can assign the same counsel to defend the **insured** and the indemnitee; and
 - f. The indemnitee:
 - (1) Agrees in writing to:
 - (a) Cooperate with **us** in the investigation, settlement or defense of the **suit**;
 - (b) Immediately send **us** copies of any demands, notices, summonses or legal papers received in connection with the **suit**;
 - (c) Notify any other insurer whose coverage is available to the indemnitee; and
 - (d) Cooperate with **us** with respect to coordinating other applicable insurance available to the indemnitee; and
 - (2) Provides **us** with written authorization to:
 - (a) Obtain records and other information related to the **suit**; and
 - (b) Conduct and control the defense of the indemnitee in such **suit**.

So long as the above conditions are met, attorneys' fees incurred by **us** in the defense of that indemnitee, necessary litigation expenses incurred by **us** and necessary litigation expenses incurred by the indemnitee at **our** request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph 2.b.(2) of Section I – Coverage A – Bodily Injury And Property Damage Liability, such payments will not be deemed to be damages for **bodily injury** and **property damage** and will not reduce the limits of insurance.

Our obligation to defend an **insured's** indemnitee and pay attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

- a. **We** have used up the applicable limit of insurance in the payment of judgments or settlements; or
- b. The conditions set forth above, or the terms of the agreement described in Paragraph f. above, are no longer met.

COVERAGE C – MEDICAL PAYMENTS

1. Insuring Agreement

a. **We** will pay medical expenses as described below for **bodily injury** caused by an **accident**:

- (1) On premises **you** own or rent;
- (2) On ways next to premise **you** own or rent; or
- (3) Because of **your** operations;

Provided that:

- (1) The **accident** takes place in the **coverage territory** and during the policy period;
- (2) The expenses are incurred and reported to **us** within one year of the date of the **accident**; and
- (3) The injured person submits to examination, at **our** expense, by physicians of **our** choice as often as **we** reasonably require.

b. **We** will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. **We** will pay reasonable expenses for:

- (1) First aid administered at the time of an accident;
- (2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
- (3) Necessary ambulance, hospital, professional nursing and funeral services.

2. Exclusions

We will not pay expenses for **bodily injury**:

a. Any Insured

To any **insured**.

b. Hired Person

To a person hired to do work for or on behalf of any **insured** or a tenant of any **insured**.

c. Injury on Normally Occupied Premises

To a person injured on that part of premises **you** own or rent that the person normally occupies.

d. Workers Compensation and Similar Laws

To a person, whether or not an **employee** of any **insured**, if benefits for the **bodily injury** are payable or must be provided under a workers' compensation, disability benefits, or unemployment law or a similar law.

e. Athletic Activities

To a person injured while practicing, instructing or participating in any physical exercises or games, sports, or athletic contests.

f. Products-Completed Operations Hazard

Included within the **product-completed operations hazard**.

g. Coverage A Exclusions

To a person if the **bodily injury** would be excluded under Coverage A.

h. War

Due to war, whether or not declared, or any act or condition incident of war. War includes civil war, insurrection, rebellion or revolution.

SECTION II – LIMITS OF LIABILITY

1. The Limits of Liability shown on the **Declarations Page** and the rules below fix the most **we** will pay regardless of the number of:
 - a. **Insureds**;
 - b. Claims made or **suits** brought; or
 - c. Persons or organizations making claims or bringing **suits**.
2. The General Aggregate Limit is the most **we** will pay for the sum of:
 - a. Medical expenses under Coverage C;
 - b. Damages under Coverage A, except damages because of **bodily injury** or **property damage** included in the **products-completed operations hazard**; and
 - c. Damages under Coverage B.
3. The Product-Completed Operations Aggregate Limit is the most **we** will pay under Coverage A for damages because of **bodily injury** and **property damage** included in the **product-completed operations hazard**.
4. Subject to Paragraph 2. above, the Personal and Advertising Injury Limit is the most **we** will pay under Coverage B for the sum of all damages because of all **personal and advertising injury** sustained by any one person or organization.
5. Subject to Paragraph 2. or 3. above, whichever applies, the Each **Occurrence** Limit is the most **we** will pay for the sum of:
 - a. Damages under Coverage A; and
 - b. Medical expenses under Coverage C;
 because of all **bodily injury** and **property damage** arising out of any one **occurrence**.
6. Subject to Paragraph 5. above, the Damage To Premises Rented To **You** Limit is the most **we** will pay under Coverage A for damages because of **property damage** to any one premises, while rented to **you**, or in the case of damage by fire, while rented to **you** or temporarily occupied by **you** with permission of the owner.
7. Subject to Paragraph 5. above, the Medical Expense Limit is the most **we** will pay under Coverage C for all medical expenses because of **bodily injury** sustained by any one person.

The Limits of Liability of this policy apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown on the **Declarations Page**, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Liability.

SECTION III – COMMERCIAL GENERAL LIABILITY PROVISIONS AND CONDITIONS

The following provisions and conditions apply to this endorsement, and are in addition to the General Provisions of the Commercial Auto Policy, and to any schedules, endorsements, or modifications thereto:

1. Legal Action Against Us

No person or organization has a right under this endorsement:

- (a) To join **us** as a party or otherwise bring **us** into a **suit** asking for damages from an **insured**; or
- (b) To sue **us** on this endorsement unless all of its terms have been fully complied with.

A person or organization may sue **us** to recover on an agreed settlement or on a final judgment against an **insured**, but **we** will not be liable for damages that are not payable under the terms of this endorsement or that are in excess of the applicable limit of liability. An agreed settlement means a

settlement and release of liability signed by **us**, the **insured** and the claimant or the claimant's legal representative.

2. **Other Insurance**

If other valid and collectible insurance is available to the **insured** for a **loss we** cover under Coverages A and B of this policy, **our** obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when Paragraph b. below applies. If this insurance is primary, **our** obligations are not affected unless any of the other insurance is also primary. Then, **we** will share with all that other insurance by the method described in Paragraph c. below.

b. Excess Insurance

When this insurance applies, it is excess over:

- (1) Any of the other insurance, whether primary, excess, contingent or on any other basis:
 - (a) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for **your work**;
 - (b) That is Fire insurance for premises rented to **you** or temporarily occupied by **you** with permission of the owner;
 - (c) That is insurance purchased by **you** to cover **your** liability as a tenant for **property damage** to premises rented to **you** or temporarily occupied by **you** with permission of the owner; or
 - (d) If the **loss** arises out of the maintenance or use of an **auto**, aircraft or watercraft to the extent not subject to Exclusions m., n. or o. of Section I – Coverage A – Bodily Injury And Property Damage Liability.
- (2) Any other primary insurance available to **you** covering liability for damages arising out of the premises or operations for which **you** have been added as an additional insured by attachment of an endorsement.

When this insurance is excess, **we** will have no duty under Coverages A and B to defend the **insured** against any **suit** if any other insurer has a duty to defend the **insured** against that **suit**. If no other insurer defends, **we** will undertake to do so, but **we** will be entitled to the **insured's** right against all those other insurers.

When this insurance is excess over other insurance, **we** will pay only **our** share of the amount of the **loss**, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the **loss** in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining **loss**, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the **Declarations Page** of this policy.

c. Method of Sharing

If all of the other insurance permits contribution by equal shares, **we** will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the **loss** remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, **we** will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

3. **Premium Audit**

- a. **We** will compute all premiums for this policy in accordance with **our** rules and rates.
- b. Premium shown in this policy as advance premium is a deposit premium only. At the close of each audit period **we** will compute the earned premium for that period. Audit premiums are due and payable on notice to the first Named Insured. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, **we** will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information **we** need for premium computation, and send **us** copies at such times as **we** may request.

4. **Representations**

By accepting this policy, **you** agree:

- a. The statements in the **Declarations Page** are accurate and complete;
- b. Those statements are based upon representation **you** made to **us**; and
- c. **We** have issued this policy in reliance upon **your** representations.

5. **When We Do Not Renew**

If **we** decide not to renew this policy, **we** will mail or deliver to the first Named Insured shown in the **Declarations Page** written notice of the nonrenewal not less than 60 days before the expiration date. If notice is mailed, proof of mailing will be sufficient proof of notice.

6. **When You Become Ineligible For Coverage**

This Commercial General Liability Endorsement has been available to **you** based upon representations made by **you** concerning the profile of **your** business. If at any time **your** business profile changes so that it no longer fits **our** underwriting criteria for this coverage, this Commercial General Liability Endorsement will be cancelled. **We** will provide notice of the cancellation of this coverage not less than 30 days before the effective date of the cancellation. If notice is mailed, proof of mailing will be sufficient proof of notice.

7. **Examination of Your Books and Records**

We may examine and audit **your** books and records as they relate to this policy at any time during the policy period and up to three years afterward.

8. **Inspections and Surveys**

We have the right but are not obligated to:

- a. Make inspections and surveys at any time;
- b. Give **you** reports on the conditions **we** find; and
- c. Recommend changes.

Any inspections, surveys, reports or recommendations relate only to insurability and the premiums to be charged. **We** do not make safety inspections. **We** do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. **We** do not warrant that conditions:

- a. Are safe or healthful; or
- b. Comply with laws, regulation, codes or standard.

This condition applies to **us** and to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

9. **Premiums**

The first Named Insured shown on the **Declarations Page**

- a. Is responsible for the payment of all premiums, and
- b. Will be the payee for any return premiums **we** pay.

10. **Knowledge and Notice of Occurrence**

It is agreed that knowledge of an **occurrence** or offense by an agent, servant or employee of the **insured** shall not constitute knowledge to the **insured** unless the corporate risk manager shall have received such notice.

It is also agreed that if the **insured** reports an **occurrence** or offense to its workers' compensation carrier that develops into a liability claim, failure to report such **occurrence** or offense to **us** at the time of the **occurrence** or offense shall not be deemed in violation of Duties in the Event of **Occurrence, Offense, Claim or Suit**.

11. **Headings and Subheadings**

The headings and subheadings in this policy and any endorsements or schedules hereto are included solely to aid the reader and do not affect the terms of this policy.

Form Z433 AR (04/08)

Z434 0906



PROGRESSIVE[®]

**MOTOR TRUCK CARGO
LEGAL LIABILITY COVERAGE
ENDORSEMENT**

MOTOR TRUCK CARGO LEGAL LIABILITY COVERAGE ENDORSEMENT

Except as specifically modified by this endorsement, all provisions of the Commercial Auto Policy apply.

We agree with **you** that the insurance provided under **your** Commercial Auto Policy is modified as follows:

INSURING AGREEMENT

Subject to the Limit of Liability, if **you** pay the premium for this Motor Truck Cargo Legal Liability Coverage, **we** will pay for the direct physical **loss** to **covered property** that **you** are legally liable to pay as a **trucker** under a written bill of lading, tariff document, or contract of carriage issued by **you**. For this coverage to apply, the **covered property** must, at the time of **loss**, be in **your** exclusive physical custody and control:

1. while in the due course of transit in or on an **insured auto**; or
2. during **loading or unloading**.

Coverage applies for **loss** to **covered property** only if the **loss** is caused by a **covered peril**.

We have the option to settle or defend any claim or lawsuit for damages covered by this endorsement. However, **we** have no duty to defend **you** against any lawsuit to which this insurance does not apply. **We** have no duty to settle or defend any lawsuit, or make any additional payments, after the limit of liability for this coverage has been exhausted by payment of judgments or settlements.

ADDITIONAL DEFINITIONS

The following additional definitions apply throughout this Motor Truck Cargo Legal Liability Coverage endorsement whenever the defined term appears in boldface type, whether in the singular, plural, or possessive:

1. "**Covered peril**" means any external risks of direct physical **loss** to **covered property**, except for those listed in a. through i. below as Excluded Perils.

Excluded Perils: Please read the following list of Excluded Perils carefully. Coverage will not be afforded under this Motor Truck Cargo Legal Liability Coverage endorsement for these types of perils. We will not pay for any losses to covered property caused by, resulting in or from, or arising out of these Excluded Perils regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

a. **Civil Authority**

Order of any civil authority, including seizure, confiscation, destruction, or quarantine of property.

b. **Nuclear Hazard, Pollutants**

- (i) A nuclear reaction, nuclear radiation, or radioactive contamination, whether controlled or uncontrolled; whether direct or indirect, proximate or remote; whether caused by natural, accidental, or artificial means; and whether or not it contributed to or is aggravated by a **covered peril**. **Loss** caused by nuclear hazard is not considered **loss** caused by fire, explosion, or smoke.
- (ii) The release, discharge, seepage, migration, dispersal, or escape of **pollutants**, unless the release, discharge, seepage, migration, dispersal, or escape is caused by a **specified peril**.

c. **War, Civil Commotion**

- (i) War whether declared or undeclared, including civil war;
- (ii) 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;
- (iii) Insurrection, rebellion, revolution, usurped power, or any action taken by a governmental authority to hinder or defend against any of these acts;
- (iv) The explosion of any weapon employing atomic fission or fusion; or any nuclear reaction or radiation, or radioactive contamination, however caused; or
- (v) Strikers, locked out workmen, or persons taking part in labor disturbances or riots, or civil commotions.

d. **Inherent Vice**

Contamination or deterioration, including corrosion; decay; fungus; mildew; mold; rot; rust; insects; vermin; change in flavor; or any quality, fault, or weakness in the **covered property** that causes it to damage or destroy itself.

e. **Criminal, Fraudulent, or Dishonest Acts**

Criminal, fraudulent, dishonest, or illegal acts alone or in collusion with another, whether or not such acts occurred during regular hours of employment, by:

- (i) **you**;
 - (ii) **your** partners, officers, directors, trustees, or joint ventures;
 - (iii) others to whom **you**, **your** partners, officers, directors, trustees, or joint ventures entrust the property;
 - (iv) others who have an interest in the property; or
 - (v) the employees or agents of any party specified in (i) through (iv) above.
- This Excluded Peril does not apply to acts of destruction by **your** employees, but **we** will not pay for theft by employees.

f. **Consequential Loss**

Loss of use, loss of market, loss of market value, or delay; or any other remote or consequential loss, other than direct physical **loss**, to **covered property**.

g. **Breakdown, Temperature, Humidity**

- (i) Humidity, dampness, dryness, or changes in or extremes of temperature; or
- (ii) Mechanical or electrical breakdown or failure including breakdown or failure of a refrigeration unit or its associate component parts, or heating equipment installed in a cargo component.

However, this Excluded Peril does not apply to **loss** caused by a fire or explosion if such fire or explosion would be covered under this endorsement.

h. **Voluntary Parting, Nondelivery, Mysterious Disappearance**

- (i) Voluntary parting with title to, or possession of, the property due to fraudulent scheme, trick, or false pretense;
- (ii) Nondelivery or misdelivery; or
- (iii) Mysterious or unexplained disappearance; shortage of any property upon taking inventory; or theft of a part of the contents of any shipping package.

i. **Fines, Penalties, and Costs**

Any costs, fines, punitive damages, assessments, attorney fees, court costs, or other penalties that **you** are required or liable to pay as a result of **your** violation of any law or regulation, or as a result of the violation of any law or regulation relating to any delay in the payment, denial, or settlement of any claim.

2. **“Covered property”** means lawful goods and merchandise of others, except for the items listed in a. through i. below as Excluded Properties. **Covered property** also does not include **autos you** own, lease, hire, rent, or borrow.

Excluded Properties: Please read the following list of excluded properties carefully. Coverage will not be afforded under this Motor Truck Cargo Legal Liability Coverage endorsement for loss to these types of properties.

a. **Art, Jewelry, Metals, Money, Papers**

Objects of art, including paintings and statuary; jewelry, precious or semi-precious stones; precious or semi-precious metals or alloys; money and securities of any kind including monies collected or not collected under a C.O.D., bill of lading, or shipping receipt; food stamps, lottery tickets, notes, money orders, traveler’s checks, accounts, bills, deeds, or other evidences of debt; valuable papers of any kind including passports, manuscripts, mechanical drawings, blueprints.

b. **Contraband, Pharmaceuticals, Tobacco, Alcohol**

Contraband or property in the course of illegal transportation or trade; prescription pharmaceuticals; tobacco products; or alcoholic beverages, other than beer or wine.

c. **Live Animals**

Live animals, including cattle or poultry, unless death is caused or made necessary by a **specified peril**.

- d. **Other Carrier**
Any property while in the custody of any other carrier.
 - e. **Property Not Under Bill of Lading**
Any property for which no bill of lading, tariff document, or contract of carriage has been issued, or which is carried gratuitously or without charge.
 - f. **Storage**
Any property in or on an **insured auto** after it has remained at any location for more than 72 hours. This includes locations **you** own or use.
 - g. **Transporting Vehicles**
Any transporting vehicle or conveyance, including its equipment such as tarpaulins, shipping containers, chains, or binders.
 - h. **Explosive or Radioactive Material**
Explosives, ammunition, fireworks, or radioactive material.
3. **“Earned freight charges”** means freight charges from the point of departure to the point of **loss**.
4. **“Insured auto”** is used in this endorsement as defined in the General Definitions section of **your** Commercial Auto Policy. Additionally, as used in this endorsement, it includes:
- a. **Trailers** designed primarily for travel on public roads while physically attached by **you** or **your** authorized representative to an **insured auto** that is a power unit; and
 - b. Any **temporary substitute auto**.
With respect to this endorsement, if **we** provide coverage for an additionally acquired **auto**, **we** will provide the same coverage for such additional **auto** as **we** provide for any **auto** shown on the **declarations page**.
5. **“Loading or unloading”** means the direct physical process of hoisting, lifting, or moving **covered property**:
- a. onto an **insured auto** from the ground or loading docks adjacent to such **insured auto**; or
 - b. off of an **insured auto** to the place where it is finally delivered.
6. **“Pollutant”** is used in this endorsement as defined in the General Definitions section of **your** Commercial Auto Policy. Additionally, as used in this endorsement, it includes electrical or magnetic emissions, whether visible or invisible, and sound emissions.
7. **“Specified peril”** means fire; lightning; windstorm; hail; collision, overturn, or derailment of a transporting conveyance; collapse of a bridge or culvert; and theft.

8. **“Trucker”** means any person, organization, or motor carrier engaged in the business of transporting property for hire.

ADDITIONAL PAYMENTS

In addition to the applicable limit of liability:

1. Earned Freight

We will pay **earned freight charges** that are due to **you** if **you** are unable to collect them from others because of a **loss** to **covered property** that is caused by a **covered peril**. The most **we** will pay under this additional coverage for all freight charges in any one **loss** is \$2,500.

2. Removal Expenses

- a. **We** will pay removal expenses incurred to remove debris of **covered property**, which results from a **loss** caused by a **covered peril** that occurs during the policy period. This does not include costs to:
- (i) extract **pollutants** from land or water; or
 - (ii) remove, restore, or replace polluted land or water.
- b. **We** will also pay removal expenses incurred to extract **pollutants** from land or water, if the discharge, dispersal, migration, or release of the **pollutants** is caused by or results from **loss** to **covered property**, and if such **loss** is caused by a **covered peril** during the policy period.

We do not pay for:

- (i) the cost of testing; evaluating; observing; or recording the existence, level, or effects of **pollutants**. However, **we** will pay the cost of testing that is necessary for the extraction of **pollutants** from land or water.
 - (ii) any damage to **your insured auto** from **pollutants**.
- c. The most **we** will pay for all removal expenses described in a. or b. above arising out of any one **loss** is \$10,000.
- d. The expenses for removal of **covered property** debris and **pollutants** will be paid only if they are reported to **us** in writing within 180 days of the earlier of:
- (i) the date of the direct physical **loss**; or
 - (ii) the end of the policy period.

3. Expenses in Defense or Settlement of Claims

We will pay, with respect to any claim **we** investigate or settle, or with respect to any lawsuit against any insured **we** defend:

- a. all expenses **we** incur.
- b. the premium on any appeal bond or attachment bond required in any lawsuit **we** defend. However, **we** have no duty to purchase a bond in a principal amount exceeding **our** limit of liability, and **we** have no duty to apply for or furnish these bonds.
- c. all reasonable expenses incurred by **you** at **our** request, including actual loss of earnings up to \$250 per day because of time off from work.
- d. all costs taxed against the insured in any lawsuit against the insured **we** defend.

- e. interest accruing after entry of judgment on that part of the judgment that does not exceed **our** limit of liability for any lawsuit **we** defend. This does not apply if **we** have not been given notice of suit or the opportunity to defend an insured. **Our** payment, offer in writing, or deposit in court of that part of the judgment that does not exceed **our** limit of liability ends **our** duty to pay interest that accrues after the date of **our** payment, written offer, or deposit.
 - f. interest accruing before entry of judgment on that part of the judgment that does not exceed **our** limit of liability for any lawsuit **we** defend. **Our** offer to pay that part of the judgment that does not exceed **our** limit of liability ends **our** duty to pay interest that accrues after **our** offer.
4. **Sue and Labor**
- a. **We** will pay the necessary expenses **you** incur to prevent further **loss** to **covered property** if that expense is incurred within a 12-hour period after the **covered peril** occurs.
 - b. If, in the event of an occurrence, it becomes necessary to move the **covered property** in order to avoid a **loss** to the **covered property**, **we** will pay the reasonable and necessary costs incurred by **you** to move the **covered property** away from the location of the occurrence.
 - c. The most **we** will pay for the aggregate of all expenses incurred under subparts a. and b. above is \$5,000.

LIMITS OF LIABILITY

1. Amount Of Payment

- a. Subject to subsections 2., 3., and 4. below, in the event of a **loss**, **we** will pay the least of the following:
 - (i) **Your** legal liability for the direct physical **loss** to the **covered property**;
 - (ii) The declared value of the **covered property** shown in the bill of lading, tariff documents, or contract of carriage;
 - (iii) The actual cost to the shipper to repair or replace the **covered property** with material of like kind and quality, not including any claim for diminution of value to the **covered property**; or
 - (iv) The “Cargo” limit shown on the **declarations page**.
- b. Regardless of the number of **insured autos** or **trailers** involved, insureds, premiums paid, policies issued by **us**, claims made, or lawsuits brought, the most **we** will pay for **loss** to **covered property** in any one occurrence is the limit of liability shown on the **declarations page** for “Cargo Liability” coverage.

2. Deductible

For each **loss** that qualifies for coverage under this endorsement, the deductible shown on the **declarations page** for this “Cargo Liability” coverage will be applied to reduce the **loss** payable on the **covered property**.

3. Insurable Interest

We will not cover more than **your** insurable interest in any **covered property**.

4. **Sets Or Parts**

a. Sets

The **loss** to an article that is part of a set will not be considered a **loss** to the entire set. Therefore, if there is a **loss to covered property** that is part of a set, **we** at **our** option may choose to:

- (a) repair or replace any part to restore the pair or set to its value before the **loss** or damage; or
- (b) pay the difference between the value of the pair or set before and after the **loss** or damage.

b. Parts

If **loss** is to a part of **covered property** that consists of several parts, **we** will pay for only the lost or damaged part.

DUTIES IN CASE OF A LOSS

The following additional duties apply under this Motor Truck Cargo Legal Liability Coverage endorsement:

1. **You** must take all reasonable steps to protect **covered property** at the time of and after a **loss** to avoid further damage.
2. **You** must allow **us** to have all property involved in an **accident** or **loss** inspected and appraised before its repair or disposal.
3. **You** must give **us** a copy of the descriptions and schedules from all insurance policies applicable to the **covered property** that was destroyed or damaged.
4. **You** must send **us** a signed, sworn proof of loss containing all the information **we** request to settle the claim. **You** must do this within 60 days after **our** request. **We** will supply **you** with the necessary forms.
5. **You** must, as often as **we** reasonably require, submit, and so far as within **your** power, cause all other persons interested in the **covered property** and members of their households and employees to submit, to examination under oath by any person **we** name, and in connection with such claim to produce for examination all books of accounts, uniform bills of lading, shipping receipts, invoices, drivers' log books, and any other documents, at such reasonable time and place as **we** may designate, and permit extracts and copies thereof to be made.

GENERAL PROVISIONS

1. When used in this endorsement, subsection 3 – Other Insurance of the General Provisions section of **your** Commercial Auto Policy, is deleted in its entirety, and replaced by the following:
 - a. **Other Insurance**

- (i) **You** may have other insurance subject to the same terms, conditions, and provisions as the insurance provided by this endorsement. If **you** do, **we** will pay **our** share of the covered **loss**. **Our** share is the proportion that the applicable limit of liability under this endorsement bears to the total of the limits of liability of all policies covering on the same basis.
- (ii) If there is other insurance covering the same **loss**, other than that described in paragraph (i) above, **we** will pay only for the amount of the covered **loss** in excess of the amount due from that other insurance, whether **you** can collect on it or not. But, **we** will not pay more than **our** applicable limit of liability.

b. Insurance Under Two Or More Coverages

If two or more of this endorsement's coverages apply to the same **loss**, **we** will not pay more than the amount of the **loss** as determined under subsection 1 – Amount of Payment, in the Limits of Liability section of this endorsement, or the limit of liability applicable to the most specific coverage, whichever is less.

2. The following additional General Provisions apply to this Motor Truck Cargo Legal Liability Coverage endorsement:

a. Payment Of Loss

- (i) A covered **loss** will be payable 30 days after a satisfactory proof of loss is received or a final judgment award has been entered.

We may make payment for a **loss** either to **you** or the owner of the property. **We** will not pay the owner more than their financial interest in the property. If **we** make a payment to the owner of the property, this shall be in full satisfaction of any claim by **you** for which such payment has been made.

If a **loss** has been paid or made good by others, **we** will not be liable for any part of the **loss**. Payment for a **loss** is required only if **you** have fully complied with all the terms of this policy.

- (ii) **We** have the following options:
 - (a) pay the value of the **loss** as determined under subsection 1 – Amount of Payment, in the Limits of Liability section of this endorsement;
 - (b) pay the cost of repairing or replacing the **covered property**;
 - (c) rebuild, repair, or replace the **covered property** with property of like kind and quality, to the extent practicable, and within a reasonable time; or
 - (d) take all or any part of the damaged property at an agreed value.

b. Abandonment

We may keep all or part of the property at the agreed or appraised value, but **you** may not abandon any property to **us** without **our** written consent.

c. **Conformity With Statute**

When a condition of this coverage is in conflict with an applicable law, that condition is amended to conform to that law.

d. **Recovered Property**

If **you** or **we** recover any **covered property** for which **we** have made payment under this policy, **you** or **we** will promptly notify the other of the recovery. At **your** option, the property will be returned to or retained by **you** or it will become **our** property. If **you** keep the property, **you** must return to **us** the amount **we** paid to **you** for the **covered property**. **We** will pay recovery expenses and the expenses to repair the recovered **covered property**, subject to the limit of liability.

If **we** have already paid **you** the **loss** amount at the time of any salvage or recovery, the amount **you** receive for the recovered **covered property** will accrue entirely to **our** benefit until **you** have paid any amounts owed to **us** as a result of the adjustment to the **loss** amount.

e. **Salvage**

Any recovery of salvage on a **loss** will accrue entirely to **our** benefit until the sum **we** paid has been replaced. If **our** benefit of salvage recovery exceeds the sum that **we** paid, **we** will return the difference to **you**, less any salvage recovery expenses.

f. **Policy Period And Territory**

Coverage under this endorsement applies only to **losses** that occur during the policy period shown on the **declarations page** and which occur within the United States or Canada.

g. **Coverage Required By Filings**

If **we** have filed a certificate of insurance on **your** behalf with any regulatory or governmental agency, and:

- (i) **we** are required to pay any judgment entered against **you**; or
- (ii) **we** agree to settle a claim or lawsuit;

arising out of a **loss** that is covered solely because of the existence of such certificate of insurance, **we** will be obligated to pay no more than the minimum amount required by that agency or any applicable law. If any payment is based solely on the existence of such certificate, **you** must reimburse **us** in full for **our** payment, including legal fees and costs **we** incurred, whether the payment is made as a result of judgment or settlement.

h. **No Benefit To Bailee**

No person or organization other than **you**, having custody of **covered property**, will benefit from this insurance.

i. **Transfer of Rights Of Recovery Against Others To Us**

If any person or organization to or for whom **we** make payment under this endorsement has rights to recover damages from another, those rights are transferred to **us** to the extent of **our** payment. That person or organization must do everything necessary to secure **our** rights and must do nothing after **loss** to impair them. But **you** may waive **your** rights against another party in writing:

- (i) Prior to a **loss** to the **covered property**.
- (ii) After a **loss** to the **covered property**, but only if, at the time of **loss**, that party is one of the following:
 - (a) someone insured by this insurance; or
 - (b) a business firm:
 - (1) owned or controlled by **you**; or
 - (2) that owns or controls **you**.

j. **Legal Action Against Us**

No one may bring a legal action against **us** under this endorsement unless:

- (i) There has been full compliance with all the terms of this policy; and
- (ii) The action is brought within two years after **you** first have knowledge of the direct **loss** or damage.

k. **Premiums**

The first named insured shown on the **declarations page**:

- (i) Is responsible for the payment of all premiums; and
- (ii) Will be the payee for any return premiums **we** pay.

ALL OTHER TERMS, LIMITS, AND PROVISIONS OF THE POLICY REMAIN UN-CHANGED.

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PROGRESSIVE[®]

**GARAGE OPERATIONS
PHYSICAL DAMAGE
LEGAL LIABILITY
COVERAGE ENDORSEMENT**

GARAGE OPERATIONS PHYSICAL DAMAGE **LEGAL LIABILITY COVERAGE ENDORSEMENT**

This endorsement modifies **your** Commercial Auto Policy. Except as specifically modified by this endorsement, all provisions of the Commercial Auto Policy apply.

THIS ENDORSEMENT APPLIES ON A LEGAL LIABILITY BASIS UNLESS ONE OF THE DIRECT COVERAGE OPTIONS LISTED BELOW IS SHOWN ON **YOUR DECLARATIONS PAGE**.

DIRECT COVERAGE OPTIONS

Direct Excess Insurance. If this “Direct Excess” option is shown on **your declarations page**, the On-Hook Towing Physical Damage Legal Liability and Garagekeeper’s Storage Location Physical Damage Legal Liability coverages provided by this endorsement are modified to apply without regard to **your** or any other **insured’s** legal liability for **loss** to a **customer’s auto** or **towed property**, and is excess over any other collectible insurance regardless of whether the other insurance covers **your** or any other **insured’s** interest or the interest of the owner of the **customer’s auto** or **towed property**.

Direct Primary Insurance. If this “Direct Primary” option is shown on **your declarations page**, the On-Hook Towing Physical Damage Legal Liability and Garagekeeper’s Storage Location Physical Damage Legal Liability coverages provided by this endorsement are modified to apply without regard to **your** or any other **insured’s** legal liability for **loss** to a **customer’s auto**, or **towed property**, and is primary insurance.

INSURING AGREEMENT - ON-HOOK TOWING PHYSICAL DAMAGE LEGAL LIABILITY COVERAGE

If **you** pay the premium for this On-Hook Towing Physical Damage Legal Liability coverage and it is shown on **your declarations page** as “On-Hook Legal Liability”, **we** will pay all sums for which an **insured** is legally liable to pay for **property damage** for **loss** to **towed property**. **We** will pay under this coverage only if a limit of liability and a premium is shown for this coverage on the **declarations page**.

We will have the right and duty to defend any **insured** against a lawsuit asking for these damages. However, **we** have no duty to defend any **insured** against a lawsuit seeking damages for **loss** to which this insurance does not apply. **We** may investigate and settle any claim or lawsuit as **we** consider appropriate. **Our** duty to defend or settle ends when the limit of liability for this coverage has been exhausted by payment of judgments or settlements.

INSURING AGREEMENT - GARAGEKEEPER'S STORAGE LOCATION PHYSICAL DAMAGE LEGAL LIABILITY COVERAGE

If **you** pay the premium for this Garagekeeper's Storage Location Physical Damage Legal Liability coverage and it is shown on **your declarations page** as "Garagekeepers Legal Liability", **we** will pay all sums for which an **insured** is legally liable to pay as **property damage for loss to a customer's auto** or **customer's auto** equipment left in the **insured's** care while the **insured** is attending, servicing, repairing, parking, or storing it in **your garage operations** under:

1. Comprehensive Coverage.
From any cause except:
 - a. Collision of the **customer's auto** with another object; or
 - b. Overturn of the **customer's auto**.
2. Collision Coverage.
Caused by:
 - a. Collision of the **customer's auto** with another object; or
 - b. Overturn of the **customer's auto**.

We will have the right and duty to defend any **insured** against a lawsuit asking for these damages. However, **we** have no duty to defend any **insured** against a lawsuit seeking damages for **loss** to which this insurance does not apply. **We** may investigate and settle any claim or lawsuit as **we** consider appropriate. **Our** duty to defend or settle ends when the limit of liability for this coverage has been exhausted by payment of judgments or settlements.

We will pay under this coverage only if a limit of liability and a premium is shown for this coverage on the **declarations page**, and only for the locations listed on **your declarations page**.

ADDITIONAL DEFINITIONS

The following additional definitions apply throughout this Garage Operations Physical Damage Legal Liability Coverage endorsement whenever the defined term appears in boldface type, whether in the singular, plural, or possessive:

1. "**Customer's auto**" means a customer's land motor vehicle, **trailer**, or **watercraft**, including a **customer's auto** left with **you** for service, repair, storage, or safekeeping. Customers include **your** employees and their **relatives** who pay for services performed.
2. "**Garage operations**" means the ownership, maintenance, or use of the locations shown on **your declarations page** for the purpose of a business of selling, servicing, repairing, parking, or storing **customers' autos**, and that portion of the roads or other accesses that adjoin such locations. **Garage**

operations also includes all operations necessary or incidental to the performance of **garage operations**.

3. **“Insured”** means:
 - a. **you**; and
 - b. **your** partners (if **you** are a partnership), members (if **you** are a limited liability company), employees, directors, or shareholders, but only while acting within the scope of their duties.
4. **“Loaded in or on”** means connected to.
5. **“Towed property”** means tangible property, not owned by or registered to **you**, in transit while **loaded in or on**, or conveyed by, an **insured auto**. **Towed property** also means property when it is moved from the place where **you** accept it for movement by or onto **your insured auto** and after it is moved from **your insured auto** to the place where it is finally delivered by **you**. **Towed property** includes a towed **auto** or **watercraft**.
6. **“Watercraft”** means any craft, boat, vessel, or ship designed to transport persons or property by water.
7. **“Work you performed”** includes:
 - a. Work that someone performed on **your** behalf; and
 - b. The providing of, or the failure to provide, warnings or instructions.

ADDITIONAL PAYMENTS

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

1. All expenses **we** incur in the settlement of any claim or defense of any lawsuit;
2. The premium on any appeal bond or attachment bond required in any lawsuit **we** defend. **We** have no duty to purchase a bond in a principal amount exceeding **our** limit of liability, and **we** have no duty to apply for or furnish these bonds;
3. Reasonable expenses incurred by that **insured** at **our** request, including loss of earnings up to \$250 per day;
4. All costs taxed against the **insured** in any lawsuit against that **insured we** defend; and
5. Interest accruing after entry of judgment on that part of the judgment that 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**. **Our** payment, offer in writing, or deposit in court of that part of the judgment that does not exceed **our** limit of liability ends **our** duty to pay interest that accrues after the date of **our** payment, written offer, or deposit.

EXCLUSIONS - PLEASE READ THE FOLLOWING EXCLUSIONS CAREFULLY. IF AN EXCLUSION APPLIES, COVERAGE WILL NOT BE PROVIDED.

1. The On-Hook Towing Physical Damage Legal Liability and Garagekeeper's Storage Location Physical Damage Legal Liability coverages under this endorsement do not apply to any of the following:
 - a. Liability resulting from any contract or agreement by which the **insured** accepts responsibility for **loss**. This exclusion does not apply to an agreement that is an **insured contract** that was executed prior to the occurrence of any **property damage**;
 - b. **Loss** due to theft or conversion caused in any way by **you** or **your** employees, partners, members, directors, or shareholders;
 - c. Defective parts or materials;
 - d. Faulty **work you performed**;
 - e. **Loss** to any of the following:
 - (i) Tape decks or other sound-reproducing equipment unless permanently installed in a **customer's auto**;
 - (ii) Tapes, records, or other sound-reproducing devices designed to be used with sound-reproducing equipment;
 - (iii) Sound-receiving equipment designed for use as a citizens band radio, two-way mobile radio, or telephone or scanning monitor receiver, including its antennas and other accessories, unless permanently installed in the dash or console opening normally used by the **customer's auto** manufacturer for the installation of a radio; or
 - (iv) Any device designed or used to detect speed measurement equipment such as radar or laser detectors and any jamming apparatus intended to elude or disrupt speed measurement equipment;
 - f. **Loss** caused by:
 - (i) War, including undeclared or civil war;
 - (ii) Warlike action by a military force, including any action to hinder or defend against an actual or expected attack, by any government, sovereign, or other authority using military personnel or other agents;
 - (iii) Insurrection, rebellion, revolution, usurped power, or any action taken by a governmental authority to hinder or defend against any of these; or
 - (iv) Nuclear reaction or radioactive contamination.This exclusion applies regardless of any other cause or event that contributes concurrently or in any sequence to the **loss**;
 - g. **Loss** caused by strikes, lockouts, riots, civil commotion, or disorder; or
 - h. **Loss** due to inherent vice, delay, loss of profit, loss of market, loss of market value, or loss of use.
2. On-Hook Towing Physical Damage Legal Liability Coverage does not apply to:
 - a. **Loss** to tarpaulins, tools, repair equipment, or materials and equipment for loading or unloading, which are carried in or on the **insured auto**;
 - b. **Loss** to any **towed property** while it is in the custody of anyone other than an **insured**;

- c. **Loss** to objects of art, including paintings and statuary;
- d. **Loss** to jewelry; precious or semi-precious stones; gold, silver, platinum, or other precious metals or alloys;
- e. **Loss** to live animals;
- f. **Loss** to papers of any kind including, but not limited to, money, securities, accounts, bills, currency, food stamps, notes, tickets, any other evidences of debt, passports, deeds, mechanical drawings, blueprints, manuscripts, or exhibits;
- g. Debris removal, including extraction of pollutants from land or water; or removal, restoration, or replacement of polluted land or water;
- h. **Loss** caused by order of any civil authority, including seizure, confiscation, destruction, or quarantine of property;
- i. **Loss** to contraband or property in the course of illegal transportation or trade;
- j. **Loss** to property caused by contamination or deterioration, including corrosion; decay; fungus; mildew; mold; rot; rust; any quality, fault, or weakness in the property that causes it to damage or destroy itself; or humidity, dampness, dryness, or changes in or extremes of temperature;
- k. **Loss** caused by or resulting from release, discharge, seepage, migration, dispersal, or escape of **pollutants**;
- l. **Loss** caused by or resulting from criminal, fraudulent, dishonest, or illegal acts committed alone or in collusion with another by an **insured**, anyone to whom **you** entrust the **towed property**, or anyone who has an interest in the property;
- m. **Loss** caused by or resulting from voluntary parting with title to or possession of any property because of any fraudulent scheme, trick, or false pretense;
- n. **Loss** caused by the explosion of explosives; or
- o. **Loss** to computers and electronic goods, including, but not limited to, computer hardware and component parts, televisions, DVD players, stereo or other sound reproduction equipment, or any other electronic equipment, antennas, and other devices used exclusively to send or receive audio, visual, or data signals, or to store or play back recorded media.

LIMITS OF LIABILITY

1. **On-Hook Towing Physical Damage Legal Liability Coverage.**

Regardless of the number, amount, or units of **towed property** or **insured autos, insureds**, premiums paid, claims made or lawsuits brought, the most **we** will pay for each **loss** is the aggregate amount of damages to all **towed property** while being **loaded in or on** or conveyed by one **insured auto**, not to exceed the limit of liability shown on the **declarations page** for this “On-Hook Legal Liability” coverage.

The most **we** will pay for **loss** to any **towed property** is the least of the following amounts:

- a. The actual cash value of the damaged or stolen property at the time of **loss**;

- b. The cost of repairing or replacing the damaged or stolen property with other of like kind and quality to the extent practicable; or
- c. An agreed or appraised value for the property. **We** may keep all or part of the property at the agreed or appraised value, but there shall be no abandonment to **us**.

2. **Garagekeeper's Storage Location Physical Damage Legal Liability Coverage.**

Regardless of the number of **customer's autos** or **insured autos, insureds**, premiums paid, claims made or lawsuits brought, the most **we** will pay for each **loss** at each location is the "Garagekeepers Legal Liability" coverage limit shown on the **declarations page** for that location.

The most **we** will pay for a **loss** to any one **customer's auto** or all **customer's auto** equipment is the least of the following amounts:

- a. The actual cash value of the damaged or stolen property at the time of **loss**;
- b. The cost of repairing or replacing the damaged or stolen property with other of like kind and quality to the extent practicable; or
- c. An agreed or appraised value for the property. **We** may keep all or part of the property at the agreed or appraised value, but there shall be no abandonment to **us**.

If the repair or replacement results in better than like kind and quality, **we** will not pay for the amount of the betterment.

An adjustment for depreciation or physical condition will be made in determining actual cash value in the event of a total loss.

In the event of payment of actual cash value for a total loss, **we** are entitled to all salvage, or credit for salvage, resulting from such **loss**.

3. **Deductibles.**

For each **loss** that qualifies for coverage under the On-Hook Towing Physical Damage Legal Liability Coverage or the Garagekeeper's Storage Location Physical Damage Legal Liability Coverage, the deductible shown on the **declarations page** will be applied. The deductible will be deducted from the amount of the **loss** payable under that coverage or the limit of liability, whichever is less.

If **we** pay all or any part of a deductible in the settlement of any claim or lawsuit, **you** must reimburse **us** for the deductible or the portion thereof that **we** paid.

ALL OTHER TERMS, LIMITS, AND PROVISIONS OF THE POLICY REMAIN UNCHANGED.

<i>SERFF Tracking Number:</i>	<i>PRGS-125804472</i>	<i>State:</i>	<i>Arkansas</i>
<i>Filing Company:</i>	<i>United Financial Casualty Company</i>	<i>State Tracking Number:</i>	<i>EFT \$50</i>
<i>Company Tracking Number:</i>	<i>L080109-AR-PCA-1</i>		
<i>TOI:</i>	<i>20.0 Commercial Auto</i>	<i>Sub-TOI:</i>	<i>20.0001 Business Auto</i>
<i>Product Name:</i>	<i>Commercial Auto</i>		
<i>Project Name/Number:</i>	<i>CAI7234/L080109-AR-PCA-1</i>		

Rate Information

Rate data does NOT apply to filing.

SERFF Tracking Number: PRGS-125804472 State: Arkansas
Filing Company: United Financial Casualty Company State Tracking Number: EFT \$50
Company Tracking Number: L080109-AR-PCA-1
TOI: 20.0 Commercial Auto Sub-TOI: 20.0001 Business Auto
Product Name: Commercial Auto
Project Name/Number: CAI7234/L080109-AR-PCA-1

Supporting Document Schedules

Satisfied -Name: Uniform Transmittal Document-
Property & Casualty **Review Status:** Approved 09/11/2008

Comments:

Attachment:

NAIC P&C Transmittal Doc.pdf

Satisfied -Name: Comparison Documents **Review Status:** Approved 09/11/2008

Comments:

Attachments:

AR 4852 (0507 vs 1104).pdf

AR 4881 (0507 vs 1005).pdf

Property & Casualty Transmittal Document

1. Reserved for Insurance Dept. Use Only	2. Insurance Department Use only 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					

3. Group Name	Group NAIC #
The Progressive Group of Insurance Companies	155

4. Company Name(s)	Domicile	NAIC #	FEIN #	State #
United Financial Casualty Company	OH	11770	36-3298008	

5. Company Tracking Number	L080109-AR-PCA-1
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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
	Gregory E. Schwartz 6300 Wilson Mills Rd, Box N72 Mayfield Village, OH 44143	Assistant General Counsel	440-395-3764	440-395-3790	gregory_e_schwartz@ progressive.com

7.	Signature of authorized filer	
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8.	Please print name of authorized filer	Gregory E. Schwartz
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Filing information (see General Instructions for descriptions of these fields)

9.	Type of Insurance (TOI)	20.0 Commercial Auto
10.	Sub-Type of Insurance (Sub-TOI)	20.0001 Business Auto
11.	State Specific Product code(s)(if applicable)[See State Specific Requirements]	N/A
12.	Company Program Title (Marketing title)	N/A
13.	Filing Type	<input type="checkbox"/> Rate/Loss Cost <input type="checkbox"/> Rules <input type="checkbox"/> Rates/Rules <input checked="" 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: 11-01-2008 Renewal:
15.	Reference Filing?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
16.	Reference Organization (if applicable)	N/A
17.	Reference Organization # & Title	N/A
18.	Company's Date of Filing	09-09-2008
19.	Status of filing in domicile	<input checked="" 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 #	L080109-AR-PCA-1
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21.	Filing Description [This area can be used in lieu of a cover letter or filing memorandum and is free-form text]
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The Cancellation and Nonrenewal Endorsement - Form 4852 AR (05/07) replaces form 4852 AR (11/04), which was approved on August 18, 2005. We had to make some modifications to our endorsement due to the passage of HB 2440.

The Arkansas Amendatory Endorsement - Form 4881 AR (05/07) replaces form 4881 AR (10/05), which was approved on August 18, 2005. We had to make some changes to this endorsement due to the passage of HB 2243.

The Rental Reimbursement Coverage Endorsement - Form Z311 (11/07) provides reimbursement for rental expenses resulting from a comprehensive, collision, or fire/theft loss, including physical damage coverage for the rented auto.

The Rental Reimbursement with Downtime Protection Coverage Endorsement - Form Z312 (11/07) provides reimbursement for rental expenses resulting from a covered cause of loss. In the event no suitable replacement vehicle is available, this coverage will also provide protection against lost business revenue resulting from the inability of the policyholder to continue operating the business due to a covered vehicle being out of service due to the covered loss.

The Roadside Assistance Coverage Endorsement - Form Z313 (05/07) provides roadside assistance for specified emergencies.

The Drive Other Car Coverage - Broadened Coverage for Named Individuals - Form Z314 AR (05/08) allows corporations, partnerships, and other business entities to designate an individual for broadened coverage under the business auto policy. It provides the designated individual with personal auto type coverages, such as liability and physical damage coverage while operating a non-listed auto, and personal coverages (UM, UIM, PIP, Medical Payments, as appropriate) while occupying a non-listed vehicle.

The Commercial General Liability Endorsement - Form Z433 AR (04/08) provides broad general liability coverage for a limited class of policyholders. This coverage is only available to certain trucking risks. The intent is to provide general liability coverage to those risks where the primary liability would arise principally from the use of a vehicle. We do not intend to offer general liability coverage independent from commercial automobile coverage.

The Motor Truck Cargo Legal Liability Coverage Endorsement - Form Z434 (09/06) provides coverage for the legal liability of our insureds for loss or damage to cargo that they transport on behalf of others. We do not intend to offer cargo coverage independent from commercial automobile coverage.

The Garage Operations Physical Damage Legal Liability Coverage Endorsement - Form Z438 (11/07) provides coverage for the legal liability of our insureds for loss or damage to property being towed by the insured or held by the insured at a storage location. The form also provides optional additional coverage on a direct loss basis as well as on a legal liability basis. We do not intend to offer garage operations physical damage liability coverage independent from commercial automobile coverage.

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]
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Check #: SERFF EFT
Amount: \$50.00

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.)**

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.)

1.	This filing transmittal is part of Company Tracking #	L080109-AR-PCA-1			
2.	This filing corresponds to rate/rule filing number <small>(Company tracking number of rate/rule filing, if applicable)</small>	N/A			
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	Cancellation and Nonrenewal Endorsement	4852 AR (05/07)	[] New [X] Replacement [] Withdrawn	4852 AR (11/04)	
02	Arkansas Amendatory Endorsement	4881 AR (05/07)	[] New [X] Replacement [] Withdrawn	4881 AR (10/05)	
03	Rental Reimbursement Coverage Endorsement	Z311 (11/07)	[X] New [] Replacement [] Withdrawn		
04	Rental Reimbursement with Downtime Protection Coverage Endorsement	Z312 (11/07)	[X] New [] Replacement [] Withdrawn		
05	Roadside Assistance Coverage Endorsement	Z313 (05/07)	[X] New [] Replacement [] Withdrawn		
06	Drive Other Car Coverage - Broadened Coverage for Named Individuals	Z314 AR (05/08)	[X] New [] Replacement [] Withdrawn		
07	Commercial General Liability Endorsement	Z433 AR (04/08)	[X] New [] Replacement [] Withdrawn		
08	Motor Truck Cargo Legal Liability Coverage Endorsement	Z434 (09/06)	[X] New [] Replacement [] Withdrawn		
09	Garage Operations Physical Damage Legal Liability Coverage Endorsement	Z438 (11/07)	[X] New [] Replacement [] Withdrawn		
10			[] New [] Replacement [] Withdrawn		

PC FFS-1

CANCELLATION AND NONRENEWAL ENDORSEMENT

Except as specifically modified in this Endorsement, all provisions of the Commercial Auto Policy apply.

We agree with **you** that the insurance provided under **your** Commercial Auto Policy is modified as follows:

CANCELLATION

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

We may cancel this policy by mailing a notice of cancellation to the named insured shown on the **Declarations Page** and any lienholder or loss payee named in the policy at the last known address appearing in **our** records. If **we** cancel this policy at any time due to nonpayment of premium, notice of cancellation will be mailed at least ten (10) days before the effective date of cancellation. Notice of cancellation due to any reason other than nonpayment of premium will be mailed at least twenty (20) days before the effective date of cancellation.

We may cancel this policy for any reason **if this policy has been in effect less than** ~~within the first~~ sixty (60) days of the initial policy period.

If ~~After~~ this policy **has been is** in effect for ~~more than~~ sixty (60) days, or if this is a renewal or continuation policy, **we** may only cancel for one or more of the following reasons:

1. **you** do not pay the required premium for this policy when due;
2. misrepresentation by **you** of any material fact in the procurement or renewal of this policy or in the submission of any claim under this policy;
3. the occurrence of a material change in the risk which substantially increases any hazard insured against after policy issuance;
4. ~~violation of any local fire, health, safety, building, or construction regulation or ordinances with respect to any insured property or the occupancy of that property that substantially increases any hazard insured against under the policy;~~
4. material violation of a material provision of the policy;
5. the named insured or any driver of the **insured auto** shall be 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, including three months prior to the effective date of the policy;
6. the driver's license or motor vehicle registration of the named insured or of any other operator who either resides in the same household or customarily operates an automobile insured under this policy has been under suspension or revocation during the policy period or, if the policy is a renewal, during its policy period or the 180 days immediately preceding its effective date; or
7. any other reason specified by law.

COMPARISON DOCUMENT
4852 AR (11/04) v. 4852 AR (05/07)
Additions shown in blue text / Deletions shown in ~~red strike-through marks~~

With respect to cancellation, this policy is neither severable nor divisible. Any cancellation will be effective for all coverage for all persons and all **autos**.

If this policy is canceled, coverage will not be provided as of the effective date and time shown in the notice of cancellation.

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 canceled, any refund due will be computed on a daily pro-rata basis.

NONRENEWAL

If **we** decide not to renew or continue this policy, other than for non-payment of premium, **we** will mail notice of nonrenewal to the first named insured shown on the **Declarations Page** at the last known address appearing in **our** records. Notice will be mailed at least sixty (60) days before the end of the policy period.

PROOF OF NOTICE

Proof of mailing of any notice will be sufficient proof of notice.

ALL OTHER TERMS, LIMITS AND PROVISIONS OF THE POLICY REMAIN UNCHANGED.

Form 4852 AR (0511/0704)

ARKANSAS AMENDATORY ENDORSEMENT

Except as specifically modified in this endorsement, all provisions of the Commercial Auto Policy apply.

We agree with **you** that the insurance provided under **your** Commercial Auto Policy is modified as follows:

GENERAL DEFINITIONS

A. The following is added to the General Definitions:

“**Punitive or exemplary damages**” means damages which may be imposed to punish a wrongdoer and to deter others from similar conduct.

B. The definition of “**Temporary substitute auto**” under the General Definitions section is deleted in its entirety and replaced by the following:

“**Temporary substitute auto**” means any **auto**:

- a. Used, with the permission of the owner, as a substitute for an **insured auto** that has been withdrawn from normal use due to breakdown, repair, servicing, loss, or destruction;
- b. Loaned by a duly licensed automobile dealer for use as a demonstrator **auto**; or
- c. Rented or leased from any person or entity in the business of providing primarily **private passenger autos** to the public under a rental agreement for a period not to exceed 90 days;

“**Temporary substitute auto**” does not mean an **auto**:

- (i) Owned by or registered to **you**, or if you are a natural person, not owned by or registered to **you, your** nonresident spouse, or a resident of the household in which **you** reside;
- (ii) Leased by **you** under a written contract for a period of 6 months or more, or if **you** are a natural person, not leased by **you, your** nonresident spouse, or a resident of the household in which **you** reside under a written contract for a period of 6 months or more;
- (iii) Owned by **your** employee or leased by **your** employee under a written contract for a period of 6 months or more; and
- (iv) Borrowed from **your** employees or members of their households.

PART I – LIABILITY TO OTHERS

The following is added to Part I – Liability To Others:

RIGHT OF DIRECT ACTION

Any person entitled to payment of damages covered under Part I – Liability To Others, 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 Part I – Liability To Others. If a judgment against an **insured** remains unsatisfied

after thirty (30) days from the date notice of entry of judgment was served on either the **insured**, the attorney for the **insured**, 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 – DAMAGE TO YOUR AUTO

A. The following is added to Additional Definition Used In This Part Only section:

When used in Part II – Damage To Your Auto:

“**Insured auto**” includes:

1. An **auto** that is loaned by a duly licensed automobile dealer:
 - a. As a temporary substitute, with our without compensation, to the insured for use as a temporary substitute auto while the **insured auto** is out of use because of breakdown, repair, or servicing; or
 - b. For use as a demonstrator **auto**; or
2. An **auto** rented or leased from any person or entity in the business of providing primarily **private passenger autos** to the public under a rental agreement for a period not to exceed 90 days

B. The following is added to the Limits of Liability provision in Part II – Damage To Your Auto:

IN THE REPAIR OF **YOUR INSURED AUTO** 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.

C. The Appraisal section is deleted in its entirety and replaced by the following:

APPRAISAL

If **we** cannot agree with **you** on the amount of a **loss**, then **we** and **you** may agree to appraisal of the **loss**. If the parties agree to appraisal, each party shall appoint a competent and impartial appraiser. The appraisers will determine the amount of **loss**. If they fail to agree, the disagreement will be submitted to a qualified and impartial umpire chosen by the appraisers. If the two appraisers are unable to agree upon an umpire within fifteen (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 II, but will not be binding. **You** will pay **your** appraiser's fees and expenses. **We** will pay **our** appraiser's fees and expenses.

Payment of the umpire and all other expenses of the appraisal will be shared equally between **us** and **you**. Neither **we** nor **you** waive any rights under this policy by agreeing to an appraisal.

GENERAL PROVISIONS

A. Subpart 3 - Other Insurance is deleted in its entirety and replaced by the following:

3. Other Insurance

- a. For any **insured auto** that is specifically described on the **declarations page**, this policy provides primary coverage. For an **insured auto**, which is not specifically described on the **declarations page**, coverage under this policy will be excess over any and all other valid and collectible insurance, whether primary, excess, or contingent.
- b. If coverage under more than one policy applies on the same basis, either excess or primary, **we** will pay only **our** proportionate share. **Our** proportionate share is the proportion that the limit of liability of this policy bears to the total of the limits of all the coverage forms and policies covering on the same basis.
- c. Notwithstanding paragraphs a. and b. above,
 - (i) If the **insured auto**, which is specifically described on the **declarations page** is a **trailer**, this policy will be primary only if the **trailer** is attached to an **insured auto** that is a power unit **you** own and is specifically described on the **declarations page**, and excess in all other circumstances; and
 - (ii) If an **insured auto** is a **temporary substitute auto**, then this policy is primary to any insurance or self-insurance maintained by a duly licensed automobile dealer, or a rental company in the business of providing primarily private passenger autos to the public under a rental agreement for a period not exceeding 90 days, and excess in all other circumstances.

B. Subpart 6 – Our Recover Rights is deleted and replaced by the following:

6. Our Recovery Rights

In the event of any payment under this policy, **we** are entitled to all 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. That insured person must sign and deliver to **us** any legal papers relating to that recovery, do whatever else is necessary to help **us** exercise those rights, and do nothing after an **accident** or **loss** to prejudice **our** rights.

COMPARISON DOCUMENT
4881 AR (10/05) v. 4881 AR (05/07)
Additions shown in blue text / Deletions shown in red strike-through marks

However, **we** may not assert rights of recovery against any person who was using an **insured auto** with **your** express or implied permission for any payment made under Part II – Damage To Your Auto.

When an insured person has been paid by **us** under this policy and also recovers from another person, entity, or organization, the amount recovered will be held by the insured person 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 any applicable Personal Injury Protection Coverage.

If recovery is made by an insured person under this policy from a responsible person, entity or organization without **our** written consent, the insured person's right to payment under any affected coverage will no longer exist.

- C. The following is added to Subpart 11 – Fraud, Misrepresentation and Concealment:

If **we** void this policy, this shall not affect coverage under Part I – Liability To Others of this policy 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.

ALL OTHER TERMS, LIMITS AND PROVISIONS OF THE POLICY REMAIN UNCHANGED.

Form 4881 AR (05~~10~~/0705)