

# Equity Insurance Company

## PERSONAL AUTOMOBILE INSURANCE POLICY

### ILLINOIS

**This is your policy of insurance.**

#### **Important**

Your policy has been issued based upon your statements contained and the information as provided in your application which is incorporated into this policy. Please take the time to review your entire policy, including any enclosures or attachments. If you find any errors, please immediately contact the Company.

**In the event of an Accident**, immediately contact our Claims Department at **(800) 877-0226**

or

at our website at [www.AFACLAIMS.COM](http://www.AFACLAIMS.COM)

#### **Please Read Your Policy**

**NOTICE** – This policy has been issued based upon the confidence of the statements you made in your application for automobile insurance. **Read it carefully** and notify the company (through your agent), immediately, of any incorrect information or changes that may occur.

# Table of Contents

PART I - LIABILITY .....	3
Supplementary Payments .....	3
Persons Insured.....	3
Definitions .....	3
Exclusions.....	5
Financial Responsibility Laws .....	6
Limits of Liability.....	6
No Stacking .....	7
PART II – UNINSURED MOTORIST COVERAGE .....	7
Definitions .....	7
Exclusions.....	9
Limits of Liability.....	9
Other Insurance .....	10
Arbitration .....	10
Trust Agreement .....	11
PART III – UNDERINSURED MOTORIST COVERAGE .....	11
Underinsured Motorist Coverage.....	11
Definitions .....	11
Exclusions.....	11
Limit of Liability. ....	12
Arbitration .....	12
Other Insurance .....	13
Trust Agreement .....	13
PART IV - MEDICALPAYMENTS .....	13
Medical Payments.....	13
Definitions .....	14
Exclusions.....	14
Limit of Liability .....	14
Arbitration .....	14
PART V – PHYSICAL DAMAGE COVERAGE.....	15
Storage Charges.....	15
Supplementary Payments .....	15
Definitions .....	15
Exclusions.....	16
Limit of Liability .....	18
PART VI – NON-OWNER COVERAGE.....	18
Other Insurance .....	19
CONDITIONS.....	19

# Equity Insurance Company

(the "Company")

The company agrees with the insured, named in the Declarations made a part hereof, in consideration of the payment of the premium and in reliance upon the statements in the Application made a part hereof, and subject to the Declarations and all the terms of this policy:

## PART I - LIABILITY

### **Bodily Injury Liability;**

### **Property Damage Liability.**

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

- A. bodily injury, or
- B. property damage

arising out of the ownership, maintenance or use of the owned automobile or any non-owned automobile.

The Company shall defend any lawsuit alleging such bodily injury or property damage and seeking damages which are payable under the terms of this policy, even if any of the allegations of the lawsuit are groundless, false or fraudulent; but the Company may make such investigation and settlement of any claim or lawsuit as it deems expedient.

It is understood and agreed that the Company has no obligation to any insured after the applicable limits of the policy have been exhausted by payment. It is further understood and agreed that the Company is not obligated to pay, and shall not pay, attorney fees for any legal or investigative work unless such attorneys are specifically selected by the Company. It is further understood and agreed that the Company is not obligated to pay, and shall not pay, any sum which the insured may be legally obligated to pay as a result of a lawsuit unless the Company received actual notice of said lawsuit before any judgment had been entered in said lawsuit. It is further understood and agreed that the Company has the sole right to settle or defend any lawsuit including, but not limited, to the right to accept or reject arbitration awards entered in such suit.

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

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

**Persons Insured:** The following are insureds under Part I:

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

**Definitions.** Under Part I:

**"named insured"** means the individual named as Named Insured of the Declarations and also includes that person's

spouse or civil union partner, if a resident of the same household;

**"spouse"** means a lawfully wedded spouse and also means a person joined in a civil union according to statute;

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

**"relative"** means a person related to the named insured, his/her spouse by blood, marriage, adoption or joined in civil union and who is a resident of the same household as the insured, spouse or civil union partner and is either a non-driver or is listed on the Application for this insurance as a driver, provided neither such relative nor his/her spouse or civil union partner owns a private passenger automobile. A relative who is excluded in the application by a named driver exclusion is not an insured under any coverage provided by this policy;

**"owned automobile"** means:

- (a) a private passenger, farm or utility automobile described in this policy;
- (b) a private passenger, farm or utility automobile, ownership of which is acquired by the named insured during the policy period provided:
  - (1) (a) that the acquired automobile replaces an automobile described in this policy; (b) that neither the named insured nor any resident of his/her household retains ownership of the described replaced automobile; and (c) that the named insured notifies the Company in writing within 30 days after the acquisition of his/her intention to make this policy applicable to such acquired replacement automobile; or
  - (2) (a) that the Company insures all private passenger, farm and utility automobiles owned by the named insured on the date of such acquisition and (b) the named insured notifies the Company in writing within 30 days after the date of such acquisition of his/her election to make this and no other policy issued by the Company applicable to such automobile; or,
- (c) a temporary substitute automobile;

**"temporary substitute automobile"** means any automobile not owned by the named insured, or by any resident of the same household, while temporarily used as a substitute for the owned automobile when withdrawn from normal use because of its breakdown, repair, servicing, loss or destruction (note the change to the definition of temporary substitute automobile under Part V);

**"non-owned automobile"** means a private passenger, farm or utility automobile not owned by, furnished or available for the regular use of either the named insured or any resident of the same household, while said automobile is in the possession or custody of the named insured or any resident of the same household, or is being operated by him/her, other than a temporary substitute automobile;

**"private passenger automobile" or "automobile" or "vehicle"** means a four-wheel private passenger, station wagon or jeep type automobile, whether operable or not and does not include golf carts, all-terrain vehicles, or any other vehicle not legal for use on public roads;

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

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

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

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

**"property damage"** mean physical damage to, destruction of, or loss of use to tangible property which is caused by an accident covered under this policy and occurring while the policy is in force;

**"bodily injury"** means bodily harm, sickness or disease, including death that results therefrom and excluding emotional, psychological, or psychiatric injury that does not have a physical manifestation. Bodily injury does not include harm, sickness, disease or death arising out of a medically defined sexually transmitted disease contracted by any person or the exposure of such a disease by any person to any other person;

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

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

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

**"regular use"** means any one of the following: (1) possession of a set of keys to the automobile with the ability to use the automobile at the operator's discretion; (2) prior use of the automobile on three (3) consecutive days within the prior sixty (60) days prior to the date of loss or accident; (3) prior use of the automobile on at least four (4) occasions in any thirty (30)

day period prior to the date of loss or accident; (4) or any other use the Courts have deemed "regular use";

**"business use"** shall mean the use of an automobile for the benefit of any business or commercial enterprise and includes, the following:

- (a) The operation of a motor vehicle for hire or compensation, including (1) livery, (2) taxi, or (3) paid ride share such as Uber, Lyft, and Side Car or other similar ride share services; or
- (b) The operation of a motor vehicle for any compensation or fee in order to deliver goods, food, newspaper, mail, or packages; or
- (c) The operation of a motor vehicle for the transportation or delivery of any goods, persons or equipment for the benefit of an employer or commercial enterprise; or
- (d) The operation of a motor vehicle in which, at the time of use, the insured is
  - (1) acting as an agent for his/her employer or other commercial enterprise, or
  - (2) within the scope of any employment; or
- (e) The operation of motor vehicle in a realtor business; or
- (f) The operation of a motor vehicle in for purposes of making sales calls; or
- (g) The operation of a motor vehicle which is an integral part of the operator's employment and which is for the benefit of the employer or any commercial enterprise;
- (h) The operation of a motor vehicle while used for snow and ice removal, including plowing snow and spreading salt;
- (i) The operation of a motor vehicle while used for collecting, transporting, or searching for scrap metal.

**Exclusions.** This policy does not apply under Part I:

- (a) To bodily injury to, or sickness disease or death of any fellow employee of the Insured injured in the course of his/her employment, if such injury arises out of the use of an owned automobile or non-owned automobile in the business of his/her employer, but this exclusion does not apply to any such injury arising out of and in the course of domestic employment by the insured unless benefits are in whole or in part either payable or required to be provided under any worker's compensation law;
- (b) To property damage to
  - (1) Property owned or transported by the Insured,
  - (2) Property rented to or in charge of the Insured, other than a residence or private garage. An automobile used, operated or maintained by an insured is considered in charge of the insured.
  - (3) Property as to which the Insured is for any purpose exercising physical control.
- (c) To any automobile rented or leased by the Insured where other valid and collectible insurance has been purchased by or furnished to the Insured in connection with such rental or lease;
- (d) To bodily injury or property damage to, or sickness, disease, or death of the named Insured, his/her spouse or any relative of either of them related by blood, marriage, adoption or joined in civil union residing in the same household when the person against whom suit is brought is also a member of that household except when said suit is brought as an action of Contribution. This exclusion is not applicable when any person not in the household of the insured was driving the vehicle of the insured involved in the accident which is the subject of the claim or lawsuit;
- (e) To punitive or exemplary damages, except that if a suit shall have been brought against the insured with respect to a claim for acts or alleged acts falling within the coverage hereof, seeking both compensatory and punitive or exemplary damages, then the Company will afford a defense to such action without liability payment for such punitive or exemplary damages.
- (f) This insurance does not apply to any automobile owned by or furnished for the regular use of the named Insured, or the spouse of the named Insured or civil union partner any person residing in the same household of the named Insured other than an automobile which qualifies as an "owned automobile" as defined in this policy.
- (g) To any accident arising out of the operation of any automobile in connection with an automobile sales agency, repair shop, service station, storage garage or parking facility.
- (h) To any bodily injury or property damage that results from the maintenance, use or occupation of an automobile without the insured's permission or beyond the scope of permission.
- (i) To any bodily injury or property damage assumed by or imposed on an insured under any agreement, contract, or bailment.
- (j) To any bodily injury or property damage benefits payable under the "No Fault Laws" of the following states: Florida, Hawaii, Kansas, Kentucky, Massachusetts, Michigan, Minnesota, New Jersey, New York, North Dakota,

Pennsylvania, and Utah.

- (k) To any bodily injury or property damage resulting from the ownership, maintenance, or use of a vehicle with a load capacity in excess of one thousand five hundred (1,500) pounds.
- (l) To bodily injury or property damage resulting from the use of a motor vehicle equipped for snow removal.
- (m) 1) To any automobile while used as a public, livery or delivery conveyance, or 2) to bodily injury to any passenger or passengers carried for hire.

This exclusion does not apply to the extent such use is specifically declared and described in the policy and Part 1) of this exclusion does not apply with respect to the occupancy of a non-owned automobile by the named Insured or relative, other than as an operator thereof;

- (n) To any automobile designed for racing while being tested, repaired, serviced or exhibited; or to any automobile or motor vehicle while used, operated, manipulated, exhibited or maintained in any pre-arranged or organized racing or speed test, including "hotrod" or "stock car" racing;
- (o) To bodily injury or property damage with respect to which an Insured under this policy is also an Insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriter or Nuclear Insurance Association of Canada, or would be an Insured under any such policy but for its termination upon exhaustion of its limits of liability;
- (p) To bodily injury or property damage arising out of the operation of equipment or machinery not listed on the Declarations page, including but not limited to farm equipment, dozers, loaders, excavators, road and forest machinery;
- (q) To any bodily injury or property damage while the automobile is used in any illicit trade or transportation or caused intentionally by, or at the direction, of an authorized driver, or anyone using the automobile with the insured's express or implied permission and within the scope of such permission. This exclusion does not apply to an innocent coinsured if the loss arose out of a pattern of criminal domestic violence and the perpetrator of the loss is criminally prosecuted. Coverage under this part shall not apply if the accident or its consequences were either intended by the insured, or could have reasonably been expected from the viewpoint of the insured.
- (r) To bodily injury to any employee of the Insured arising out of and in the course of employment by the Insured, if such injury arises out of the ownership, maintenance or use of the owned automobile or non-owned automobile.
- (s) Loss to any automobile arising out of usage (1) in the automobile business or (2) in the automobile business by the insured or (3) in any other business or occupation of the insured except a private passenger automobile operated or occupied by the named Insured or by his/her private chauffeur or domestic servant, or a trailer used therewith or with an owned automobile.
- (t) While any automobile is pushing or pulling another automobile or vehicle, except for a trailer rented by an insured, or while any automobile is being pushed or pulled by another automobile, vehicle or person.
- (u) To any mold or fungus related illness.
- (v) To bodily injury or property damage loss arising out of the use of a vehicle by any person without a reasonable belief that the person is entitled to do so.
- (w) To bodily injury or property damage when the use of the automobile is criminal or while the automobile is used in the commission of a criminal act other than a traffic violation, or while used to flee and elude the police or other law enforcement or government authorities. Provided, however, this exclusion does not apply to an innocent co-insured who did not cooperate in or contribute to the creation of the loss if the loss arose out of criminal domestic violence and the perpetrator of the loss is criminally prosecuted for the act causing the loss.
- (x) To any bodily injury, sickness, disease, death or other loss due to war, whether or not declared, civil war, insurrection, rebellion or revolution, riot and civil commotion, or to any act or condition incident to any of the foregoing.

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

**Limits of Liability.** The limit of Bodily Injury Liability stated in the Declarations as applicable to "each person" is the maximum limit of the Company's liability for all damages, including loss of service, society or consortium, to others resulting from the bodily injury. The limit of Bodily Injury Liability stated in the Declarations as applicable to "each occurrence" is the maximum amount of coverage, subject to the above provision respecting each person, for all bodily injury to two or more persons in the same occurrence. The limits of liability are not increased because more than one person is insured at the time of the accident. The limit of Property Damage liability stated in the Declarations is the total limit of the Company's

liability for all damage to property of one or more persons arising out of the same occurrence. Any amounts payable under Part I of this policy will be reduced by any amounts paid or payable for the same elements of loss under Parts II, III or IV of this policy.

**No Stacking.** The limits for any coverage for any automobile under this policy may not be aggregated with the limits for any similar coverage, whether provided by the Company or another insurer, applying to other motor vehicles, for purposes of determining the total limit of insurance coverage available for bodily injury suffered by a person in any one accident. Therefore, the total limit of liability under all the policies, whether provided by the Company or another insurer shall not exceed the highest applicable limit of liability under any one policy. However, the total limits of the Company's liabilities for all damages, under Part I - Liability, for an insured person, other than the named insured or a relative shall be the limits of liability provided by Section 5/7-203 of the Illinois Vehicle Code (minimum Bodily Injury liability limits are \$25,000 per person and \$50,000 per accident. Minimum Property Damage liability limits are \$20,000 per accident).

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

## **PART II – UNINSURED MOTORIST COVERAGE**

### **Uninsured Motorist Bodily Injury**

### **Uninsured Motorist Property Damage**

**Uninsured Motorist Coverage.** To pay all sums which the insured or his/her legal representative shall be legally entitled to recover as damages from the owner or operator of an uninsured motor vehicle because of property damage to a vehicle described in the policy and bodily injury, including death resulting therefrom, hereinafter called "bodily injury", sustained by the insured, caused by accident and arising out of the ownership, maintenance or use of such uninsured motor vehicle, provided, for the purposes of this coverage, determination of whether the insured or such representative is legally entitled to recover such damages, and if so the amount thereof, shall be made by agreement between the insured or such representative and the Company or, if they fail to agree, by arbitration. Recovery under this Part for "property damage" is subject to the payment of a specific separate premium for uninsured motorist property damage liability. No judgment against any person or organization alleged to be legally responsible for the bodily injury or property damage shall be conclusive, as between the insured and the Company, of the issues of liability of such person or organization or of the amount of damages to which the insured is legally entitled unless such judgment is entered pursuant to an action prosecuted by the insured with the written consent of the Company.

**Definitions.** The definitions under Part I, except the definition of "insured" and where limited or altered under the Limits of Liability of this coverage, apply to Part II and under Part II:

**"insured" or "you"** means:

- (a) the named insured and any relative of the named insured;
- (b) any other person while lawfully occupying an insured automobile;
- (c) any person, with respect to damages he/she is entitled to recover because of bodily injury to which this Part applies sustained by an insured under (a) or (b) above; and
- (d) any other person who is not insured for uninsured motor vehicle coverage under another vehicle policy while occupying your auto, a temporary substitute auto, a newly acquired auto or a trailer attached to such auto. Such vehicle has to be used within the scope of the consent of the insured, their spouse or civil union partner. Such other person occupying a vehicle used to carry persons for a charge is not an insured. The insurance afforded under Part II applies to each insured, but the inclusion herein of more than one insured shall not operate to increase the limits of the Company's liability.

**"insured automobile"** means:

- (a) an automobile described in the policy for which a specific premium charge indicated that coverage is afforded;
- (b) a private passenger automobile, farm automobile or utility automobile, ownership of which is acquired by the named insured during the policy period, provided:
  - (1) it replaces an insured automobile defined in (a) above and the insured notifies the Company in writing within 30 days after the date of said replacement;
  - (2) the Company insures under this coverage all private passenger, farm and utility automobiles owned by the named insured on the date of such acquisition and the named insured notifies the Company in writing within 30 days after the date of such acquisition of his/her election to make the Liability and Uninsured Motorist Coverages under this and no other policy issued by the Company applicable to such automobile;

- (c) a temporary substitute automobile for an insured automobile as defined in (a) or (b) above;
- (d) a non-owned automobile while being operated by the named insured, but shall not include:
  - (1) any automobile or trailer owned by a resident of the same household as the named insured;
  - (2) any automobile while used as a public or livery conveyance; or
  - (3) any automobile while being used without the permission of the owner.

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

- (a) a motor vehicle or trailer with respect to the ownership, maintenance or use of which, there is no bodily injury liability bond or insurance policy applicable at the time of the accident with respect to any person or organization legally responsible for the use of such automobile, or said bond or insurance policy has limits less than that required by the Illinois Financial Responsibility Law provided that:
  - (1) the insured reported the accident within thirty (30) days of the accident. In the event the insured has been rendered legally incapacitated by the loss due to injuries, the insured shall have thirty (30) days following the removal of the incapacity to notify the Company of the loss; and
  - (2) the insured notifies the Company of his/her claim under this provision within two (2) years from the date of the accident. To the extent that this provision conflicts with this policy's exclusion for claims submitted to the company more than two years after the accident, this provision shall control.
- (b) a hit-and-run motor vehicle; or
- (c) a motor vehicle where on, before, or after the accident date, the liability insurer thereof is unable to make payment with respect to the legal liability of its insured within the limits specified in the policy, because of the entry by a Court of competent jurisdiction of any order of rehabilitation or liquidation by reason of insolvency on or after the accident date, provided however that the insured notifies the Company of his/her claim under this provision within the later of 6 months from the date of such Court order of rehabilitation or insolvency or two years from the date of accident provided that:
  - (1) the insured reported the accident within thirty (30) days of the accident. In the event the insured has been rendered legally incapacitated by the loss due to injuries, the insured shall have thirty (30) days following the removal of the incapacity to notify the Company of the loss; and
  - (2) the insured notifies the Company of his/her claim under this provision within two (2) years from the date of the accident. To the extent that this provision conflicts with this policy's exclusion for claims submitted to the company more than two years after the accident, this provision shall control.

However, the term "uninsured motor vehicle" shall not include:

- (1) an insured motor vehicle or a motor vehicle furnished or available for the regular use of the named insured or of a relative which causes bodily injury or property damage in excess of the limit required under the Illinois Financial Responsibility Law;
- (2) a motor vehicle or trailer owned or operated by a self-insurer within the meaning of any motor vehicle financial responsibility law, motor carrier law or any similar law;
- (3) a motor vehicle or trailer owned by the United States of America, Canada, a state, a political subdivision of any such government or any agency of the foregoing or a municipal government;
- (4) a land motor vehicle or trailer if operated on rails or crawler-treads or while located for use as a residence or premises and not as a vehicle; or
- (5) a farm type tractor or equipment designed for use principally off public roads, except while actually upon public roads.

**"hit-and-run motor vehicle"** means a motor vehicle which causes bodily injury to an insured arising out of physical contact of such motor vehicle with the insured or with an automobile which the insured is occupying at the time of the accident, provided:

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

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

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

**Exclusions.** This policy does not apply under Part II:

- (a) to bodily injury or property damage to an insured with respect to which such insured, his/her legal representative or any person entitled to payment under this coverage shall, without written consent of the Company, make any settlement with any person or organization who may be legally liable therefor;
- (b) so as to inure directly or indirectly to the benefit of any workmen's compensation or disability benefits carrier or any person or organization qualifying as a self-insurer under any workmen's compensation or disability benefits law or any similar law;
- (c) to any claim for punitive or exemplary damages;
- (d) to property damage when the owned automobile has collision coverage or is described in any other policy of automobile insurance;
- (e) to any claim received by the Company more than 2 years after the date of accident;
- (f) to bodily injury of an insured while occupying a motor vehicle owned by, or furnished or available for the regular use of the insured, a resident spouse, or civil union partner, or a resident relative, if that motor vehicle is not described in this policy or is not newly acquired or replacement motor vehicle covered under the terms of this policy;
- (g) to any claim for which the Company does not receive a written demand for arbitration within two years of the date of accident or, if coverage for the claim is based on a Court order of rehabilitation or liquidation by reason of insolvency of an insurer, within the later of the two years of the date of the accident or six months of entry of the Court order of rehabilitation or liquidation by reason of insolvency;
- (h) to any claim by a person who operated, occupied or used an automobile without a reasonable belief that he/she was entitled to do so, however, this exclusion does not apply to the named insured;
- (i) to any person or vehicle while such vehicle is being operated for "Business Use.";
- (j) to bodily injury or property damage which is either expected or intended by the insured.
- (k) to bodily injury or property damage if Liability coverage or Underinsured Motorist coverage applies under this policy to the accident.
- (l) while any vehicle is operated by an Excluded driver

### **Limits of Liability**

- (a) The limit of Uninsured Motorist Coverage stated in the Declarations as applicable to "each person" is the maximum limit of the Company's liability for all damages due to bodily injury to one person. Bodily injury to one person includes all injury and damages, including loss of service, society or consortium, to others resulting from the bodily injury. The limit of Uninsured Motorist Coverage as stated in the Declarations as applicable to "each occurrence" is the maximum amount of coverage, subject to the above provision respecting each person, for all bodily injury to two or more persons in the same accident. The limits of liability are not increased because more than one person is insured at the time of the accident.
- (b) Any amount payable under the terms of Part II because of bodily injury sustained in an accident by a person who is an insured under Part II shall be reduced by:
  - (1) all sums paid on account of such bodily injury by or on behalf of (i) the owner or operator of the uninsured motor vehicle and (ii) any other person or organization jointly or severally liable together with such owner or operator for such bodily injury including all sums paid under A of Part I, and
  - (2) the amount paid and the present value of all amounts payable on account of such bodily injury under any workmen's compensation law, disability benefits law or any similar law.
- (c) Any payment made under Part II to or for any insured shall be applied in reduction of the amount of the Limit of Liability under Part I.
- (d) The Company's liability under this part shall be reduced by amounts paid or payable Part IV of this policy. Further, the Company's liability shall be reduced by amounts paid or payable to the insured from the owner or operator of an uninsured automobile which represents medical payments paid or payable under Part IV of this policy.
- (e) If more than one policy issued by this Company applies to Part II, the total limit of this Company's liability under all such policies shall not exceed the amount applicable under only one policy.
- (f) It is agreed between the insured and the Company that in no event shall the total limit of the Company's liability exceed the limits set forth in the Declarations regardless of the number of vehicles insured under the policy or the separate itemization of premiums therefor; and that coverage under this section shall not be "stacked" with any

other similar or identical coverage that may be issued under this policy, including Underinsured Motorist Coverage (Part III).

- (g) Uninsured Motorist Coverage does not apply nor is it applicable to any accident or loss where the insured has Underinsured Motorist Coverage which applies to such accident or loss.
- (h) Any amount payable under Part II shall be reduced by all sums paid to the insured for property damage on behalf of the owner or operator of the uninsured automobile and any other person or organization jointly or severally liable together with such owner or operator.
- (i) Property damage losses recoverable hereunder shall be limited to damages caused by the actual physical contact of an uninsured motor vehicle with the vehicle described in the policy.
- (j) There shall be no coverage for loss of use of the insured motor vehicle and no coverage for loss or damage to personal property located in the insured motor vehicle, except with respect to replacement of a child restraint system that was in use by a child during an accident to which coverage is applicable.
- (k) There shall be no liability imposed under the Uninsured Motorist Property Damage Coverage if the owner or the operator of the vehicle at fault or the hit-and-run motor vehicle cannot be identified.
- (l) There shall be no coverage for the deductible amount of damage, as shown in the Declarations, to the property insured as the result of any one accident.
- (m) If coverage is provided to a motor vehicle, defined herein as an uninsured motor vehicle, under a bond or insurance policy having limits less than required by the Illinois Financial Responsibility Law then the Company's maximum limit of liability under this Part for "each person" is the difference between the minimum limit required by the Illinois Financial Responsibility Law for injury to one person and the corresponding limit provided in such bond or insurance policy, and the Company's maximum limit of liability under this Part for "each accident" is the difference between the minimum limit required under the Illinois Financial Responsibility Law for injury to two or more persons and the corresponding limit provided in such bond or insurance policy.

**Other Insurance.** If there is other Uninsured Motorist Coverage which applies, we will pay our share of the damages. Our share will be the ratio of our limits of liability to the total of all limits which apply. Total damages payable for one occurrence shall be considered not to exceed the limits of liability of the applicable policy that has the highest limit of liability.

The coverage extended to automobiles you do not own will be excess over any other coverage available to you.

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

**Arbitration.** Any dispute with respect to whether the insured is legally entitled to recover damages or the amount of damages recoverable by the insured shall be submitted for arbitration to the American Arbitration Association and shall be subject to its rules governing the conduct of arbitration hearings as to all matters except medical opinions. Disputes regarding coverage under this Part may not be arbitrated. If the amount of damages being sought is equal to or less than the amount provided for in Section 7-203 (minimum Bodily Injury liability limits are \$25,000 per person and \$50,000 per accident. Minimum Property Damage liability limits are \$20,000 per accident; or its successor) of the Illinois Motor Vehicle Code, then the current American Arbitration Association Rules shall apply as to medical opinions. If the amount being sought in an American Arbitration Association case exceeds that amount as set forth in Section 7-203 (minimum Bodily Injury liability limits are \$25,000 per person and \$50,000 per accident. Minimum Property Damage liability limits are \$20,000 per accident; or its successor) of the Illinois Motor Vehicle Code, then the Rules of Evidence that apply in the Illinois Court's for placing medical opinions into evidence shall govern. Alternatively, disputes with respect to damages and the coverage shall be determined in the following manner: Upon the insured requesting arbitration, each party to the dispute shall select an arbitrator and the 2 arbitrators so named shall select a third arbitrator. If such arbitrators are not selected within 45 days from such request, either party may request that the arbitration be submitted to the American Arbitration Association. Any decision made by the arbitrators shall be written and shall be binding for the amount of damages not exceeding \$75,000 for bodily injury to or death of any one person, \$150,000 for bodily injury to or death of 2 or more persons in any one motor vehicle accident, or the corresponding policy limits under this Part, whichever is less. Arbitrations before a three arbitrator panel shall be subject to the rules of evidence in Illinois Courts, except to the extent the use of such rules is modified by the Illinois Insurance Code. Each party shall bear the cost of his/her own arbitrator and shall share equally the cost of the third arbitrator. All arbitration hearings under this policy shall take place in the Illinois County in which the insured resides and in accordance with the usual rules governing procedures and admissions of evidence in Courts of law of that county and not in accordance with any Court mandated arbitration or mediation rules. If the person demanding arbitration does not reside in Illinois, then arbitration shall take place in any Illinois County in which the Company has an office. Any person making claim hereunder shall answer written questions under oath when served by the Company, as well as comply with the Company's request for production of documents supporting that person's claim. No arbitrator shall have authority to entertain or decide class or representative claims.

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

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

### **PART III – UNDERINSURED MOTORIST COVERAGE**

**Underinsured Motorist Coverage.** To pay all damages which an insured is legally entitled to recover from the owner or operator of an underinsured motor vehicle because of bodily injury sustained by an insured. The owner's or operator's liability for these damages must arise out of the ownership, maintenance or use of the underinsured motor vehicle provided, for the purposes of this coverage, determination as to whether the insured is legally entitled to recover such damages, and if so the amount thereof, shall be made by agreement between the insured and the Company or, if they fail to agree, by litigation or arbitration. No judgment against any person or organization alleged to be legally responsible for the bodily injury shall be conclusive, as between the insured and the Company, of the issues of liability of such person or organization or of the amount of damages to which the insured is legally entitled unless such judgment is entered pursuant to an action prosecuted by the insured with the written consent of the Company. The Company shall not be obligated to pay under this coverage until after the limits of liability under all applicable bodily injury liability bonds or policies have been exhausted by payment of judgments or settlements.

**Definitions.** The definitions under Part I apply to Part III, the definitions of "insured" and "insured automobile" from Part II apply to Part III, and the following also apply under this Part III:

**"Underinsured motor vehicle"** means a motor vehicle whose ownership, maintenance or use has resulted in bodily injury or death of the insured, as defined in the policy, and for which the sum of the limits of liability under all bodily injury liability insurance policies or bonds or other security required to be maintained under Illinois law applicable to the driver or to the person or organization legally responsible for such vehicle and applicable to the vehicle, is less than the limits for Underinsured Motorist Coverage as stated on the Declarations or endorsement to this policy at the time of the accident.

However, "underinsured motor vehicle" does not include any vehicle:

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

**Exclusions.** This policy does not apply under Part III:

- (a) to any person or vehicle while such vehicle is being operated for "Business Use.";
- (b) to any person using a vehicle without a reasonable belief that the person is entitled to do so;
- (c) so as to inure, directly or indirectly, to the benefit of any workers' compensation or disability benefits insurer or any person or organization qualifying as a self-insurer under any workers' compensation or disability benefits law or any similar law, provided, however, that there shall be no setoff or exclusion under this policy for amounts paid as disability benefits by the Social Security Administration or by any similar state or federal agency;
- (d) to punitive or exemplary damage;

- (e) to any claim against the Company submitted after the later of (i) two years after the date of accident, or (ii) six months after the limits of liability or portion thereof under all bodily injury liability insurance policies applicable to the underinsured motor vehicle and its operators have been partially or fully exhausted by payment of judgment or settlement; or
- (f) to any claim by a person who operated, used or occupied an owned automobile or a non-owned automobile without a reasonable belief that he/she was entitled to do so;
- (g) if Uninsured Motorist Coverage - PART II applies to the accident;
- (h) while any covered automobile is in the control of an excluded operator;
- (i) to any insured while occupying a vehicle the insured owns which is insured for this Underinsured Motorist Coverage under another policy; or

**Limit of Liability.**

- (a) The Company's maximum limit of liability for all damages due to bodily injury to one person is the limit of liability as shown in the Declarations for "each person" for Underinsured Motorist Coverage less those amounts actually recovered under the applicable bodily injury insurance policies, bonds or other security maintained on the underinsured motor vehicle. Bodily injury to one person includes all injury and damages, including loss of service, society or consortium, to others resulting from this bodily injury. The Company's maximum limit of liability for all damages due to bodily injury to two or more persons in the same accident is the limit of liability as shown in the Declarations for "each occurrence" for Underinsured Motorist Coverage, subject to the above provision respecting each person, less those amounts actually recovered under the applicable bodily injury insurance policies, bonds or other security maintained on the underinsured motor vehicle. The limits of liability are not increased because more than one person is insured at the time of the accident. Any payment otherwise due under this coverage shall be reduced by a payment for bodily injury or medical expense under any other part of this policy. If more than one policy issued by this Company provides underinsured motorist coverage for the same bodily injury, the total limit of this Company's liability under all such policies shall not exceed the amount applicable under only one policy. In no event shall the total limit of the Company's liability exceed the limits set forth in the Declarations, regardless of the number of vehicles insured under the policy or the separate itemization of premiums therefor and coverage under this section shall not be "stacked" with any other similar or identical coverage that may be issued under this policy, including Uninsured Motorist Coverage.
- (b) The Company shall not be obligated to make payment under this coverage until the limits of liability under all bodily injury liability insurance policies applicable to the underinsured motor vehicle and its operators have been fully exhausted by payment of judgment or settlement.
- (c) Notwithstanding any of the above, if the Company and the insured or his/her legal representative agree that the insured suffered bodily injury as a result of negligent operation, use or maintenance of an underinsured motor vehicle, and without arbitration, agree also on the amount of damages that the insured is legally entitled to collect, then the maximum amount payable pursuant to such an underinsured motor vehicle insurance settlement agreement shall not exceed the amount by which the limits of the Underinsured Motorist Coverage exceed the limits of bodily injury liability insurance of the owner or operator of the underinsured motor vehicle. Any such agreement shall be final as to the amount due and shall be binding upon the insured and the Company regardless of the amount of any judgments, or any settlement reached between any insured and the person or persons responsible for this accident. No such settlement shall be concluded unless: (i) the insured has complied with all other applicable policy terms and conditions; and (ii) before the conclusion of the settlement agreement, the insured has filed a lawsuit against the underinsured motor vehicle owner or operator and has not abandoned the suit, or settled the lawsuit without preserving the rights of the Company, provided, however, that lawsuit against the underinsured owner and operator may be dismissed where the Company has been given notice in advance of a settlement between the insured and the underinsured motorist and the Company fails to advance a payment to the insured in an amount equal to the tentative settlement within 30 days following receipt of such notice.
- (d) The amount the Company will pay is reduced by any amounts paid or payable for the same bodily injury:
  - (1) under Parts I and IV of this policy;
  - (2) under a worker's compensation or similar law; or
  - (3) by or on behalf of any person or organization who may be liable for the bodily injury.

**Arbitration.** If any person making claim hereunder and the Company do not agree that such person is legally entitled to recover damages from the owner or operator of an underinsured motor vehicle because of bodily injury to an insured or do not agree as to the amount payable hereunder, then these matters may be submitted to arbitration provided that both the Company and the person making the underinsured claim agree to arbitrate. However, disputes regarding coverage under this Part may not be arbitrated. If the parties do not agree to arbitrate then the matter shall be decided by litigation. The parties agree to a bench trial and agree to waive the right to a jury for all underinsured motorist claims which are litigated. Upon an agreement, in writing, to arbitrate the claim between the Company and the person making the underinsured motorist claim, each party to the dispute may select an arbitrator and the two arbitrators so named may select a third

arbitrator. If such arbitrators are not selected within 45 days from such agreement, either party may request that such arbitration be submitted to the American Arbitration Association. The arbitrators shall then hear and determine the questions in dispute, and decision in writing of any two arbitrators shall be binding upon the parties. All arbitration hearings under this policy, including both the tripartite panel and the American Arbitration Association, shall be conducted in the County and State in which the insured resides and in accordance with the usual rules governing procedure and admission of evidence in Courts of law of the County and not in accordance with any Court mandated arbitration or mediation rules or the rules of the arbitration forum. Any decision made by the arbitrators shall be binding for the amount of damages not exceeding \$75,000.00 for bodily injury to or death to any one person, \$150,000.00 for bodily injury to or death of 2 or more persons in any one motor vehicle accident, or the corresponding policy limits for bodily injury or death under this Part, whichever is less ("UIM arbitration limits"). It is agreed that the arbitrators shall not enter an award in excess of UIM arbitration limits, and, if an award is entered in excess of the UIM arbitration limits then that portion of the award which exceeds the policy limits is void and not binding on either the insured or the company. All expenses of any arbitration hereunder shall be shared equally by the parties. No arbitrator shall have authority to entertain or decide class or representative claims.

**Other Insurance.** If there is other Underinsured Motorist Coverage which applies, we will pay our share of the damages. Our share will be the ratio of our limits of liability to the total of all limits which apply. Total damages payable for one occurrence shall be considered not to exceed the limits of liability of the applicable policy that has the highest limit of liability.

The coverage extended to automobiles you do not own will be excess over any other coverage available to you.

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

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

#### **PART IV - MEDICAL PAYMENTS**

**Medical Payments.** The Company will reimburse to the "insured" with relation to a motor vehicle accident occurring during the term of this policy, all usual and customary expenses paid by the insured for the services provided by individuals or hospitals licensed under the Medical Practice Act of Illinois or comparable law incurred within one year of an accident for reasonable and necessary medical, surgical, x-ray and dental services, including prosthetic devices, and necessary ambulance, hospital and professional nursing charges. The reasonable expense of funeral services is also covered in this Part. The medical and funeral expenses covered herein must have been caused by accident and sustained by:

**Division 1.** the named insured or a relative while occupying or through being struck by an automobile; or

**Division 2.** any other person while lawfully occupying

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

We will reimburse to the insured only those medical expenses that were paid within one (1) year from the date of the accident. Expenses for Medical and Funeral Services means usual and customary charges incurred for reasonable and necessary services rendered to or on behalf of an insured within one (1) year from the date of the accident for: medical, surgical, x-ray, and dental services when performed by a licensed medical professional; pharmaceuticals, prosthetic devices; eye glasses; necessary ambulance, hospital, and professional nursing services when prescribed by a licensed medical professional; and funeral services.

Reasonable Medical expenses do not include expenses:

- (a) for treatment, services, products or procedures that are:

- (1) experimental in nature, for research, or not primarily designed to serve a medical purpose; or
  - (2) not commonly and customarily recognized throughout the medical profession and within the United States as appropriate for the treatment of bodily injury; or
- (b) incurred for:
- (1) the use of thermography or other related procedures of similar nature; or
  - (2) the use of acupuncture or other related procedures of a similar nature; or
  - (3) the purchase or rental of equipment not primarily designed to serve a medical purpose.

**Definitions.** The definitions under Part I apply to Part IV, and the following also applies under Part IV:

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

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

- (a) to any vehicle while such vehicle is being operated for "Business Use."
- (b) sustained while occupying any vehicle while located for use as a residence or premises;
- (c) sustained by the named insured or a relative (1) while occupying an automobile owned by or furnished or available for the regular use of either the named insured or any relative, other than an automobile defined herein as an "owned automobile", or (2) while occupying or through being struck by (i) a farm type tractor or other equipment designed for use principally off public roads, while not upon public roads, or (ii) a vehicle operated on rails or crawler-treads;
- (d) sustained by any person other than the named insured or a relative, resulting from use of (1) a non-owned automobile in the automobile business or as a public or lively conveyance, or (2) a non-owned automobile in any other business or occupation except operation or occupancy of private passenger automobile by the named insured or by his/her private chauffeur or domestic servant or of a trailer used therewith or with an owned automobile;
- (e) sustained by any person who is employed in the automobile business, if the accident arises out of the operation thereof and if benefits therefor are in whole or in part either payable or required to be provided under any workmen's compensation law (This includes a self-insurer, which would otherwise be required to provide coverage pursuant to any federal or state worker's compensation law or other similar law;);
- (f) to injury, sickness, disease, death or loss due to war;
- (g) to the extent that any medical expense is paid or payable to or on behalf of the injured person under the provisions of any (i) automobile or premises insurance affording benefits for medical expenses, (ii) individual, blanket or group accident, disability or hospitalization insurance, (iii) medical or surgical reimbursement plan, or (iv) workmen's compensation or disability benefits law or any similar law;
- (h) resulting from the hazardous properties of nuclear material and arising out of the operation of a nuclear facility by any person or organization;
- (i) arising out of the operation of any automobile insured under this policy which is designed for racing while being tested, repaired or serviced or to any automobile or motor vehicle while used, operated, manipulated or maintained in any prearranged or organized race or speed test, including "hot rod" or "stock car" racing;
- (j) to any claim by a person who operated, used or occupied an owned automobile or a non-owned automobile without permission or a reasonable belief that he/she was entitled to do so; or
- (k) to any person while engaged in use of or occupying a vehicle (1) to carry persons or property for compensation or a fee, including but not limited to delivery of food or any other products, messenger services; or (2) for snow removal.
- (l) bodily injury caused by or a consequence of a discharge or use of a weapon.

**Limit of Liability.** The limit of liability for medical payments stated in the Declarations as applicable to "each person" is the limit of the Company's liability for all expenses incurred by or on behalf of each person who sustains bodily injury as the result of any one accident. If more than one policy issued by this Company applies to this part, the total limit of this Company's liability under all such policies shall not exceed the amount applicable under only one policy. The limit of liability for medical payments is reduced for any payments made under Part I of this policy.

**Other Insurance.** If there is other automobile medical payments insurance against a loss covered by Part IV of this policy the Company shall not be liable under this policy for a greater proportion of such loss than the applicable limit of liability of all valid and collectible automobile medical

payments insurance; provided however, the insurance with respect to a temporary substitute automobile or non-owned automobile shall be excess insurance over any other valid and collectible automobile medical payments insurance.

**Arbitration.** If any person making claim hereunder and the Company do not agree that a medical bill submitted for payment is not usual and customary or necessary and reasonable or do not otherwise agree that it is payable under Part IV, these

matters shall be submitted to arbitration. Upon the insured or the Company demanding arbitration, the insured and the Company shall each select an arbitrator and the two arbitrators so named shall select a third arbitrator. The three arbitrators so selected shall hear and determine the questions in dispute. Any decision made by the arbitrators shall be binding for the amount decided by the arbitrators to be payable hereunder not exceeding the limits of liability for Medical Payments as provided in the Declarations of this policy subject to all other terms and conditions of this policy. To the extent that an arbitration decision exceeds the limit of liability, it is void. The authority of the arbitrators is limited to a determination of the amount due for Medical Payments under this policy and does not extend to punitive damages or other damages other than Medical Payments covered by this policy. Each party shall bear the cost of his/her own arbitrator and shall share equally the costs of the third arbitrator. The arbitration shall take place in Illinois in the County of residence of the person demanding arbitration. If the person demanding arbitration does not reside in Illinois then the arbitration shall take place in an Illinois County where the Company maintains a place of business. In any arbitration hereunder the arbitrators shall be governed by the rules of evidence as used in Illinois courts. No arbitrator shall have authority to entertain or decide class or representative claims.

## **PART V – PHYSICAL DAMAGE COVERAGE**

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

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

**C - Towing and Labor Costs.** To pay for towing and labor costs necessitated by the disablement of the owned automobile, other than disablement due to running out of gas, provided:

1. the labor is performed at the place of disablement.
2. the disablement does not occur at your residence; and
3. you provide us with proof in the form of verifiable receipts of towing and labor charges incurred.

**D – Rental.** In consideration of the premium charged, to reimburse the insured for the rental fee expenses, but only to the extent of the applicable limits for rental under this Part V, incurred (excluding mileage charge) commencing forty- eight (48) hours after the insured has reported the loss or theft to the Company and the loss is caused by an auto accident.

Our payment will be limited to the lesser of that period of time:

1. Reasonably required to repair or replace your auto, or
2. the repair facility finishes the repairs;
3. we offer to replace the Insured auto;
4. we offer settlement to you

Coverage terminates upon the completion of the repairs, but in no event later than 12:01 AM on the last day of coverage identified in the Declarations.

The Company shall not be obligated to pay aggregate expenses in excess of the amounts in the Declarations.

In no event shall the Company accept a claim for collision reimbursement unless a verified itemized statement of rental charges is supplied by the insured within thirty (30) days after the date of accident.

**Storage Charges:** In addition, after an auto accident for which this coverage is provided, we will pay reasonable storage charges to the insured or any relative who is legally responsible for storing your covered auto.

If the insured fails to notify the company within 48 hours that the auto is in storage, or if the insured refuses to release the auto for movement to the company's preferred storage lot, we will only pay storage charges to a maximum of \$200. This coverage applies only if the Declarations indicate that "Collision" or "Comprehensive" is provided for that auto.

**Supplementary Payments.** In addition to the applicable limit of liability, the Company will pay reasonable general and salvage charges for which the insured becomes legally liable as to the automobile being transported.

### **Definitions:**

The definitions of "namedinsured", "relative", "owned automobile", "farm automobile", "utility automobile", "automobile business", "war", "business use" in Part I apply to Part V and under Part V:

**"date of accident"**, for purposes of the Collision coverage, means the date of the collision; for purposes of Comprehensive Coverage, "date of accident" means the date of the event out of which the claim arises, such as but not limited to the date of fire, theft, vandalism or other event described in Comprehensive Coverage.

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

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

**"loss"** means direct and accidental physical damage to the automobile or its parts, including any child restraint system that was in use by a child during an accident to which this coverage applies, but "loss" does not include diminution in value;

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

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

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

**"aftermarket crash part"** means a replacement for any of the non-mechanical sheet metal or plastic parts that generally constitute the exterior of a motor vehicle, including inner and outer panels;

**"non-original equipment manufacturer (Non-OEM) aftermarket crash part"** means an aftermarket crash part not made for or by the manufacturer of the motor vehicle; **"like kind and quality part"** includes but is not limited to a replacement part for any vehicle obtained from another vehicle;

**"repair"** means physical repair but does not mean restoration to pre-accident value or condition. To determine the amount necessary to repair or replace the damaged property, the total cost of necessary repair or replacement may be reduced by unrepaired prior damage. Unrepaired prior damage includes broken, cracked, or missing parts; rust; dents; scrapes; gouges; and peeling paint. The reduction for unrepaired prior damage is the cost of labor, parts, and materials necessary to repair or replace damage, deterioration, defects, or wear and tear on exterior body parts, windshields and other glass, wheels, and paint, that existed prior to the accident and that is eliminated as a result of the repair or replacement of property damaged in the loss.;

**"temporary substitute automobile"** means any automobile not owned by the named insured, or by any resident of the same household, while temporarily used as a substitute for the owned automobile when withdrawn from normal use because of its breakdown, repair, servicing, loss or destruction. With respect to Part V, this definition does not include a vehicle rented by any insured and the Company will provide no coverage under Part V for any vehicle rented by any insured.

**"diminution in value"** means the actual or perceived decrease of market or resale value of an automobile or part thereof, measured after repair of physical damage.

**Exclusions.** This policy does not apply under Part V:

- (a) To any automobile while used as a public or livery conveyance or for delivery of food, mail, newspapers, magazines or packages for an employer or business.
- (b) To loss to any automobile not described in this policy if
  - (1) there is other collectible insurance against such loss available to the Insured, or
  - (2) with respect to an additional automobile, or an automobile which replaces an automobile described in the policy, and respecting which the named Insured has not notified the Company in writing within 30 days after such acquisition of his/her election to make Part II or Part III of this policy applicable to such automobile.
- (c) To damage which is due and/or confined to prior loss or damage, manufacturer's defects, wear and tear, freezing, mechanical or electrical breakdown or failure, unless such damage results from a theft covered by this policy.
- (d) To tires, unless damaged by fire, stolen or unless the loss is coincident with and from the same cause as other loss covered by this policy.
- (e) To loss due to radioactive contamination.
- (f) To loss arising out of the operation of any vehicle, insured under this policy, which is designed or equipped for so-called "hotrod" or "stock car" racing either while so operated or while being tested, repaired or serviced; or to the operation of any vehicle in any pre-arranged or organized race or speed contest;
- (g) Loss of or damage to telephones, televisions, radar detectors, scanning, monitors, receivers or any related accessories or any device or instrument designated for the recording, reproduction, receiving, or transmittal of

sound, radio waves, microwaves or television signals unless such device or instrument is permanently installed in the dash or console opening specified by the manufacturer of the motor vehicle for the installation of such equipment.

- (h) Loss of or damage to any tape, wire, record, disc or other medium for use with any device or instrument designed for the recording, and reproduction of sound.
- (i) To any bodily injury, sickness, disease, death or other loss due to war, whether or not declared, civil war, insurrection, rebellion or revolution, riot and civil commotion, or to any act or condition incident to any of the foregoing.
- (j) To loss due to confiscation, towing or impounding by a duly constituted government or civil authority or damages incurred during repossession by a loss payee or its agent.
- (k) To any loss while the automobile is used in any illicit trade or transportation or caused intentionally by, or at the direction, of an authorized driver, or anyone using the automobile with the insured's express or implied permission and within the scope of such permission. This exclusion does not apply to an innocent coinsured if the loss arose out of a pattern of criminal domestic violence and the perpetrator of the loss is criminally prosecuted.
- (l) To any loss to robes, wearing apparel, tools, personal property or any other personal effects including tapes, records, DVD's or compact discs.
- (m) To a non-owned vehicle while used in the automobile business.
- (n) To any camper units, detachable living quarters, attachments or camper body, whether or not permanently attached to a pickup or open bed vehicle chassis.
- (o) To loss due to theft if evidence exists that forcible entry was not required to gain access to the vehicle or that evidence exists that keys were left in the automobile while it was unoccupied or that no evidence exists that the ignition wires, ignition locks, steering locks or other security devices installed to prevent operation by an unauthorized person were altered to operate the automobile without keys.
- (p) Loss of or damage to any equipment other than standard or optional equipment which is available from the manufacturer of the automobile named in the Declarations for that make, model and model year.
- (q) To loss of equipment which is available from the manufacturer of the automobile named in the policy for that make, model, and model year, but which is not permanently installed in the dash or console opening specified by the manufacturer of the automobile for the installation of such equipment.
- (r) To any loss or damage to any special equipment as described under "special equipment", unless such equipment is specifically described in the policy and a premium charged therefore and only in excess of the deductible on the coverage applicable.
- (s) To any contents that are not from the manufacturer of the automobile or normally sold as part of the vehicle. Provided, however, that this exclusion does not apply to a child restraint system that was in use by a child during an accident to which coverage is applicable.
- (t) With respect to policies providing physical damage coverage for Vans, Pick-Ups or Panel Trucks, coverage shall be excluded for customized equipment including but not limited to: special carpeting and insulation, furniture, bars or television receivers; facilities for cooking and sleeping, including enclosures; height-extending roofs; custom murals, paintings or other decals or graphics.
- (u) A pick-up cover, cap or shell, awning or cabana.
- (v) Any ornamental or protective accessories, which may include shields, bras, engine accessories, racing slicks, oversized or special tires, special wheels or special wheel covers.
- (w) To loss to any automobile owned by the named Insured and not described in this policy while being used when the vehicle described in the declarations is either being repaired due to a loss or mechanical breakdown, or any other reason that would cause the vehicle described in the declarations to be non-operational.
- (x) To any automobile while in the control of any operator excluded by endorsement to this policy or any renewal.
- (y) To loss resulting from the alteration of any automobile beyond the manufacturers specifications, and to any loss due to alteration or installation of equipment that does not conform to the Illinois Motor Vehicle Code.
- (z) To loss to any automobile when the use of the automobile is criminal or while the automobile is used in the commission of a criminal act, other than a traffic violation, or while used to flee and elude the police or other law enforcement or government authorities. Provided, however, this exclusion does not apply to an innocent co-insured who did not cooperate in or contribute to the creation of the loss if the loss arose out of criminal domestic violence and the perpetrator of the loss is criminally prosecuted for the act causing the loss. In such instance, payment to the innocent co-insured shall be limited to his/her or her ownership interest in the property as reduced by any payments to a mortgagor or other secured interest.

- (aa) To loss by theft or conversion by an insured, a member of the household, or any person using the automobile with permission. Provided, however, this exclusion does not apply to an innocent co-insured who did not cooperate in or contribute to the creation of the loss if the loss arose out of criminal domestic violence and the perpetrator of the loss is criminally prosecuted for the act causing the loss. In such instance, payment to the innocent co-insured shall be limited to his/her ownership interest in the property as reduced by any payments to a mortgagor or other secured interest.
- (bb) To loss to any trailer.
- (cc) To loss with respect to such automobile of which ownership is acquired by the named Insured during the policy period, and the named Insured has not notified the Company in writing within 30 days of such acquisition and his/her election to make Part II or Part III of this policy applicable to such automobile.
- (dd) To storage charges which are excessive due to the insured's own actions. If at any time the Company pays for such charges, the Company will then deduct those charges from the payment of the loss.
- (ee) To payment for unauthorized repairs to the vehicle.
- (ff) To breakage of glass if insurance with respect to such breakage is otherwise afforded.
- (gg) To diminution in value to any automobile.
- (hh) To loss resulting from the theft or conversion of the automobile by a person the insured has voluntarily entrusted the automobile.
- (ii) To loss resulting from the maintenance or use of any automobile or trailer neither owned nor regularly available to the insured, a relative, or a resident while in the custody of or being operated by such a person except for excess coverage for a temporary substitute automobile.
- (jj) To any loss resulting from the use of an automobile equipped for snow removal.
- (kk) To any loss arising out of the use of a vehicle by any person without a reasonable
- (ll) belief that the person is entitled to do so.
- (mm) To any loss while any operator of an automobile insured under this part V has a blood alcohol content above the legal limit for operating of a motor vehicle, or while the operator is under the influence of any illicit or illegal drugs, or any controlled substance which were not legally prescribed for the operators use.
- (nn) To any loss arising out of the use of a vehicle by any person without a reasonable belief that the person is entitled to do so

**Limit of Liability.** Subject to the deductible stated on the declarations, the Company's liability under Part V except for non-owned trailers shall not exceed the smallest of the following:

- (a) the actual cash value of stolen or damaged property or part thereof at the time of the loss;
- (b) the amount necessary to repair the damaged property using, at the sole discretion of the Company, new parts from the vehicle's manufacturer, aftermarket crash parts or non-original equipment manufacturer (Non-OEM) aftermarket crash parts or like kind and quality parts. Non original equipment manufacturer (Non-OEM) aftermarket crash parts will be identified on the repair estimate;
- (c) the amount necessary to replace stolen or damaged property at the time of the accident with like kind and quality property less depreciation.

The Company's liability for loss under Part V for non-owned trailers shall not exceed \$500.00.

**Other Insurance.** If the insured has other insurance against a loss covered by this policy, the Company shall not be liable under this policy for a greater proportion of such loss than the amount calculable under the Limit of Liability of this policy bears to the total of all valid and collectible insurance against such loss; provided, however, that with respect to a temporary substitute automobile or non-owned automobile, this insurance shall be excess over any other valid and collectible insurance or self -insurance.

## **PART VI – NON-OWNER COVERAGE.**

**Non-Owner Coverage.** This Part VI applies only if the term "Non-Owner" appears on the Declarations of the policy. The purpose of "Non-Owner" Coverage is to insure the named insured against the liability imposed by the law upon the named insured for bodily injury to or death of any person or damage to property to the amounts and limits stated on the Declaration of this policy and growing out of the use or operation by the named insured within the continental limits of the United States or the Dominion of Canada of a non- owned automobile. If the term "Non-Owner" appears on the Declarations of the policy, then all the terms and conditions of the policy apply except as modified herein, and to the extent that any definition, term or provision of Part VI conflicts with any definition, term or provision of any other Part of this policy, the purpose, definitions, terms and provisions of Part VI shall control the other Part of this policy.

If this Part VI applies then:

- 1) In Part I - Liability and in all other Parts incorporating said section "Persons Insured" is deleted and the following is substituted:

**"Persons Insured"** The only person insured under this policy is the named insured, his/her spouse, or civil union partner if a resident of the same household, and then only with respect to a non-owned automobile, provided the use and operation thereof is with the permission of its owner and within the scope of such permission.

- 2) Part VI Definitions to be substituted for definitions in Part I - Liability and as incorporated in other Parts or Conditions from Part I - Liability:

**"Non-owned automobile"** means an automobile not owned by or furnished for the regular use of the named insured or any resident of the household of the named insured.

**"Owned automobile"** means any automobile owned by or furnished for the regular use of the named insured or a resident of the household of the named insured.

- 3) Part VI definitions to be substituted in specified Parts and related Conditions:

For purpose of Part II - Uninsured Motorist Coverage and of Part III - Underinsured Motorist Coverage:

**"Insured"** means the named insured and any relative of the named insured.

- 4) The following are added Exclusions: In Part I - Liability:

(aa) to any automobile owned by or furnished or available for the regular use of the named insured, or owned by or furnished or available for the regular use of a resident of the household of the named insured;

(bb) to any automobile while used in a business or occupation of the named insured.

In Parts II - Uninsured Motorist Coverage and Part III - Underinsured Motorist Coverage:

(aa) to injuries arising out of the operation, use or maintenance of a motor vehicle owned by or furnished or available for the regular use of the named insured, resident spouse, civil union partner or other resident of the named insured's household.

In Part IV - Medical Payments:

(aa) arising out of the use, operation, or maintenance of any automobile owned by or furnished or available for the regular use of the named insured or a resident of the household of the named insured;

- 5) In all Parts, delete the Other Insurance section and replace it with:

**Other Insurance.** This insurance shall be excess insurance over any other valid and collectible insurance or self-insurance. Total damages payable for one occurrence shall be considered not to exceed the limits of liability of the applicable policy that has the highest limit of liability.

## CONDITIONS

**These conditions apply to all Parts and Coverages unless otherwise noted.**

1. **Policy Period.** This policy applies only to accidents, occurrences, and loss during the policy period stated in the Declarations while the automobile is within the contiguous United States of America, or Canada or is being transported between ports thereof. The policy period shall be stated in the Declarations and shall begin and end at 12:01 A.M., Standard Time, at the address of the named Insured, provided the premium payment has been paid when due.
2. **Premium.** The premium for this policy is based on the information the Company has received from the application, endorsements and other sources.

It is agreed that:

(a) If the named Insured adds or replaces a private passenger, farm or utility automobile or trailer insured by the Company, the named Insured shall inform the Company in writing within 30 days of such change of his/her election to make this policy applicable to such automobile, except that coverage under Part I shall apply automatically during said period to such automobile if it is added or replaces an owned automobile. The named Insured shall, upon request, furnish reasonable proof of the number of such automobiles or trailers and a description thereof. Any premium adjustment necessary shall be made as of the date of such change or acquisition in accordance with the premium levels in use by the Company and shall be paid promptly. Premiums and premium adjustments shall be rounded to the nearest dollar in accordance with the underwriting guidelines of the Company.

(b) If at any time the Company becomes aware:

- (1) that any **resident driver, primary operator, occasional operator or regular operator** of an insured vehicle, other than an **excluded driver/operator**, is not named on the Declarations page or the application as a **named Insured** or driver and the inclusion of that person as **named Insured** or **driver** under the policy would require a higher rate class **then the policy will at the Company's option be declared null and void for all coverages**

and premiums paid will be returned in full, or if the policy is not declared null and void, or, if the policy is in a second or subsequent continuous term with the Company, then the policy will be endorsed to the correct rate effective on the inception date of the policy if such person was a **resident driver, primary operator or occasional operator** as of the inception date of the policy or on the date such person became a **resident driver, primary operator, occasional operator or regular operator**, or

- (2) that any **driver** named on the Declarations page, the application or endorsement request is rated as **married** and the individual is determined to have been **single** and the premium for a **single driver** would require a higher rate class **then the policy will at the Company's option be declared null and void for all coverages and premiums paid will be returned in full or, if the policy is not declared null and void, or, if the policy is in a second or subsequent continuous term with the Company, then the policy will be endorsed to the correct rate effective** on the inception date of the policy if such person was **single** as of the inception date of the policy or on the date such person became **single**, or
- (3) that the **named Insured** or any **driver** residing in the insured's household does not reside at the address stated on the application or endorsement request or the **named Insured** changes addresses after inception of the policy and written notice is not given to the Company by or on behalf of the named Insured within 30 days and the premium for that location would require a higher rate class **then the policy will at the Company's option be declared null and void for all coverages and premiums paid will be returned in full or, if the policy is not declared null and void, or, if the policy is in a second or subsequent continuous term with the Company, then the policy will be endorsed to the correct rate effective** on the inception date of the policy if such person did not reside at the address stated on the application as of the inception date of the policy or on the date such person changed addresses, or
- (4) that any vehicle listed on the Declarations page or the application is operated for **Business Use** or **Artisan Use** and **Business Use** or **Artisan Use** is not disclosed on the application or endorsement request and the inclusion of **Business Use** or **Artisan Use** would not be acceptable to the Company or would result in a higher rate class **then the policy will at the Company's option be declared null and void for all coverages and premiums paid will be returned in full or, if the policy is not declared null and void, or, if the policy is in a second or subsequent continuous term with the Company, then the policy will be endorsed to the correct rate effective** on the inception date of the policy if the vehicle was operated for **Business Use** or **Artisan Use** as of the inception date of the policy, or on the date the vehicle began to be operated for **Business Use** or **Artisan Use**, or
- (5) that any **driver** represented as an **occasional operator** is determined to be a **primary operator** and the inclusion of that person as a **primary operator** would result in a higher rate class **then the policy will at the Company's option be declared null and void for all coverages and premiums paid will be returned in full or, if the policy is not declared null and void, or, if the policy is in a second or subsequent continuous term with the Company, then the policy will be endorsed to the correct rate effective** on the inception date of the policy if the driver represented as an **occasional operator** was a **primary operator** as of the inception date of the policy or on the date an **occasional operator** became a **primary operator**, or
- (6) that any vehicle listed on the application or endorsement request is not garaged at the address stated on the application and the premium for that location would require a higher rate class **then the policy will at the Company's option be declared null and void for all coverages and premiums paid will be returned in full or, if the policy is not declared null and void, or, if the policy is in a second or subsequent continuous term with the Company, then the policy will be endorsed to the correct rate effective** on the inception date of the policy if the vehicle was located at a different address as of the inception date of the policy or on the date the vehicle changed addresses, or
- (7) that any driver named on the application or endorsement request or renewal request represented as having no license, a foreign or international or unverifiable license, is determined to have been licensed in Illinois, and correctly rating this driver would result in a higher rate class, **then the policy will at the Company's option be declared null and void for all coverages and premiums paid will be returned in full or, if the policy is not declared null and void, or, if the policy is in a second or subsequent continuous term with the Company, then the policy will be endorsed to the correct rate effective** on the inception date of the policy if such person was licensed in Illinois as of the inception date of the policy or on the date such person became licensed in Illinois.

The Company will be allowed to apply the additional premium by reducing any amount recoverable to the insured under the Collision, Comprehensive or Medical Payments coverage. The Company may deny coverage for an accident or loss if the Insured or an insured person have knowingly concealed or misrepresented any material fact or circumstance, or engaged in fraudulent conduct, in connection with the presentation or settlement of a claim.

For purposes of Condition 2(b), "**resident driver**" means any person who resides in the Insured's household and who at any time during the policy period uses or operates an insured vehicle, "**single**" means any person not legally married under the laws of the state of Illinois. The Illinois Religious Freedom Protection and Civil Union Act provides that parties to a civil union have the same legal obligations, responsibilities, protections and benefits as legally married persons

under the law of the State of Illinois. **“Business/Artisan Use”** means use of the insured auto in a trade, profession, occupation, course of employment, job, work, or skill in a particular craft in which one is engaged. Business/Artisan use includes, but is not limited to occupations such as sales, service or travel to hospitals, clinics, courthouses, job sites, client homes, carpentry, plumbing, masonry, real estate or insurance agents, lawyers, doctors, accountants. **“Occasional operator”** means a person 24 years of age or younger who is listed on the application, and does not operate any owned automobile 50% or more of the time during the policy period, and **“primary operator”** means the person that is the highest rated operator on any owned automobile and operates an owned automobile 50% or more of the time during the policy period.

- 3. Fraud and Misrepresentation.** The statements contained in the application are deemed to be representations relied upon by the Company in issuing the policy. In the event that any representation contained in the application or in any notification of change is false, misleading or materially affects the acceptance or rating of this risk by the Company, by either direct misrepresentation, omission, concealment of facts or incorrect statements, this policy at the Company's option shall be null and void and of no benefit whatsoever from the inception date of the policy or at the Company's option, the policy will be endorsed to the correct rate effective on the effective date of change and the insured will be held liable for the applicable total premium. This paragraph shall also apply to misstatement of use, misrepresentations and omissions of fact. This policy shall not provide coverage for any insured who has made fraudulent, false, or misleading statements, or misrepresentations or engaged in fraudulent conduct in connection with any accident or loss for which coverage is sought under this policy and any person who with intent to defraud or knowingly facilitates a fraud against an insurer, submits an application or files a claim containing a misrepresentation or a false statement may be guilty of insurance fraud. The Company may void this policy or deny coverage for fraud or misrepresentation even after the occurrence of an accident or loss. This means that the Company will not be liable for any claims or damages that would otherwise be covered. If the Company is not permitted to void this policy, the Company has a right to reduce any first party claims by the amount of any additional premium owed and/or in the case of third-party claims to collect additional premium owed. Any payments made by the Company as the result of the insured's fraud or misrepresentation may be recovered from the insured, or from any payments due or made to the insured under any First Party Coverage provided by this policy. This policy will not be voided after it has been in effect for one (1) year, or one (1) policy period, whichever is less.
- 4. Other Automobile Insurance in the Company.** With respect to any occurrence, accident, death or loss to which this and any other automobile insurance policy issued to the named Insured by this Company also applies, the total limit of the Company's liability under all such policies shall not exceed the highest applicable limit of liability or benefit amount under any one such policy.
- 5. Two or More Automobiles.** When two or more automobiles are insured hereunder, the terms of this policy shall apply separately to each, but an automobile and a trailer attached thereto shall be held to be one automobile as respects limits of liability under Part I of this policy, and separate automobiles under Part II or Part III of this policy, including any deductible provisions applicable thereto.
- 6. Notice.** In the event of an accident, occurrence, or loss, written notice containing particulars sufficient to identify the Insured and also reasonably obtainable information with respect to the time, place and circumstances thereof, and the names and addresses of the injured and of available witnesses and the license plate numbers of the vehicles involved, shall be given by or for the Insured to the Company as soon as practicable but in no event in excess of 30 days after the accident. In the event of theft, a vehicle taken without permission by an unauthorized driver, vandalism, or loss caused by a hit and run vehicle as defined in Part II, the Insured or someone on his/her behalf shall have reported the theft, a vehicle taken without permission by an unauthorized driver, vandalism, or hit and run immediately to the police and this Company. In the event of hit and run as defined in Part III, subparagraph (b), the Insured or someone on his/her behalf shall report the hit and run immediately to the police of its occurrence or discovery thereof, and in any event not more than twenty-four (24) hours later and shall have filed with the Company within 30 days thereafter a statement under oath that the Insured or his/her legal representative has a cause or causes of action arising out of such accident for damages against a person or persons whose identity is unascertainable, and setting forth the facts in support thereof. **As a condition precedent to the Company's duty of indemnity with respect to suits against an Insured, the Insured shall cooperate with the Company and with such attorneys the Company may retain and if a claim is made or a suit is brought against the Insured, he/she shall immediately forward to the Company every demand, notice, summons or other process received by him/her or his/her representative.** The Company will not be obligated to pay, and shall not pay under Part I, unless the Company received actual notice of a lawsuit before any judgment had been entered in said suit. If, before the Company makes payment of loss under Part III, the Insured or his/her legal representative shall institute any legal action for bodily injury against any person or organization legally responsible for the use of an automobile involved in the accident, a copy of the summons and complaint or other process served in connection with such legal action shall be forwarded immediately to the Company by the Insured or his/her legal representative. Wherever this Condition limits the period within which the insured may bring suit, the running of such period is tolled from the date proof of loss is filed with the Company, in whatever form is required by this policy, until the date the claim is denied in whole or in part.
- 7. Assistance and Cooperation of the Insured.** As a condition precedent to the Company's duty of indemnity with respect to suits against an insured, the Insured shall cooperate with the Company and, upon the Company's request, assist in making settlements, in the conduct of suits and in enforcing any right of contribution or indemnity against any

person or organization who may be liable to the Insured because of bodily injury or property damage with respect to which insurance is afforded under this policy; and the Insured shall attend depositions, hearings and trials and assist in making settlements in securing and giving evidence and obtaining the attendance of witnesses and in the conduct of any legal proceedings in connection with the subject matter of this insurance. The Insured shall not, except at his/her own cost, voluntarily make any payment, assume any obligation or incur any expense. This also applies to the owned automobile insured under this policy. After notice of claim under Part III, the Company may require the Insured to take such action as may be necessary or appropriate to preserve his/her right to recover damages from any person or organization alleged to be legally responsible for the bodily injury; and in any action against the Company, the Company may require the Insured to join such person or organization as party defendant. The Insured shall notify the Company of any change in his/her address during the policy period and during the pendency of any suit against the Insured covered under this policy.

## **8. Action Against Company**

- (a) **Part I Liability Coverage.** No action shall lie against the Company unless as a condition precedent thereto, the Insured shall have fully complied with all the terms of this policy, nor shall an action lie under the Liability Coverage until the amount of the obligation to pay shall have been finally determined either by judgment against the Insured after actual trial or by written agreement of the Insured, the claimant and the Company. Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this policy to the extent of the insurance afforded by this policy. No person or organization shall have any right under this policy to join the Company as a party to any action against the Insured to determine the Insured's liability, nor shall the Company be impleaded by the Insured or his/her legal representative. Bankruptcy or insolvency of the Insured or of the Insured's estate shall not relieve the Company of any of its obligations hereunder.
- (b) **Part II Uninsured Motorist Coverage, Part III Underinsured Motorist Coverage and Part V Automobile Physical Damage Coverage.** No action shall lie against the Company unless commenced within two years of the date of the accident, nor unless as a condition precedent thereof, there shall have been full compliance with all the terms and conditions of this policy, nor under Part V Automobile Physical Damage until 30 days after the amount payable has been determined by the Company.
- (c) **Part IV Medical Payments,** if the Company and the named Insured fail to agree as to the amount payable, the reasonableness of bills, or coverage, the matter shall be submitted to arbitration. Upon the insured or the Company requesting arbitration, the insured and the Company shall each select an arbitrator and the 2 arbitrators so named shall select a third arbitrator. The three arbitrators so selected shall hear and determine the questions in dispute. Any decision made by the arbitrators shall be binding for the amount of damages not exceeding the limits stated in the declarations for medical payments.
- (d) In no event shall arbitration or appraisal be commenced against the Company more than two years after the date of accident, except only in the following circumstances:
  - (1) **Under Part II - Uninsured Motorist Coverage,** if coverage is based on entry of a court order of rehabilitation or liquidation by reason of insolvency of an insurer, suit or arbitration shall not be commenced against the Company after the later of: two years after the date of the accident or six months after the entry of such court order or rehabilitation or liquidation by reason of insolvency; or
  - (2) **Under Part III - Underinsured Motorist Coverage,** suit or arbitration shall not be commenced after the later of: two years after the date of accident or six months after the limits of liability or portion thereof under all bodily injury liability insurance policies applicable to the underinsured motor vehicle and its operators have been partially or fully exhausted by payment of judgment or settlement. No action shall lie against the Company under Part III unless the Insured shall have taken such timely action as may be necessary to protect his/her rights against the person or organization alleged to be responsible for the bodily injury within the applicable Statute of Limitations.
- (e) Whenever this Condition 8 limits the period within which the insured may bring suit or arbitration, the running of such period is tolled from the date proof of loss is filed with the Company, in whatever form is required by the Company, until the date the claim is denied in whole or in part.

- 9. Medical Reports: Proof and Payment of Claim - Part II Uninsured Motorist Coverage, Part III Underinsured Motorist Coverage and Part IV Medical Payments.** As soon as practicable, the injured person or someone on his/her behalf shall give to the Company written proof of claim for Medical Expense, under oath if required, including full particulars of the nature and extent of the injuries, treatment and other details entering into the determination of the amount payable and shall after each request from the Company execute authorization to enable the Company to obtain medical reports and copies of records and the injured person shall submit to physical examinations by physicians selected by the Company when and as often as the Company may reasonably require and he/she, or in the event of his/her incapacity, his/her legal representative, or in the event of his/her death, his/her legal representative or the person or persons entitled to sue therefor. Under the Medical Payments Expense Coverage, the Company may pay the injured person or any person or organization rendering medical services and such payment shall reduce the amount payable hereunder for such injury. Payment hereunder shall not constitute an admission of liability of any person or, except hereunder, of the

Company.

- 10. Insured's Duties in Event of Loss - Parts V Automobile Physical Damage.** In the event of loss, the Insured shall:
- (a) Immediately report the loss to the Company, and in the event of the theft, or involvement of a phantom vehicle, vandalism, or loss caused by a hit and run vehicle the accident must also be immediately reported to the police of its occurrence or discovery thereof, and shall have filed with the Company within 30 days thereafter a statement under oath that the Insured or his/her legal representative has a cause or causes of action arising out of such accident for damages against a person or persons whose identity is unascertainable, and setting forth the facts in support thereof.
  - (b) Protect the automobile, whether or not the loss is covered by this policy, and any further loss due to the Insured's failure to protect shall not be recoverable under this policy; reasonable expenses only incurred in affording such protection shall be deemed incurred at the Company's request.
  - (c) As soon as practical but in no event in excess of thirty (30) days: 1) File with Company his/her sworn proof of loss in such form and including such information as the Company may reasonably require, and 2) Exhibit the damaged property for inspection, appraisal and approval prior to repair or disposal thereof.
  - (d) Cooperate with the Company in any matter concerning a claim or suit, provide the Company with any documentation it may reasonably require and allow the Company to take signed and/or recorded statements when and as often as reasonably required and upon Company's request submit to examination under oath.
  - (e) Provide access as the Company may reasonably require to the recorded data contained within the insured autos event data recorder (EDR), global positioning system (GPS) or similar device, in connection with any accident, claim or suit.
- 11. Appraisal - Part V Automobile Physical Damage.** If the Insured and the Company fail to agree as to the amount payable for loss under Part II, their dispute shall be determined by appraisal as described herein. The Insured and the Company shall each select a competent appraiser and the appraisers shall select a competent and disinterested umpire. The appraisers shall determine the Stated Value of the automobile as calculated under the terms of the policy and they shall state separately the actual cash value of the vehicle at the time of the accident and the amount payable to repair the damage under Part II as calculated according to the Limit of Liability under Part II, and, failing to agree, submit their differences to the umpire. An award in writing of the two appraisers or of one appraiser and the umpire shall determine the amount payable under this policy. The award shall specify the application of the deductible and no payment for diminution of value. The Insured and the Company shall each pay his/her or its chosen appraiser and shall bear equally the other expenses of the Appraisal and umpire. The Company shall not be deemed to have waived any of its rights by any act relating to Appraisal, and in no event pay more than the coverage provided. In no event shall Appraisal be instituted more than two (2) years after date of accident and in no event shall the award exceed the Limit of Liability under Part II.
- 12. Payment of Loss - Part V Automobile Physical Damage.** The Company may pay for the loss in money, or may repair or replace the damaged or stolen property, or may, at any time before the loss is paid or the property is so replaced, at its expense return any stolen property to the named Insured, or at its option to the address shown in the Declarations, with payment for any resultant damage thereto; or may take all or such part of the property at the agreed or appraised value but there shall be no abandonment to the Company. The Company may settle any claim for the loss either with the Insured or the owner of the property. If the Insured or owner elects to have the automobile repaired at a facility of his/her own choosing and that facility charges more than the Company would pay for the repair at another licensed auto repair facility reasonably available, then the Company may tender the amount payable under its estimate and the Insured or owner will be responsible to pay the difference to the repair facility of his/her own choosing. If hidden or additional damage is identified, then the Company shall be given an opportunity to inspect it and to estimate the cost of such additional repair prior to the commencement of such repairs, and the Company may tender such additional amount payable pursuant to the Company's additional estimate. The Company has the right, at the Company's option to inspect the repairs prior to making any payment for the loss.
- 13. Authorized Agents.** No person shall be deemed an agent of the Company unless such person is authorized in writing as such agent by an officer of the Company.
- 14. No Benefit to Bailee - Part V.** The insurance afforded by this policy shall not inure directly or indirectly to the benefit of any carrier or other bailee for hire liable for loss to the automobile.
- 15. Subrogation.** In the event of any payment under this policy, the Company shall be subrogated to all the Insured's rights of recovery therefore against any person or organization and the Insured shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The Insured shall do nothing after loss to prejudice such rights. In the event of any payments under Part IV Medical Payments of this policy, the Company shall be subrogated to all the rights of recovery therefore that the insured person or anyone receiving such payment may have against any person or organization and such person shall execute and deliver instruments and papers and do whatever is necessary to secure such rights. Such person shall do nothing after loss to prejudice such rights. In the event of any payment under the Underinsured Motorist Coverage, the Company shall not exercise any right of subrogation under a policy providing additional coverage against an underinsured motorist where the Company has been provided with

written notice in advance of a settlement between its insured and underinsured motorist and the Company fails to advance a payment to the insured in an amount equal to the tentative settlement, within 30 days following receipt of such notice.

When a person has been paid by the Company under this policy and also recovers from another, the amount recovered from the other shall be held by that person in trust for the Company and reimbursed to the Company to the extent of the payment made by the Company, provided that the person to or on behalf of whom such payment is made is fully compensated for their loss. If an insured person or organization receives recovery from a responsible party without the Company's written consent, the insured person or organization's right to payment under any affected coverages of this policy will no longer exist.

- 16. Changes.** Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this policy or stop the Company from asserting any right under the terms of this policy; nor shall the terms of this policy be waived or changed, except by endorsement issued to form a part of this policy, signed by a duly authorized agent of the Company.
- 17. Assignment.** Assignment of interest under this policy shall not bind the Company until its consent is endorsed hereon; if, however, the Insured named in the Declarations, his/her spouse or civil union partner if a resident of the same household, shall die, this policy shall cover (1) the survivor as named Insured, (2) his/her legal representative as named Insured but only while acting within the scope of his/her duties as such and (3) any person having proper temporary custody of an owned automobile as an Insured, until the appointment and qualification of such legal representative.
- 18. Cancellation.** This policy may be cancelled by the named Insured listed on the Declarations by surrender thereof to the Company or any of its authorized agents or by mailing to the Company written notice stating when thereafter the cancellation shall be effective. This policy may be cancelled by the Company by mailing to the mortgagee or lien holder at the last mailing address known to the Company and to the insured named in the Declarations at the last mailing address known to the Company written notice stating when not less than 30 days thereafter such cancellation shall be effective, however, the Company shall not exercise its right to cancel such policy after it has been in effect for 60 days or any policy that has been renewed except for the reason set forth in Section 143:19 of the Illinois Insurance Code.

**215 ILCS 5/143.19:** After a policy of automobile insurance as defined in Section 143.13(a) has been effective for 60 days, or if such policy is a renewal policy, the insurer shall not exercise its option to cancel such policy except for one or more of the following reasons: a. Nonpayment of premium; b. The policy was obtained through a material misrepresentation; c. Any insured violated any of the terms and conditions of the policy; d. The named insured failed to disclose fully his motor vehicle accidents and moving traffic violations for the preceding 36 months if called for in the application; e. Any insured made a false or fraudulent claim of knowingly aided or abetted another in the presentation of such a claim; f. The named insured or any other operator who either resides in the same household or customarily operates an automobile insured under such policy: 1. has, within the 12 months prior to the notice of cancellation, had his driver's license under suspension or revocation; 2. is or becomes subject to epilepsy or heart attacks, and such individual does not produce a certificate from a physician testifying to his unqualified ability to operate a motor vehicle safely; 3. has an accident record, conviction record (criminal or traffic), physical, or mental condition which is such that his operation of an automobile might endanger the public safety; 4. has, within the 36 months prior to the notice of cancellation, been addicted to the use of narcotics or other drugs; or 5. has been convicted, or forfeited bail, during the 36 months immediately preceding the notice of cancellation, for any felony, criminal negligence resulting in death, homicide or assault arising out of the operation of a motor vehicle, operating a motor vehicle while in an intoxicated condition or while under the influence of drugs, being intoxicated while in, or about, an automobile or while having custody of an automobile, leaving the scene of an accident without stopping to report, theft or unlawful taking of a motor vehicle, making false statements in an application for an operator's or chauffeur's license or has been convicted or forfeited bail for 3 or more violations within the 12 months immediately preceding the notice of cancellation, of any law, ordinance, or regulation limiting the speed of motor vehicles or any of the provisions of the motor vehicle laws of any state, violation of which constitutes a misdemeanor, whether or not the violations were repetitions of the same offense or different offenses; g. The insured automobile is: 1. so mechanically defective that its operation might endanger public safety; 2. used in carrying passengers for hire or compensation (the use of an automobile for a car pool shall not be considered use of an automobile for hire or compensation); 3. used in the business of transportation of flammables or explosives; 4. an authorized emergency vehicle; 5. changed in shape or condition during the policy period so as to increase the risk substantially; or 6. subject to an inspection law and has not been inspected or, if inspected, has failed to qualify.

No notice of cancellation of policy to which Section 143:19 applies is effective unless mailed by the Company to the mortgagee or lien holder and to the named Insured at least 30 days prior to the effective date of cancellation; however, where cancellation is for nonpayment of premiums, at least 10 days' notice of cancellation is given. The mailing of notice as aforesaid on a recognized U.S. Post Office form or a form acceptable to the U.S. Post Office or other commercial mail delivery service shall be sufficient proof of notice, and a copy of such notice shall be sent to the insured's broker or the agent of record at the last mailing address known to the Company.

In the event of the cancellation of this policy by the Company or the named Insured, earned premium shall be computed pro-rata to the date of cancellation. Any refund of the premium shall be without prejudice to any claim arising prior to the cancellation, and such refund shall be made to the broker or the agent of the named Insured by the Company within

30 days from (1) the date of the notice of cancellation by the Company, or (2) the date the Company receives the request for cancellation from the named Insured or its representatives, but payment or tender of unearned premium is not a condition of cancellation. If this policy has been cancelled and reinstatement is requested, the Company may at its sole option reinstate the policy and determine the effective date of reinstatement.

Coverage under a reinstated policy shall be prospective only as of the effective date stated in the reinstatement endorsement and is not retroactive to the prior cancellation date. No coverage is provided under a reinstatement of this policy relative to any accident, loss or occurrence between a prior cancellation and the effective date of reinstatement.

- 19. Nonrenewal.** The Company must mail nonrenewal notice to the named insured at least 30 days in advance of effective date. Insurer shall maintain proof of mailing on a recognized U.S. Post office form or other commercial mail delivery service. The notice of nonrenewal and proof of mailing shall be effected on the same date. Notification shall also be sent to the insured's broker, if known, or the agent of record, if known, and to the last known mortgagee or lien holder. All notices shall provide a specific explanation of the reason(s) for nonrenewal.

After a policy of automobile insurance, as defined in Section 143.13, has been effective or renewed for 5 or more years, the company shall not exercise its right of non-renewal unless: a. The policy was obtained through a material misrepresentation; or b. Any insured violated any of the terms and conditions of the policy; or c. The named insured failed to disclose fully his motor vehicle accidents and moving traffic violations for the preceding 36 months, if such information is called for in the application; or d. Any insured made a false or fraudulent claim or knowingly aided or abetted another in the presentation of such a claim; or e. The named insured or any other operator who either resides in the same household or customarily operates an automobile insured under such a policy: 1. Has, within the 12 months prior to the notice of non-renewal had his drivers license under suspension or revocation; or 2. Is or becomes subject to epilepsy or heart attacks, and such individual does not produce a certificate from a physician testifying to his unqualified ability to operate a motor vehicle safely; or 3. Has an accident record, conviction record (criminal or traffic), or a physical or mental condition which is such that his operation of an automobile might endanger the public safety; or 4. Has, within the 36 months prior to the notice of non-renewal, been addicted to the use of narcotics or other drugs; or 5. Has been convicted or forfeited bail, during the 36 months immediately preceding the notice of non-renewal, for any felony, criminal negligence resulting in death, homicide or assault arising out of the operation of a motor vehicle, operating a motor vehicle while in an intoxicated condition or while under the influence of drugs, being intoxicated while in or about an automobile or while having custody of an automobile, leaving the scene of an accident without stopping to report, theft or unlawful taking of a motor vehicle, making false statements in an application for an operators or chauffeurs license, or has been convicted or forfeited bail for 3 or more violations within the 12 months immediately preceding the notice of non-renewal, of any law, ordinance or regulation limiting the speed of motor vehicles or any of the provisions of the motor vehicle laws of any state, violation of which constitutes a misdemeanor, whether or not the violations were repetitions of the same offense or different offenses; or f. The insured automobile is: 1. So mechanically defective that its operation might endanger public safety; 2. Used in carrying passengers for hire or compensation (the use of an automobile for a car pool shall not be considered use of an automobile for hire or compensation); or 3. Used in the business of transportation of flammables or explosives; or 4. An authorized emergency vehicle; or 5. Changed in shape or condition during the policy period so as to increase the risk substantially; or 6. Subject to an inspection law and it has not been inspected or, if inspected, has failed to qualify; or g. The notice of the intention not to renew is mailed to the insured at least 60 days before the date of nonrenewal as provided in Section 143.17.

- 20. Notice of Change of Conditions.** In the event any of the following changes occur during the policy period, written notice shall be given to the Company by or on behalf of the named Insured within thirty (30) days of the date of such change:

- (a) Use of the automobile as described in the application; or
- (b) Addition of any drivers not described in the application.
- (c) Change of Address

- 21. Declarations.** By the acceptance of this policy, the Insured named in the Declarations agrees that the statements contained in the Application and in the Declarations and in any subsequent application have been made by him/her or on his/her behalf and that said statements and the statements of the Declarations and in any subsequent Application accepted by the Company are offered as an inducement to the Company to issue or continue this policy and that the same are his/her agreements and representations, and that this policy is issued and continued in reliance upon the truth of such statement and representations and that this policy embodies all agreements existing between himself/herself and the Company or any of its agents relating to this insurance. If this policy is subject to an exclusion of named drivers at the time of a loss, and if the loss involves the use or operation of any motor vehicle by an excluded driver, then, notwithstanding any other provision of this policy, no coverage of any kind under this policy is owing or payable by the Company to any person with respect to such loss and the Company is not obligated to defend any person in any legal action concerning the loss.

Failure to comply with any or all of the conditions above may result in the Company's refusal to extend any coverage or protection under this policy for any accident or loss.

In Witness whereof, the Company has caused this policy to be signed by its duly authorized Corporate Officers, but this policy shall not be valid unless completed by the attachment hereto of a Declarations page.



Secretary



President

**IMPORTANT NOTICE**

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

Equity Insurance Company  
Administered by:  
Bluefire Insurance Services  
P.O. Box 143249  
Irving, Texas 75014-3249  
(866) 424-9511

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

Illinois Department of Insurance  
320 West Washington Street  
Springfield, Illinois 62767