

INCLINE CASUALTY COMPANY  
P.O. BOX 66  
FORT WORTH, TX 76101-0066

# NEW MEXICO PERSONAL AUTO POLICY

THE FOLLOWING APPLY IF THE FORM NUMBER APPEARS IN THE DECLARATION;

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NM-Auto Policy-2015.02.01

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### WARNING

**Any person who knowingly presents a false or fraudulent claim for payment for a loss or benefit or knowingly presents false information in an application for insurance is guilty of a crime and may be subject to civil fines and criminal penalties**

**YOUR NEW MEXICO PERSONAL AUTO INSURANCE POLICY  
QUICK REFERENCE**

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## NEW MEXICO PERSONAL AUTO INSURANCE POLICY

### AGREEMENT

This Personal Auto Policy is a binding contract between you and us. The contract includes the application, the Declarations Page, the Personal Auto Policy, endorsements, and all attachments. If your premium payment is paid, we will insure you subject to the terms, exclusions, conditions, and limitations of this policy. The Declarations Page shows a premium for each type of coverage purchased. You must pay the premium for the coverage to apply to a loss. The selected coverages in this policy apply only to occurrences while the policy is in force.

The statements that you made while you were applying for coverage are Representations. To determine your premium and eligibility for coverage under this policy, we rely on the Representations that you made when you applied for coverage. If you or any applicant made any false, fraudulent, or misleading Representations in your application for insurance, this policy will not provide coverage. Examples of such false, fraudulent, or misleading Representations include, but are not limited to, your failure to disclose: all persons residing in your home; all Family Members age 14 and over, whether or not residing in the household; traffic violations, Accidents, or driver's license suspensions and revocations; commercial use of your Auto; or your correct address(es).

In return for payment of premium for each coverage indicated on your Declarations Page, and subject to the terms, exclusions, conditions, and limitations of this policy, we agree with you as follows:

### DUTY TO REPORT CHANGES

You must promptly notify us when any of the following occurs:

1. Your mailing or residence address changes.
2. The address where Your Covered Auto is principally garaged (as shown on the application, the Declarations Page, or an endorsement) changes.
3. Family Members turn age 14 (fourteen).
4. There are additional drivers, as Family Members and Residents of your household.
5. A listed driver's license has expired, been suspended, or been revoked.
6. Your Covered Auto has been sold or leased.

### DEFINITIONS

*Capitalized words and phrases (or those words contained in paragraphs A and B below) used in this policy have the meaning set forth below.*

- A. Throughout this policy, "**you**" and "**your**" refer to:
  7. The "Named Insured" shown on the Declarations Page; and
  8. Your spouse, if a resident of the same household, unless said spouse is a named excluded driver.
- B. "**We**", "**us**", and "**our**" refer to Snap Insurance Service.
- C. For purposes of this policy, a private passenger type Auto, or pickup- or van-type Auto, shall be deemed to be owned by a person if:
  1. That person has legal possession of the Auto under a written lease agreement to that person for a continuous period of at least six (6) months or more;
  2. That person has legal possession of the Auto that is subject to a written security agreement with an original term of six (6) months or more; or
  3. That person holds legal title to the Auto.
- D. "**Accident**" means a sudden, unexpected, and unintended event or series of events causing Bodily Injury or Property Damage, arising out of the ownership, maintenance, or use of an Auto or a trailer of any type.
- E. "**Actual Cash Value**" is the amount necessary to replace Your Covered Auto, or other damaged property, with an Auto, or other property, of like kind and quality, as determined by the damaged property's market value, age, condition, and mileage (when applicable) at the time of the Accident.
- F. "**Auto**" or "**Motor Vehicle**" means any self-propelled land Auto or vehicle of the private passenger type with neither more than nor less than four wheels which is subject to Auto registration and made for use principally upon public roads or streets. An Auto or Motor Vehicle also means a pickup or van-type Auto rated no greater

than 3/4 tons, which is not used in any Business other than farming or ranching, and/or has a gross vehicle weight rating (GVWR) of ten thousand (10,000) pounds or less. An Auto or Motor Vehicle does not mean or include step-vans, parcel delivery vans, cargo cutaway vans, other vans with cabs separate from the cargo area, crawler or farm-type tractors, farm implements, or any equipment that is designed for use principally off public roads and streets.

- G. **“Bodily Injury”** means physical bodily harm to a person resulting from an Accident, and sickness, disease, or death, which results from the physical bodily harm. A person does not sustain Bodily Injury if that person suffers emotional distress or mental anguish in the absence of physical bodily harm.
- H. **“Business”** includes a trade, profession, occupation, and course of employment, job, or commercial use of any kind of an Auto.
- I. **“Diminution of Value”** means the difference in the Actual Cash Value of the Auto immediately before a loss and after the repair of the Auto.
- J. **“Family Member”** means:
  - 1. A person who resides in your household and is related to you by blood, marriage, or adoption;
  - 2. A ward or foster child who resides in your household; or
  - 3. Unmarried children, including wards and foster children, of the Named Insured even when residing elsewhere, provided they are not emancipated.All Family Members, including unmarried children, wards, and foster children, must be disclosed in the application and listed on the Declarations Page, or added by endorsement, for coverage to apply.
- K. **“Fee”** means a payment made or charge collected as compensation for labor, performance of a service, or as profit in the sale of goods. It does not mean a payment made only to reimburse an expense. A share-the-expense car pool reimbursement is not considered a Fee.
- L. **“Motor Vehicle”** has the same meaning as Auto, set forth above.
- M. **“Named Insured”** means the person first named on the Declarations Page. It also means the spouse of such person, and any other person listed on the Declarations Page, not otherwise excluded from this policy. When there is more than one Named Insured, each acts for all to cancel or change the policy, but any notice from us will be addressed only to the person first named on the Declarations Page.
- N. **“Occupying”** means in, on, upon, entering, or exiting.
- O. **“Property Damage”** means physical damage to, or destruction or loss of use of, tangible property, which is caused solely by an Accident while the policy is in force.
- P. **“Punitive or Exemplary Damages”** are defined as any extra or additional sum of money, or punishment of any form, imposed to punish a wrongdoer and to deter others from similar conduct.
- Q. **“Representation”** means any statement made by you or other Named Insureds in obtaining this policy. The collection of these statements used in obtaining and continuing this policy are deemed to be your Representations.
- R. **“Resident”** means any person living in your household other than you or a Family Member. Any Resident must be disclosed in your application and listed on your Declarations Page, or added by endorsement, for coverage to apply.
- S. **“Stacking”** or **“Stacked”** coverage as used in this policy means the increase in the “each person” and the “each Accident” limits of any one coverage due based on the number of Autos you have insured by us under that coverage as defined, limited, or required by New Mexico law.
- T. **“Trailer”** means a device or vehicle that is not self-propelled and meets all of the following requirements:
  - 1. It is not being used in the automobile Business or for commercial purposes;
  - 2. It is being used only with an Auto shown on the Declarations Page;
  - 3. It is designed to be connected to and for use with a private passenger automobile; and
  - 4. It is **NOT** a home, office, store, display, or passenger trailer.
- U. **“Your Covered Auto”** or **“Covered Auto”** means:
  - 1. Any Auto shown on the Declarations Page.
  - 2. Any Auto on the date you become owner. This provision applies only if:
    - a. You acquire the Auto during the policy period;
    - b. You ask us to insure it within 30 days after you become owner;
    - c. No other insurance policy provides coverage for that Auto; and
    - d. You pay us any additional premium due for the newly acquired Auto.

If the newly acquired Auto replaces any Auto shown on the Declarations Page, it will have the same coverage as the Auto it replaced, provided you notify us within thirty (30) days from the date you acquire the Auto. If the replaced Auto had coverage under Part D1 shown in your Declarations, the maximum limit

of coverage for any loss to the newly acquired Auto will be the Actual Cash Value of the replaced Auto.

If the newly acquired Auto is in addition to any Auto shown on the Declarations Page, you must notify us within thirty (30) days from the date you acquire the Auto to add the newly acquired Auto to your policy. ONLY Liability Coverage will be afforded, provided we insure all Autos you own for the period of thirty (30) days from the date you take possession of your newly acquired Auto, unless you request additional coverage for the newly acquired Auto. Any coverage provided to a newly acquired Auto that is in addition to any Auto shown on the Declarations Page will only be provided if all Autos owned or furnished or available for the regular use of:

- (i) you, or
  - (ii) any Family Member or Resident of your household that are insured by us.
3. Any Trailer you own as defined in (T) (Definitions) and is connected to an Auto at the time of the Accident or loss.

### **OUT OF STATE COVERAGE**

If an Auto Accident to which this policy applies occurs in any state or province other than the one in which Your Covered Auto is principally garaged, we will interpret your policy for that Accident as follows:

- A. If the state or province has:
  1. A financial responsibility or similar law specifying limits of liability for Bodily Injury or Property Damage higher than the limit shown in the Declarations, your policy will provide the higher specified limit.
  2. A compulsory insurance or similar law requiring a nonresident to maintain insurance whenever the nonresident uses a vehicle in that state or province, your policy will provide at least the required minimum amounts and types of coverage.
- B. No one will be entitled to duplicate payments for the same elements of loss.
- C. Your policy contract is to be interpreted in accordance with New Mexico law, and remains subject to any applicable exclusions, rejections and limitations.

### **DUPLICATE PAYMENTS**

No one will be entitled to duplicate payments for the same elements of damages. This provision applies regardless of the number of Autos, types of coverages, or policies purchased from us and applicable to an Accident or loss. Any payment(s) issued by us under any one coverage shall be deducted from the total of all damages recoverable by you from all coverages applicable to the loss.

### **STACKING OF COVERAGES**

Except when Stacked coverage is shown on the Declarations Page and an additional premium has been paid for additional coverage covering the same risk:

- A. The most we will pay for any single Accident under any coverage of any policy, or policies issued by us, is the highest limit of coverage for any single Auto involved in any single Accident. This payment limitation applies regardless of the number of separate liability, medical payment, uninsured or underinsured motorist premiums paid to us.
- B. If the Accident does not involve the use of Your Covered Auto shown on the Declarations Page, the most we will pay for any Accident is our highest limit of liability, medical payments, and uninsured or underinsured motorist coverage for any single Auto on any policy issued by us.
- C. This limit of coverage applies regardless of the number of Autos insured or separate premiums paid to us, the number of policies we issued, the number of insured persons, the number of claims or claimants, or the number of vehicles involved in the Accident. This limit of coverage applies regardless of whether your Auto is covered under a single policy, multiple Auto policy, or separate policies.

### **EXCLUSIONS APPLICABLE TO ALL COVERAGES – READ THE FOLLOWING EXCLUSIONS CAREFULLY**

The following exclusions shall apply to all coverages. If an exclusion is applicable, coverage shall not be afforded

under this policy.

It is further agreed that if we become obligated to pay any sum or sums of money due to a loss which would be otherwise subject to these exclusions, you will reimburse us for any and all sums, costs, and expenses paid or incurred by us.

- A. We do not provide coverage for any loss:
1. Due to or as a result of an intentional act of you, or a Family Member or Resident, or at the direction of you, or a Family Member or Resident. An intentional act includes one which the resulting harm was reasonably foreseeable prior to the initiation of the act.
  2. Sustained during, or arising out of, the ownership, maintenance, or use of Your Covered Auto while it is:
    - a. Being used to carry persons for a Fee;
    - b. Being used to carry property for a Fee; or
    - c. If the Auto is rented or leased to another person.
  3. Due to or as a result of the ownership, maintenance, or use of Your Covered Auto by any person to whom Your Covered Auto is furnished or available for that person's regular use, but that person is not listed on the Declarations Page or added by endorsement prior to the loss.
  4. Sustained while using, Occupying, or when struck by any:
    - a. Auto, other than Your Covered Auto, which is:
      - (i) Owned by you, or
      - (ii) Furnished or available for your regular use.
    - b. Auto, other than Your Covered Auto, which is:
      - (i) i. Owned by any Family Member or Resident, or
      - (ii) ii. Furnished or available for the regular use of any Family Member or Resident.
  5. Sustained when Your Covered Auto is driven, operated, or used with your permission, or the permission of a Family Member or Resident, by any person that:
    - a. Does not have a valid driver's license;
    - b. Is operating the Auto outside of the scope of the privileges authorized by a valid driver's license;
    - c. Is operating the Auto while the license is under suspension;
    - d. Is operating the Auto on a revoked license; or
    - e. Is under the minimum age to obtain a driver's license.
  6. Due to or as a result of the use of Your Covered Auto by any person while employed or otherwise engaged in the Business of:
    - a. selling,
    - b. repairing,
    - c. servicing,
    - d. storing, or
    - e. parkingAutos designed for use principally on public roads or streets. This includes road testing and delivery.
  7. Due to or as a result of the use of any Auto by you, or a Family Member or Resident listed on the Declarations Page or added by endorsement, while employed or otherwise engaged in the Business of:
    - a. selling,
    - b. repairing,
    - c. servicing,
    - d. storing, or
    - e. parkingAutos designed for use principally on public roads or streets. This includes road testing and delivery.
  8. Sustained while using or Occupying Your Covered Auto when it is being used for any Business, other than farming or ranching, not described in exclusion (A.2) or (A.6). This exclusion (A.8) applies, but is not limited to, the delivery of newspapers, magazines, food, or any other products.
  9. Sustained while using or Occupying any Auto when it is being used by you, or a Family Member or Resident listed on the Declarations Page or added by endorsement, for any Business, other than farming or ranching, not described in exclusion (A.2) or (A.7). This exclusion (A.9) applies, but is not limited to, the delivery of newspapers, magazines, food, or any other products.
  10. Sustained while you, or a Family Member or Resident, are using or Occupying any Auto located for use as a residence or premises.
  11. Due to or as a result of the ownership, maintenance, or use of any vehicle, having more than or less than four wheels, by you, or a Family Member or Resident .

12. For Property Damage, including its loss of use, to any Auto while used:
    - a. As a temporary substitute for an Auto you own which is out of normal use;
    - b. As an additional Auto; or
    - c. For your convenience or pleasure.
  13. Sustained while using or Occupying any Auto while in the course of any illegal trade or conduct, the commission of a felony, or while seeking to elude arrest by a law enforcement official with the permission of you, or a Family Member or Resident .
  14. Due to or as a result of any racing, speed, or demolition contest, stunting activity, or in practice or preparation for any such contest or activity.
  15. Due to or as a result of the use of any Auto without express or implied permission, or without a reasonable belief that person was entitled to do so.
  16. Which would be a covered loss:
    - a. Under a nuclear energy liability policy, or
    - b. Would be a covered loss under a nuclear energy liability policy except for its termination upon exhaustion of its liability limits.

A nuclear energy liability policy is a policy issued by any of the following or their successors:

    - a. American Nuclear Insurers,
    - b. Mutual Atomic Energy Liability Underwriters, or
    - c. The Nuclear Insurance Association of Canada.
  17. Due to or as a result of, whether controlled or uncontrolled, or even if accidental, however caused:
    - a. Discharge of a nuclear weapon;
    - b. Nuclear reaction;
    - c. Radiation; or
    - d. Radioactive contamination.
  18. Resulting from liability assumed by, or imposed upon, you, or a Family Member or Resident listed on the Declarations Page or added by endorsement, under any agreement, contract, or bailment.
  19. Due to or as a result of:
    - a. War, whether declared or undeclared;
    - b. Civil war;
    - c. Insurrection, rebellion, revolution, or riot; or
    - d. Any act of the foregoing.
- B. We do not provide coverage for:
1. Punitive or Exemplary Damages; or
  2. Any loss, damage, or obligation for which the United States Government or any government entity is liable under an applicable Tort Claims Act, except as excess coverage.

Note: Subsection B.1 does not apply to Part C – Uninsured/Underinsured Motorists Coverage.

### **UNLISTED RESIDENT DRIVER EXCLUSION**

The premium developed and charged for this policy is based upon your Representations. You are required to list drivers and Motor Vehicles in your application. You are also required to list Family Members and Residents of your household.

Your failure to completely and accurately inform us of all Family Members and Residents of your household may constitute fraud or misrepresentation.

We will not provide coverage for any claim arising from an Accident or loss incurred when Your Covered Auto or any other Auto is operated by a Family Member or Resident of your household that is not declared on the application and listed on the Declarations Page, or added by endorsement. This exclusion applies whether or not the use is with your permission.

### **NAMED DRIVER EXCLUSION**

We will not provide coverage for any claim arising from an Accident or loss incurred when Your Covered Auto or any other Auto is operated, maintained, or used by a driver specifically excluded from coverage at the time of application or by endorsement. This exclusion applies whether or not the use is with your permission.

This includes any claim for damages made against you, or a Family Member or Resident, or any other person or organization for negligent entrustment, vicarious liability, or any other similar theory.

## **PART A – LIABILITY COVERAGE**

### **INSURING AGREEMENT**

If you pay a premium, we will pay damages, subject to all terms of the policy, for Bodily Injury or Property Damage for which any Covered Person becomes legally responsible because of an Auto Accident. Property Damage includes loss of use of the damaged property. Damages include prejudgment interest awarded against the Covered Person. We will settle or defend any claim or suit seeking these damages as we consider appropriate. Our duty to settle or defend ends when our limit of liability for this coverage has been exhausted by payment of a judgment or settlement.

### **ADDITIONAL DEFINITIONS**

A. “**Covered Person(s)**” as used in this Part A means:

1. You, or a Family Member or Resident of your household, if named on the Declarations Page or added by endorsement, for the ownership, maintenance, or use of any Auto or Trailer.
2. Any person, not a Resident of your household, possessing a valid driver’s license at the time of loss, using Your Covered Auto with your express or implied permission.
3. For Your Covered Auto, any person or organization, but only with respect to legal responsibility for acts or omissions of a person for whom coverage is afforded under this Part A.
4. For any Auto or Trailer, other than Your Covered Auto, any other person or organization.  
This applies only with respect to legal responsibility for acts or omissions of you or any Family Member for whom coverage is afforded under this Part A. This provision (B.4) applies only if the person or organization does not own or hire the Auto or Trailer.

### **SUPPLEMENTARY PAYMENTS**

In addition to our limit of liability, we will pay on behalf of a Covered Person:

1. All expenses that we incur in the settlement or defense of any claim or law suit.
2. Premiums on appeal bonds and bonds to release attachments in any suit we defend. We have no duty to purchase bonds for amounts exceeding our limit of liability. We have no duty to apply for or furnish these bonds.
3. Interest accruing after a judgment is entered in any suit we defend. Our duty to pay interest ends when we offer to pay that part of the judgment which does not exceed our limit of liability for this coverage. This provision does not apply if we have not been given notice of suit or the opportunity to defend an insured person.
4. Up to \$50 a day for loss of earnings, but not other income. We will pay other reasonable expenses because of attendance at hearings, trials, or otherwise incurred at our request.

### **ADDITIONAL EXCLUSIONS – READ THE FOLLOWING EXCLUSIONS CAREFULLY**

In addition to the EXCLUSIONS APPLICABLE TO ALL COVERAGES, the following exclusions also apply. If an exclusion is applicable, coverage shall not be afforded under this Part A – Liability Coverage.

A. We do not provide Liability Coverage for any loss:

1. Due to or as a result of an intentional act of ANY person, even if not a Covered Person under this coverage. An intentional act includes one which the resulting harm was reasonably foreseeable prior to the initiation of the act.
2. Sustained during, or arising out of, the ownership, maintenance, or use of ANY Auto, even if not Your Covered Auto, while it is:
  - a. Being used to carry persons for a Fee;
  - b. Being used to carry property for a Fee; or
  - c. If the Auto is rented or leased to another person.
3. Due to or as a result of the use of ANY Auto, even if not Your Covered Auto, by any person specifically excluded from coverage at the time of application or by endorsement.
4. For Property Damage to property:
  - a. owned or being transported by;
  - b. rented to; or



- c. used by,
    - a Covered Person while in the care, custody, and control of that person. Exclusion (A.4.b) does not apply to your residence or garage. However, this exclusion (A.4) includes loss due to or as a consequence of the seizure of an Auto or Trailer by federal or state law enforcement officers as evidence in a case against you under any state's Controlled Substances Act or the Federal Controlled Substances Act if you are convicted in such case.
  - 5. For Property Damage, including its loss of use, to any rental Autos or Trailers rented by, or in the care, custody, and control of, a Covered Person.
  - 6. For Bodily Injury to an employee or co-worker of that person during the course of employment. This exclusion (A.6) does not apply to Bodily Injury to a domestic employee unless workers' compensation benefits are required or available for that domestic employee.
- B. We do not provide Liability Coverage for Bodily Injury to you or any Family Member or Resident, except as required by New Mexico law.

**LIMIT OF LIABILITY**

- A. If separate limits of liability for Bodily Injury and Property Damage are shown in the Declarations Page for this Part A coverage then:
  - 1. The limit of liability shown for "each person" for Bodily Injury liability is our maximum limit of liability for all damages for Bodily Injury sustained by any one person in any one Auto Accident.
  - 2. The limit of liability shown for "each Accident" for Bodily Injury liability is our maximum limit of liability for all damages for Bodily Injury resulting from any one Auto Accident regardless of the number of injured persons in any one Auto Accident.
  - 3. The limit of liability shown for "each Accident" for Property Damage liability is our maximum limit of liability for all damages to all property resulting from any one Auto Accident.
- B. The limit of liability as set forth in this section is the most we will pay regardless of the number of:
  - 1. Covered Persons;
  - 2. Claims made;
  - 3. Policies or bonds applicable;
  - 4. Law suits filed;
  - 5. Autos or premiums shown on the Declarations Page; or
  - 6. Autos involved in the Auto Accident.

We will apply the limit of liability to provide any separate limits required by law for Bodily Injury and Property Damage liability, but this provision will not change our total limit of liability.
- C. Any payment under any other coverage of this or any policy will reduce the total amount recoverable under this coverage to or on behalf of a Covered Person.
- D. No one will be entitled to duplicate payments for the same elements of damages.
- E. No Stacked coverage is provided for loss under this Part A – Liability Coverage.

**FINANCIAL RESPONSIBILITY REQUIRED**

When this policy is certified as future proof of financial responsibility, it shall comply with the law of the State of New Mexico as required.

**OTHER INSURANCE**

If there is other applicable liability insurance we will pay only our share of the loss. Our share is the proportion that our limit of liability bears to the total of all applicable limits. Any liability insurance we provide to a Covered Person for the maintenance or use of an Auto you do not own shall be excess over any other applicable liability insurance, self-insurance, or bond.

**PART B – MEDICAL PAYMENTS COVERAGE**

**INSURING AGREEMENT**

If you pay a premium, we will pay, subject to all terms of this policy, reasonable and necessary Medical Expenses incurred for Medical Services and funeral services because of Bodily Injury:

1. Caused by Accident; and
2. Sustained by a Covered Person.

We will pay only those expenses incurred within one year from the date of the Accident.

#### **ADDITIONAL DEFINITIONS**

- A. “**Covered Person**” as used in this Part B means:
  1. You, or any Family Member or Resident:
    - a. while Occupying, or
    - b. when struck by,  
an Auto designed for use mainly on public roads or a Trailer of any type.
  2. Any other person while legally Occupying Your Covered Auto.
- B. “**Medical Services**” are defined as those services provided by or under the supervision of a licensed Physician.
- C. “**Physician**” means an individual licensed by a state or territory of the United States or District of Columbia to practice medicine, practice surgery, and prescribe drugs.
- D. “**Medical Expenses**” mean reasonable and necessary medical expenses incurred for services rendered to or on behalf of a Covered Person for medical, surgical, x-ray, and dental services performed by or under the supervision of a licensed Physician. Medical Expenses also mean pharmaceuticals, prosthetic devices, and necessary ambulance, hospital, and professional nursing services when prescribed by a licensed Physician.

#### **ADDITIONAL EXCLUSIONS – READ THE FOLLOWING EXCLUSIONS CAREFULLY**

In addition to the EXCLUSIONS APPLICABLE TO ALL COVERAGES, the following exclusion also applies. If the exclusion is applicable, coverage shall not be afforded under this Part B – Medical Payments Coverage.

- A. We do not provide Medical Payments Coverage for any person for Bodily Injury occurring during the course of employment if workers’ compensation benefits are required or available for the Bodily Injury.

#### **LIMIT OF LIABILITY**

- A. The limit of liability shown on the Declarations Page for this coverage is our maximum limit of liability for each person injured in any one Accident. This is the most we will pay regardless of the number of:
  1. Covered Persons;
  2. Claims made;
  3. Policies or bonds applicable;
  4. Law suits filed;
  5. Autos or premiums shown on the Declarations Page; or
  6. Autos involved in the Auto Accident.
- B. Any amounts otherwise payable for expenses under this coverage shall be reduced by any amounts paid or payable for the same expenses under any other coverage provided by this or any policy.
- C. No payment will be made unless the injured Covered Person, or that person’s legal representative, agrees in writing that any payment made under this coverage shall apply toward any settlement or judgment that person receives under any other coverage provided by this policy.
- D. No one will be entitled to duplicate payments for the same elements of damages.
- E. No Stacked coverage is provided for loss under this Part B – Medical Payments Coverage.

#### **OTHER INSURANCE**

If there is other applicable Auto medical payments insurance we will pay only our share of the loss. Our share is the proportion that our limit of liability bears to the total of all applicable limits. Any insurance we provide with respect to an Auto you do not own shall be excess over any other collectible Auto insurance providing payments for Medical Expenses or funeral expenses.

#### **ASSIGNMENT OF BENEFITS**

Payments of Medical Expenses will be paid directly to a Physician or other health care provider if we receive a written assignment signed by the Covered Person to whom such benefits are payable.

#### **PART C – UNINSURED/UNDERINSURED MOTORISTS COVERAGE**

##### **INSURING AGREEMENT**

If you pay a premium for Uninsured Motorists Coverage, we will pay damages, subject to all terms of this policy, which a Covered Person is legally entitled to recover from the owner or operator of an Uninsured Auto because of

Bodily Injury sustained by a Covered Person, or Property Damage, caused by an Accident. The owner's or operator's liability for these damages must arise out of the ownership, maintenance, or use of the Uninsured Auto. Any judgment for damages arising out of a suit brought without our consent is not binding on us. If we do not agree with you as to whether or not an Auto is actually an Uninsured Auto, the burden of proof as to that issue shall be on us.

#### **ADDITIONAL DEFINITIONS**

- A. "**Covered Person**" as used in this Part C means:
1. You, or a Family Member or Resident, if named on the Declarations Page or added by endorsement.
  2. Any other person Occupying Your Covered Auto with express permission.
  3. Any person for damages that person is entitled to recover because of Bodily Injury to which this coverage applies, sustained by a person described in (A.1) or (A.2) above.
- B. "**Property Damage**" as used in this Part C means injury to, destruction of, or loss of use of:
1. Your Covered Auto, but not including a rental or temporary substitute Auto.
  2. Any property owned by a person listed in (A.1) or (A.2) while contained in Your Covered Auto.
  3. Any property owned by you or a Family Member while contained in any Auto not owned, but being operated, by you or any Family Member.
- C. "**Accident**" as used in this Part C means the physical contact with an Uninsured Auto.
- D. "**Uninsured Auto**" means a land Auto, or Trailer of any type connected to such an Auto while in the course of transport:
1. To which no liability bond or policy applies at the time of the Accident.
  2. Which is a hit-and-run Auto whose owner or operator cannot be identified and which hits:
    - a. You or a person listed in (A.1);
    - b. An Auto which you or any person listed in (A.1) are Occupying; or
    - c. Your Covered Auto.A report to the appropriate law enforcement officials must be filed within twenty-four (24) hours of the Accident or loss.
  3. To which a liability bond or policy applies at the time of the Accident, but the bonding or insuring company:
    - a. denies coverage, or
    - b. is or becomes insolvent.
  4. Which is an Underinsured Auto (defined below).
- E. "**Underinsured Auto**" means a land auto, or trailer of any type connected to such an Auto while in the course of transport, to which a liability bond or policy applies at the time of the Accident, but its limit of liability is less than the limits applicable to the Covered Person provided under this policy's Uninsured Motorist Coverage.
- F. The "**Uninsured Auto**" or "**Underinsured Auto**" does not include an Auto or equipment:
1. Owned by or furnished or available for the regular use of you, or a Family Member or Resident.
  2. Owned or operated by a self-insurer under any applicable Auto law.
  3. Operated on rails or crawler treads.
  4. Designed mainly for use off public roads while not on public roads.
  5. While located for use as a residence or premises.

#### **ADDITIONAL EXCLUSIONS – READ THE FOLLOWING EXCLUSIONS CAREFULLY**

In addition to the EXCLUSIONS APPLICABLE TO ALL COVERAGES, the following exclusions also apply. If an exclusion is applicable, coverage shall not be afforded under this Part C – Uninsured/Underinsured Motorists Coverage.

- A. We do not provide Uninsured/Underinsured Motorists Coverage for any loss:
1. Due to or as a result of an intentional act of a Covered Person, or at the direction of a Covered Person. An intentional act includes one which the resulting harm was reasonably foreseeable prior to the initiation of the act.
  2. If that person or the legal representative settles the claim without our written consent.
  3. For the deductible amount of damage, as shown on the Declarations Page, to the property of that person as the result of any one Accident.
  4. For Bodily Injury to a Covered Person while Occupying a Motor Vehicle (other than Your Covered Auto) owned by you or any Resident of your household.
  5. For Bodily Injury or Property Damage resulting from a Covered Person's ownership, maintenance, or use

- of any Auto designed mainly for use off public roads, except in a medical emergency.
6. To a Trailer, unless such Trailer is connected to Your Covered Auto while in the course of transport.
  7. For Property Damage, including its loss of use, to any rental Autos or Trailers rented by, or in the care, custody, and control of, a Covered Person.
- B. This coverage shall not apply directly or indirectly to benefit:
1. Any insurer or self-insurer under any workers' compensation, disability benefits, or similar law.
  2. Any insurer of property.

## **LIMIT OF LIABILITY**

### **A. Nonstacked Uninsured Motorist/Nonstacked Underinsured Motorist Coverage.**

If a single premium is shown on the Declarations Page for Nonstacked Uninsured Motorist Coverage and/or Nonstacked Underinsured Motorist Coverage, with separate limits of liability for Bodily Injury and Property Damage, the maximum amount we will pay for any Accident is limited as follows:

1. The limit of liability shown for "each person" for Bodily Injury liability is our maximum limit of liability for all damages for Bodily Injury sustained by any one person in any one Auto Accident.
2. The limit of liability shown for "each Accident" for Bodily Injury liability is our maximum limit of liability for all damages for Bodily Injury resulting from any one Auto Accident regardless of the number of injured persons in any one Auto Accident.
3. The limit of liability shown for "each Accident" for Property Damage liability is our maximum limit of liability for all damages to all property resulting from any one Auto Accident.

Except when "Stacked coverage" is specifically shown on the Declarations Page and additional premium has been paid for additional coverage covering the same risk:

1. The most we will pay for any single Accident under any coverage of any policy or policies issued by us, is the highest limit of coverage for any single Auto involved in any single Accident. This payment is regardless of the number of separate liability, medical payment, uninsured or underinsured motorist premiums paid to us.
2. If the Accident does not involve the use of Your Covered Auto shown on the Declarations Page, and if coverage is applicable to that loss, then the most we will pay under any applicable coverage for any Accident is our highest limit of liability, medical payments and uninsured or underinsured motorist coverage for any single Auto on any policy issued by us.
3. This limit of coverage applies regardless of the number of:
  - a. Covered Persons;
  - b. claims made;
  - c. policies or bonds applicable;
  - d. law suits filed;
  - e. Autos or premiums shown in the Declarations; or
  - f. Autos involved in the Auto Accident.

We will apply the limit of liability to provide any separate limits required by law for Bodily Injury and Property Damage liability, but this provision will not change our total limit of liability.

4. This limit of coverage also applies regardless of whether your Auto is covered under a single Auto policy, multiple Auto policy, or separate policies.
5. Subject to this maximum, our limit of liability will be the lesser of:
  - a. The difference between the amount of a Covered Person's damages for Bodily Injury or Property Damage and the amount paid or payable to that Covered Person for such damages, by or on behalf of persons or organizations who may be legally responsible;
  - b. The difference between the amount of a Covered Person's uninsured motorist coverage and the legally responsible person's liability coverage; or
  - c. The applicable limit of liability for this coverage.
6. No one will be entitled to duplicate payments for the same elements of damages.

### **B. Stacked Uninsured Motorist Coverage/Stacked Underinsured Motorist Coverage**

1. If a premium is shown on the Declarations Page for Stacked Uninsured Motorist Coverage and/or Stacked Underinsured Motorist Coverage, and separate limits of liability for Bodily Injury and Property Damage, the maximum amount we will pay for any one Accident is limited as follows:
  - a. The limit of liability for "each person" for Bodily Injury liability will be multiplied by the total number of Autos listed on the Declarations Page with a premium charged for Stacked Uninsured Motorist

Bodily Injury Coverage. This amount will be our maximum limit of liability for all damages for Bodily Injury sustained by any one person in any one Auto Accident.

- b. The limit of liability for “each Accident” for Bodily Injury liability will be multiplied by the total number of Autos listed on the Declarations Page with a premium charged for Stacked Uninsured Motorist Bodily Injury Coverage. This amount will be our maximum limit of liability for all damages for Bodily Injury resulting from any one Auto Accident regardless of the number of injured persons in any one Auto Accident.
- c. This limit of liability for Stacked Uninsured Motorist Bodily Injury Coverage is the most we will pay regardless of the number of:
  - (i) Covered Persons;
  - (ii) Claims made;
  - (iii) Law suits filed; or
  - (iv) Autos involved in the Auto Accident.

We will apply the limit of liability to provide any separate limits required by law for Bodily Injury and Property Damage liability, but this provision will not change our total limit of liability.

2. We will pay only those amounts, subject to the limits shown on the Declarations Page and other applicable provisions of this coverage, that are not paid or payable under any workers’ compensation law, disability benefits law, Auto medical payments insurance, Personal Injury Protection, or other similar applicable coverage.
3. Any payment under any other coverage of this or any policy will reduce the total amount recoverable under this coverage to or on behalf of a Covered Person.
4. Subject to this maximum, our limit of liability will be the lesser of:
  - a. The difference between the amount of a Covered Person’s damages for Bodily Injury or Property Damage and the amount paid or payable to that Covered Person for such damages, by or on behalf of persons or organizations who may be legally responsible;
  - b. The difference between the amount of a Covered Person’s uninsured motorist coverage and the legally responsible person’s liability coverage; or
  - c. The applicable limit of liability for this coverage.
5. No one will be entitled to duplicate payments for the same elements of damages.

#### **OTHER INSURANCE**

- A. If there is other applicable similar insurance we will pay only our share of the loss. Our share is the proportion that our limit of liability bears to the total of all applicable limits. Any insurance we provide with respect to an Auto you do not own shall be excess over any other collectible insurance.
- B. If Coverage for Damage to Your Auto under this policy (or similar coverage from another policy) and this coverage both apply to Property Damage, you may choose the coverage from which damages will be paid. You may recover under both coverages, but only if:
  1. Neither one by itself is sufficient to cover the loss.
  2. You pay the higher deductible amount (but not both deductibles). And,
  3. You will not recover more than the actual damages.

#### **ARBITRATION OF UNINSURED/UNDERSINSURED CLAIMS**

If we do not agree with you as to the right to recover damages from the owner or operator of an Uninsured or Underinsured Auto, or the amount of any damages, either party may make a written demand for arbitration. You will select one arbitrator, and we will select one arbitrator. The two arbitrators will select a third arbitrator. Thereafter, the panel of three arbitrators will decide the contested claim. Any arbitration award is subject to the maximum limit of our liability as set forth herein. If suit is brought to determine legal liability or damages without first obtaining our written consent, then we are not bound by any resulting judgment. Any such arbitration shall comply with applicable law, including Sections 66-5-301 through -303 NMSA 1978 regarding uninsured motorist’s insurance and the Uniform Arbitration Act, Sections 44-7A-1 through 44-7A-32 NMSA1978.

#### **PART D1 – COVERAGE FOR DAMAGE TO YOUR AUTO**

##### **INSURING AGREEMENT**

If you pay a premium, we will pay for direct and accidental loss to Your Covered Auto, including its equipment, less the applicable deductible shown on the Declarations Page, subject to a maximum limit of \$35,000. However, we will pay for loss covered by this Part D1 only if the Declarations Page indicates that the applicable Comprehensive (Other Than Collision) Coverage or Collision Coverage is provided. Our requirement to pay for any loss is subject

to all terms of this policy. For coverage to exist under any Part D coverage, Your Covered Auto must be operated by or in the control of an authorized driver at the time of the loss.

As used in this Part, “**Authorized Driver**” shall mean:

1. you; or
2. any other person listed in the Declarations or added by endorsement during the policy term prior to the loss.

As used in this Part, “**Control**” shall mean the direct and immediate pre-loss care and custody of Your Covered Auto.

#### **ADDITIONAL DEFINITIONS**

A. “**Collision**” means the upset, or collision with another object, of Your Covered Auto.

B. A “**Comprehensive**” loss means a loss caused by any event other than Collision, including, but not limited to, any of the following:

1. Missiles or falling objects;
2. Fire;
3. Theft or larceny;
4. Explosion or earthquake;
5. Windstorm;
6. Hail, water, or flood;
7. Malicious mischief or vandalism;
8. Riot or civil commotion;
9. Contact with a bird or animal; or
10. Breakage of glass.

If breakage of glass is caused by a Collision or if loss is caused by contact with a bird or animal, you may elect to have it considered a loss caused by Collision.

C. If you pay a premium for Coverage for Damage to Your Auto we will pay up to \$20 per day, to a maximum of \$600, for transportation expenses incurred by you. This applies only in the event of the total theft of Your Covered Auto. We will pay only transportation expenses incurred during the period which:

1. Begins 48 hours after notifying the police and us; and
2. Ends when:
  - a. Your Covered Auto has been recovered and returned to you;
  - b. Your Covered Auto has been recovered and repaired;
  - c. When Your Covered Auto has been replaced; or
  - d. 72 hours after we make an offer to settle the loss if Your Covered Auto is deemed by us to be a total loss.

You must provide us written proof of your transportation expenses and loss of use damages.

D. If you pay a premium for Custom Parts or Equipment, we will pay for loss to Custom Parts or Equipment resulting from any loss for which Comprehensive or Collision coverage is provided under the terms of this policy, subject to the limit of liability. All payments for loss to Custom Parts or Equipment shall be reduced by the applicable deductible; but only one (1) deductible may be applied to a loss in an Accident, which is covered by this Part D1.

E. “**Custom Parts or Equipment**” means furnishings, equipment, devices, accessories, enhancements, and changes, other than those installed by the original manufacturer, which alter the appearance or performance of an Auto. This includes, but is not limited to:

1. Electronic equipment, antennas, and other devices used exclusively to send or receive audio, visual, or data signals, or play back recorded media;
2. Special wheel or tire equipment, such as alloy, aluminum, chrome, magnesium, or any custom wheels, custom tires, or racing slicks; or
3. Engine parts or accessories, such as pressure gauges and tachometers, which are used to mechanically or structurally modify the performance and appearance of the Auto.

Any equipment not installed by the original manufacturer in Your Covered Auto, even if permanently installed using bolts, brackets, or slide-out brackets, will be considered Custom Parts or Equipment.

F. “**Custom Furnishings**” include, but are not limited to:

1. Special carpeting and insulation;
2. Furniture;
3. Bars;
4. Television receivers;
5. Facilities for cooking and sleeping;

6. Height-extending roofs; or
7. Custom paint, murals, paintings, or other decals or graphics.
- G. **“Trailer”** as used in this Part D1 means a vehicle, including a farm wagon or farm implement, designed to be towed on public roads while being towed by Your Covered Auto. Trailer does not include a mobile home, or any other vehicle, used as an office, store, display, or passenger conveyance.
- H. **“Betterment”** means an improvement that results in greater value than before the loss occurred.

### **ADDITIONAL EXCLUSIONS**

In addition to the EXCLUSIONS APPLICABLE TO ALL COVERAGES, the following exclusions also apply. If an exclusion is applicable, coverage shall not be afforded under this Part D1 – Coverage for Damage to Your Auto.

We will not pay for:

1. Damage due and confined to:
  - a. Wear and tear;
  - b. Freezing;
  - c. Mechanical or electrical breakdown or failure; or
  - d. Road damage to tires.

This exclusion (1) does not apply if the damage results from the total theft of Your Covered Auto.
2. Loss to stereos, radios, satellite receivers, and other sound- and/or video-reproducing equipment. This exclusion (2) does not apply if the equipment is permanently installed in Your Covered Auto by the original manufacturer.
3. Loss to compact discs (CDs), digital video discs (DVDs), tapes, records, or other devices for use with equipment designed for audio or video reproduction.
4. For Property Damage, including its loss of use, to any rental Autos or Trailers rented by, or in the care, custody, and control of you, or a Family Member or Resident.
5. Loss to a camper body or Trailer not shown in the Declarations.
6. When in or upon any Trailer, loss to:
  - a. TV antennas;
  - b. Awnings or cabanas; or
  - c. Equipment designed to create additional living facilities.
7. Loss to any of the following or their accessories:
  - a. Citizens band radio;
  - b. Two-way mobile radio;
  - c. Telephone;
  - d. Scanning monitor receiver;
  - e. Any device or instrument used for the detection of radar or other speed measuring equipment;
  - f. All electronics, computers, and computerized equipment, which are not essential to the engine and drive train. This exclusion (7.f) does not apply if the equipment is permanently installed in Your Covered Auto by the original manufacturer, but is subject to a \$1,500 limit of liability; or
  - g. Screens, monitors, DVD players, or video display equipment of any type, not used solely for the purpose of monitoring engine functions. This exclusion (7.g) does not apply if the equipment is permanently installed in Your Covered Auto by the original manufacturer, but is subject to a \$1,500 limit of liability.
8. Loss to Custom Parts or Equipment or Custom Furnishings in or upon any Auto, pickup, or van. This exclusion (8) does not apply if the value of the Custom Parts or Equipment or Custom Furnishings has been reported to us prior to a loss and included in the premium for this coverage.
9. Loss due to or as a consequence of a seizure of Your Covered Auto by federal or state law enforcement officers as evidence in a case against you by the New Mexico Controlled Substances Act or Federal Controlled Substances Act if you are convicted in such case.
10. Loss due to Diminution of Value resulting from repairs caused by a covered loss.
11. Loss due to damage to paint, or discoloration of paint, resulting from acid rain, smoke, smog, chemicals, salt, tree sap, or animal or bird droppings. This exclusion (11) does not apply if such loss is a direct result of Collision or vandalism.
12. Loss due to theft or conversion of Your Covered Auto or Trailer:
  - a. By you, or a Family Member or Resident;
  - b. Prior to its delivery to you, or a Family Member or Resident;
  - c. While in the care, custody, or control of anyone engaged in the Business of selling the Auto or Trailer;
  - d. By a person to whom you have voluntarily entrusted Your Covered Auto or Trailer; or

- e. If Your Covered Auto is stolen without evidence of forcible entry, or the keys were in the Auto at the time of the theft.
13. Loss to Your Covered Auto when involved in a single-Auto Accident if a police report is not made within twenty-four (24) hours of you becoming aware of the Accident.

### **LIMIT OF LIABILITY**

Our limit of liability for loss will be the lesser of the maximum limit of \$35,000 or the:

1. Actual Cash Value of the stolen or damaged Auto;
2. Amount necessary to repair or replace the property to its pre-loss condition with other of like kind and quality;
3. Actual Cash Value of the Auto appearing on the Declarations Page of your policy for which coverage under Part D1 is provided; or
4. Amount shown on the Declarations Page of this policy.

The most we will pay for loss to equipment listed in Exclusion (2), (7.f), or (7.g) is \$1,500. Our payment for loss will be reduced by the applicable deductible shown on the Declarations Page. If a repair or replacement results in better than like kind or quality, we will not pay for the amount of the Betterment.

### **PAYMENT OF LOSS**

We may pay for loss in money or repair or replace the damaged or stolen property. We may, at our expense, return any stolen property to:

1. you, or
2. the address shown in this policy.

If we return stolen property we will pay for any damage resulting from the theft. We may keep all or part of the property at an agreed or appraised value.

### **NO BENEFIT TO BAILEE**

This insurance shall not directly or indirectly benefit any carrier or other bailee for hire.

### **OTHER INSURANCE**

- A. If other insurance also covers the loss, we will pay only our share of the loss. Our share is the proportion that our limit of liability bears to the total of all applicable limits.
- B. For any loss to which Uninsured/Underinsured Motorists Coverage (from this or any other policy) and this coverage both apply, you may choose the coverage from which damages will be paid.

You may recover under both coverages, but only if:

1. Neither one by itself is sufficient to cover the loss;
2. You pay the higher deductible amount (but not both deductibles); and
3. You will not recover more than the actual damages.

### **APPRAISAL**

If we disagree with you on the amount of loss, either party may demand an appraisal. In this event, each party will select a competent appraiser. The two appraisers will select an umpire. The appraisers will state separately the Actual Cash Value and the amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding.

Each party will:

1. Pay its chosen appraiser; and
2. Bear the expenses of the appraisal and umpire equally.

We do not waive any of our rights under this policy by agreeing to an appraisal.

### **LOSS PAYEE AGREEMENT**

Payment for loss to Your Covered Auto will be made according to your interest and the interest of any Loss Payee or Lienholder shown on the Declarations Page or designated by you. Payment may be made to both jointly, or separately, at our discretion. Where fraud, misrepresentation, material omission, or intentional damage has been committed by or at the direction of you, a Family Member, or Resident of your household, the Loss Payee or



Lienholder's interest will not be protected. Any cancellation of this policy will also be effective as to the Loss Payee or Lienholder's interest on the same terms and conditions as apply to you. We will be entitled to the Loss Payee or Lienholder's rights of recovery, to the extent of our payment to the Loss Payee or Lienholder.

## **PART D2 – TOWING AND LABOR COVERAGE**

- A. If you pay a premium for Towing and Labor Coverage for a specific Auto shown on the Declarations Page, we will pay for towing and labor costs incurred each time Your Covered Auto is disabled, up to the amount shown on the Declarations Page per disablement, as applicable to that Auto. We will only pay for labor performed at the place of disablement.
- B. This coverage applies as excess coverage only, over any other towing, motor club, or other similar road service coverage that applies. Any payment made for towing and labor under another coverage in this or any other policy shall be deducted from the total amount recoverable for each disablement.
- C. You must provide us with written proof of your towing and labor expenses from a licensed towing company.
- D. No one will be entitled to duplicate payments for the same elements of damages.

## **PART D3 – RENTAL REIMBURSEMENT COVERAGE**

- A. If you pay a premium for Rental Reimbursement Coverage for a specific Auto shown on the Declarations Page, and that Auto becomes disabled due to a loss covered by Part D1, we will reimburse for expenses you incur to rent a temporary substitute Auto from a licensed rental car company, up to our limit shown on the Declarations Page per disablement, as applicable to that Auto. However, we will only pay for the expenses that apply to that period of time reasonably required to repair or replace the Auto.
- B. This coverage applies only if:
  - 1. Your Covered Auto is withdrawn from use for more than 24 hours; and
  - 2. The loss to Your Covered Auto is covered under Part D1.
- C. This coverage applies as excess coverage only, over any other motor club, or other similar road service coverage that may apply. Any payment made for rental reimbursement under another coverage in this or any other policy shall be deducted from the total amount recoverable for each disablement. This includes supplemental payments made under Part D1 in the event of the total theft of Your Covered Auto.
- D. You must provide us with written proof of your rental car expenses from a licensed rental car company.
- E. This Rental Reimbursement Coverage for a temporary substitute Auto is subject to all of the policy limitations and exclusions stated within this policy. Damage to the temporary substitute Auto is therefore not covered. You should obtain a Loss Damage Waiver or similar coverage for the rental or temporary substitute vehicle.

## **PART E – DUTIES AFTER AN ACCIDENT OR LOSS**

We do not have a duty or obligation to provide coverage under the terms and provisions of this policy if you have not fully complied with the following duties:

### **GENERAL DUTIES**

- A. We must be notified promptly of how, when, and where the Accident or loss happened. Notice should also include the following information:
  - 1. Names and addresses of any injured persons or witnesses;
  - 2. Telephone numbers of parties and witnesses; and
  - 3. Information sufficient to identify the vehicles involved, including license plate numbers.
- B. All losses should be reported to us by calling (800)-297-9792. You should report each Accident or loss even if a Covered Person is not at fault. If we show that your failure to report the loss or to provide notice prejudices our defense, there is no liability coverage under the policy and no defense will be provided.
- C. A person seeking any coverage must:
  - 1. Cooperate with us in any matter, including the investigation, settlement, or defense of any claim or suit. This includes attending hearings or trials as we require.
  - 2. Promptly send us copies of any notices or legal papers received in connection with the Accident or loss.
  - 3. Submit to physical exams by Physicians we select, as often as we may reasonably require. We will pay for these exams.
  - 4. Authorize us to obtain:
    - a. Medical records which are reasonably related to the injury or damage asserted;
    - b. Any information or data collected or stored on any device, including but not limited to, an Event Data Recorder (EDR), installed or contained in your Auto; and
    - c. Other pertinent records.
  - 5. When reasonably required by us, submit to:
    - a. A signed proof of loss.

- b. A sworn recorded statement, including an examination under oath. Sworn recorded statements or examinations under oath shall be taken outside the presence of any other witness or party to the claim at our request.
6. Permit us to inspect and appraise the damages to Your Covered Auto or the damaged property before its repair or disposal.

**NOTICE:** If we determine and can show that your failure to comply with the terms in Part E materially resulted in prejudice to our loss adjustment or investigation, it may result in denial of coverage.

#### **ADDITIONAL DUTIES FOR UNINSURED/UNDERINSURED MOTORISTS COVERAGE**

A person seeking Uninsured Motorists Coverage must also:

1. Within 24 hours, report the Accident to the appropriate law enforcement officials or the director of the motor vehicle division if:
  - a. A hit-and-run driver is involved; or
  - b. You are unable to identify the owner or operator of any Auto involved in an Accident;
2. Promptly send us copies of the legal papers if a suit is brought;
3. Take reasonable steps after a loss, at our expense, to protect damaged property from further loss; and
4. Permit us to inspect and appraise the damaged property before its repair or disposal.

#### **ADDITIONAL DUTIES FOR COVERAGE FOR DAMAGE TO YOUR AUTO**

A person seeking Coverage for Damage to Your Auto must also:

1. Take reasonable steps after a loss to protect Your Covered Auto and its equipment from further loss. We will pay reasonable expenses incurred to do this;
2. Notify the appropriate law enforcement officials within 24 hours of discovery, or as soon as practicable, if Your Covered Auto is stolen; and
3. Permit us to inspect and appraise the damaged property before its repair or disposal.

### **PART F – GENERAL PROVISIONS**

#### **BANKRUPTCY**

Bankruptcy or insolvency of the Covered Person shall not relieve us of any obligations under this policy.

#### **CHANGES**

- A. This policy contains all the agreements between you and us. Its terms may not be changed or waived except by endorsement issued by us.
- B. If a change requires a premium adjustment, we will adjust the premium as of the effective date of change in accordance with rules prescribed by the New Mexico Department of Insurance or its successor. Changes during the policy term that may result in a premium increase or decrease include, but are not limited to, changes in:
  1. The number, type, or use classification of the insured Autos.
  2. Operators using insured Autos.
  3. The place of principal garaging of insured Autos.
  4. Coverages, deductibles, or limits.
- C. If this policy form is revised to provide more coverage without additional premium charge, we will automatically provide the additional coverage as of the date the revision is effective.

#### **DUPLICATE PAYMENTS**

This policy does not provide duplicate payment for any loss, or element of any loss, that has been paid under more than one coverage under this or any other policy providing coverage. Any payments made by us under any one coverage will reduce the amount of damages that may be covered by any other coverage under this or any other policy issued by us.

#### **FRAUD & MISREPRESENTATION**

This policy includes the Declarations Page and the amendments. This policy also includes the application and the endorsements. The statements that you made while you were applying for coverage are Representations. To determine your premium and eligibility for coverage under this policy, we relied on the Representations that you made when you applied for coverage. If you or any applicant made any false, fraudulent, or misleading

Representations in your application for insurance, this policy will not provide coverage. In such a case, we will not be liable for any claims that would otherwise be covered in the absence of the fraud or misrepresentation.

Your failure to completely and accurately inform us of persons residing in your home may constitute fraud or misrepresentation. All Family Members age 14 and over **MUST** be included on the application. No coverage will be afforded to any Family Member or Resident in your household unless named in the application for coverage and/or listed on the Declarations Page or added by endorsement.

If we are required by law to pay any claim despite this provision, then we reserve the right to recover from you any payments made as a result of your misrepresentation or fraud. Any first-party claims will be reduced by the amount of any other premium owed to us.

Any statements you made or will make in a notification of change to your policy are also considered Representations and are subject to the provisions set out above.

#### **LEGAL ACTION AGAINST US**

- A. No legal action may be brought against us until there has been full compliance with all the terms of this policy. In addition, under Liability Coverage, no legal action may be brought against us until:
  - 1. We agree in writing that the Covered Person has an obligation to pay; or
  - 2. The amount of that obligation has been finally determined by judgment after trial.
- B. No person or organization has any right under this policy to bring us into any action to determine the liability of a Covered Person.

#### **OUR RIGHT TO RECOVER PAYMENT**

- A. If we make a payment under this policy, and the person to or for whom payment was made has a right to recover damages from another, we shall be subrogated to that right. That person shall do:
  - 1. Whatever is necessary to enable us to exercise our rights; and
  - 2. Nothing after a loss to prejudice our rights. (A release of the insurer of an Underinsured Auto does not prejudice our rights.)
- B. If we make a payment under this policy and the person to or for whom payment is made recovers damages from another, that person shall:
  - 1. Hold in trust for us the proceeds of the recovery; and
  - 2. Reimburse us to the extent of our payment, but we may not claim the amount recovered from an insurer of any Underinsured Auto.
- C. A person seeking benefits under Part C shall not enter into any settlement with a liability insurer except pursuant to a Limited Release, as permitted by New Mexico law. The Limited Release shall not release the legally responsible party from personal liability to the extent that uninsured motorist benefits may be available for Bodily Injury or Property Damage sustained by the Covered Person.
- D. If we are required by law to pay any portion of a claim despite an applicable exclusion or other provision of this policy, we reserve the rights to:
  - 1. Recover from you any payments made by us. This includes our right to retain or reject, at our option, the salvage in the event of a total loss of Your Covered Auto.
  - 2. Recover from you any additional premium due as a result of your misrepresentation or fraud.
  - 3. Reduce any amount paid to you, or a Family Member or Resident, under a first-party claim, by the amount of uncollected premium owed to us as a result of your misrepresentation or fraud.

#### **POLICY PERIOD AND TERRITORY**

- A. This policy applies only to Accidents and losses which occur:
  - 1. During the policy period as shown on the Declarations Page; and
  - 2. Within the policy territory.
- B. The policy territory is:
  - 1. the United States of America, or its territories or possessions, or
  - 2. Canada.

**NOTICE:** No Mexico Coverage. There is no 25-mile or any allowed distance for coverage into Mexico. An auto accident is a civil and criminal matter in Mexico. This policy provides no coverage in Mexico.

## **TERMINATION**

- A. **Cancellation** – This policy may be cancelled during the policy periods as follows:
1. The Named Insured shown on the Declarations Page may cancel by:
    - a. Returning this policy to us;
    - b. Calling us and stating the effective date of the cancellation, which effective date shall be no earlier than the date of your request for cancellation; or
    - c. Giving us advance written notice of the date cancellation is to take effect.
  2. We may cancel by mailing or delivering at least fifteen (15) days notice to the Named Insured. We may cancel for nonpayment of premium by mailing or delivering at least ten (10) days notice to the Named Insured. We will mail or deliver notice to the Named Insured shown on the Declarations Page at the last known address for the Named Insured appearing in our records as follows:
    - a. We may cancel this policy for any reason within the first sixty (60) days of the policy period shown on the Declarations Page. We will mail or deliver notice to the Named Insured at least ten (10) days prior to the effective date of cancellation.
    - b. After this policy is in effect for 60 days, or if this is a renewal or continuation policy, we may only cancel:
      - (i) For nonpayment of premium when due.
      - (ii) If your driver's license or that of:
        1. any driver who lives with you, or
        2. any driver who customarily uses Your Covered Auto, has been suspended or revoked.
      - (iii) Any other reason specified by New Mexico law.
- B. **Non-renewal** – If we decide not to renew or continue this policy, we will mail notice to the Named Insured shown in the Declarations Page at the last known address. Notice will be mailed at least 30 days before the end of the policy period.
- C. **Automatic Termination**
1. If you obtain other insurance on Your Covered Auto, any similar insurance provided by this policy will terminate on the effective date of the other insurance.
  2. If we offer to renew or continue, and you or your representative do not accept, this policy will automatically terminate at the end of the current policy period. Failure to pay the required renewal or continuation premium when due shall mean that you have not accepted our offer.
- D. **Other Termination Provisions**
1. We may deliver any notice instead of mailing it. Proof of mailing for any notice shall be sufficient proof of notice.
  2. If this policy is cancelled, you may be entitled to a premium refund. If so, we will send you the refund promptly. Any premium refund will be computed pro rata, subject to the policy minimum premium. Making or offering to make the refund is not a condition of cancellation.
  3. The effective date of cancellation stated in the notice shall become the end of the policy term.

## **TRANSFER OF YOUR INTEREST IN THIS POLICY**

- A. Your rights and duties under this policy may not be assigned without our written consent. However, if a Named Insured shown on the Declarations Page dies, coverage will be provided for:
1. The surviving spouse if residing in the same household at the time of death. Coverage applies to the spouse as if a Named Insured shown on the Declarations Page.
  2. The legal representative of the deceased person as if a Named Insured shown on the Declarations Page. This applies only with respect to the representative's legal responsibility to maintain or use Your Covered Auto.
- B. Coverage will be provided until the end of the policy. However, if any Covered Autos is sold or leased, our coverage on that Covered Auto will terminate when the buyer or lessee takes possession.

**NOTICE:** Refer to Part B for Assignment of Benefits under Medical Payments Coverage.

## **TWO OR MORE AUTO POLICIES**

If more than one Auto insurance policy issued to you by us applies to the same Accident, the maximum limit of our liability under all the policies shall not exceed the highest applicable limit of liability under one policy.

## **POLICY TO CONFORM TO STATUTES**

Any provision of this policy which conflicts with the statutes of New Mexico shall be deemed amended to conform to such statutes as required by law. Any provision of this policy which may be deemed void or unenforceable shall

not affect the remaining provisions of the policy, which may be applied and enforced as written.



President



Secretary