

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## UNINSURED MOTORISTS COVERAGE – FLORIDA (NON-STACKED)

### I. Part C – Uninsured Motorists Coverage

Part C is replaced by the following:

#### INSURING AGREEMENT

- A. We will pay compensatory damages which an "insured" is legally entitled to recover from the owner or operator of an "uninsured motor vehicle" because of "bodily injury":

1. Sustained by an "insured"; and
2. 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 motor vehicle".

Any judgment for damages arising out of a suit brought without our written consent is not binding on us.

- B. "Insured" as used in this Part means:

1. You or any "family member".
2. Any other person "occupying" "your covered auto".
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 1. or 2. above.

- C. "Uninsured motor vehicle" means a land motor vehicle or trailer of any type:

1. To which no bodily injury liability bond or policy applies at the time of the accident.
2. To which a bodily injury liability bond or policy applies at the time of the accident but the amount paid for "bodily injury" under that bond or policy to an "insured" is not enough to pay the full amount the "insured" is legally entitled to recover as damages.
3. Which is a hit-and-run vehicle whose operator or owner cannot be identified and which hits or which causes an accident resulting in "bodily injury" without hitting:
  - a. You or any "family member";
  - b. A vehicle which you or any "family member" are "occupying"; or

- c. "Your covered auto".

If there is no physical contact with the hit-and-run vehicle, the facts of the accident must be proved. We will only accept competent evidence other than the testimony of a person making claims under this or any similar coverage.

4. To which a bodily injury 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 within four years of the date of the accident.

However, "uninsured motor vehicle" does not include any vehicle or equipment:

1. Owned by or furnished or available for the regular use of you or any "family member" unless it is a "your covered auto" to which Part A of the policy applies and liability coverage is excluded for any person other than you or any "family member" for damages sustained in the accident by you or any "family member".
2. Owned by any governmental unit or agency.
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.

#### EXCLUSIONS

- A. We do not provide Uninsured Motorists Coverage for "bodily injury" sustained:
1. By an "insured" while "occupying" any motor vehicle owned by that "insured" which is not insured for this coverage under this policy. This includes a trailer of any type used with that vehicle.
  2. By any "family member" while "occupying" any motor vehicle you own which is insured for this coverage on a primary basis under any other policy.

**B.** We do not provide Uninsured Motorists Coverage for "bodily injury" sustained by any "insured":

1. If that "insured" or the legal representative settles the "bodily injury" claim and such settlement prejudices our right to recover payment.

However, this Exclusion (**B.1.**) does not apply to a settlement made with the insurer of a vehicle described in Section 2. of the definition of "uninsured motor vehicle".

2. While "occupying" "your covered auto" when it is being used as a public or livery conveyance. This Exclusion (**B.2.**) does not apply to a share-the-expense car pool.
3. Using a vehicle without a reasonable belief that that "insured" is entitled to do so. This Exclusion (**B.3.**) does not apply to a "family member" using "your covered auto" which is owned by you.
4. With respect to damages for pain, suffering, mental anguish or inconvenience unless the "bodily injury" consists in whole or in part of:
  - a. Significant and permanent loss of an important bodily function;
  - b. Permanent injury within a reasonable degree of medical probability, other than scarring or disfigurement;
  - c. Significant and permanent scarring or disfigurement; or
  - d. Death.

**C.** This coverage shall not apply directly or indirectly to benefit any insurer or self-insurer under any of the following or similar law:

1. Workers' compensation law; or
2. Disability benefits law.

**D.** We do not provide Uninsured Motorists Coverage for punitive or exemplary damages.

#### **LIMIT OF LIABILITY**

**A.** When the "insured" is "occupying" "your covered auto" at the time of the accident:

1. The limit of liability for Uninsured Motorists Coverage stated in the Declarations for each person applicable to that "your covered auto" is our maximum limit of liability for all damages, including damages for care, loss of services or death, arising out of "bodily injury" sustained by any one person in that accident; and

2. Subject to this limit for each person, the limit of liability for Uninsured Motorists Coverage stated in the Declarations for each accident applicable to that "your covered auto" is our maximum limit of liability for all damages for "bodily injury" resulting from that accident.

**B.** When the "insured" is not "occupying" "your covered auto" at the time of the accident:

1. The highest limit of liability for Uninsured Motorists Coverage stated in the Declarations for each person applicable to any of "your covered autos" is our maximum limit of liability for all damages, including damages for care, loss of services or death, arising out of "bodily injury" sustained by any one person in that accident; and
2. Subject to this limit for each person, the highest limit of liability for Uninsured Motorists Coverage stated in the Declarations for each accident applicable to any of "your covered autos" is our maximum limit of liability for all damages for "bodily injury" resulting from that accident.

This is the most we will pay regardless of the number of:

1. "Insureds";
2. Claims made;
3. Vehicles or premiums shown in the Declarations; or
4. Vehicles involved in the accident.

**C.** No one will be entitled to receive duplicate payments for the same elements of loss under this coverage and:

1. Part A of this policy;
2. No-fault coverage; or
3. Automobile medical payments coverage.

**D.** We will not make a duplicate payment under this coverage for any element of loss for which payment has been made by or on behalf of persons or organizations who may be legally responsible.

**E.** We will not pay for any element of loss if a person is entitled to receive payment for the same element of loss under any of the following or similar law:

1. Workers' compensation law; or
2. Disability benefits law.

- F.** With respect to coverage under Paragraph 2. of the definition of "uninsured motor vehicle", we will reduce the "insured's" total damages by any amount available to that "insured", under any bodily injury liability bonds or policies applicable to the "uninsured motor vehicle", that such "insured" did not recover as a result of a settlement between that "insured" and the insurer of an "uninsured motor vehicle". However, any reduction of the "insured's" total damages will not reduce the limit of liability for this coverage.

This Paragraph (**F.**) shall not apply if we advance payment to the "insured" in an amount equal to the tentative settlement with the insurer of the "uninsured motor vehicle".

#### **OTHER INSURANCE**

If there is other applicable insurance available under one or more policies or provisions of coverage that is similar to the insurance provided under this Part of the policy:

1. Any recovery for damages sustained by you or any "family member":
  - a. While occupying a vehicle owned by you or any "family member" may equal, but not exceed, the limit of liability for Uninsured Motorists Coverage applicable to that vehicle;
  - b. While occupying a vehicle not owned by you or any "family member" may equal, but not exceed, the sum of:
    - (1) The limit of liability for Uninsured Motorists Coverage applicable to the vehicle you or any "family member" were occupying at the time of the accident; and
    - (2) The highest limit of liability for Uninsured Motorists Coverage applicable to any one vehicle under any one policy affording coverage to you or any "family member";
  - c. While not occupying any vehicle may equal, but not exceed, the highest limit of liability for Uninsured Motorists Coverage applicable to any one vehicle under any one policy affording coverage to you or any "family member".
2. Any insurance we provide with respect to a vehicle you do not own, including any vehicle while used as a temporary substitute for "your covered auto", will be excess over any other collectible insurance providing such coverage on a primary basis.

3. 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.

#### **ARBITRATION**

- A.** If we and an "insured" do not agree:
1. Whether that "insured" is legally entitled to recover damages; or
  2. As to the amount of damages which are recoverable by that "insured";
- from the owner or operator of an "uninsured motor vehicle", then the matter may be:
1. Mediated, in accordance with the Mediation provision contained in Part F of the policy, if the damages resulting from "bodily injury" are for \$10,000 or less; or
  2. Arbitrated. However, disputes concerning coverage under this Part may not be arbitrated.

If either party demands mediation, the mediation must be completed before arbitration can occur.

- B.** Both parties must agree to arbitration. If so agreed, each party will select an arbitrator. The two arbitrators will select a third. If they cannot agree within 30 days, either may request that selection be made by a judge of a court having jurisdiction.
- C.** Each party will:
1. Pay the expenses it incurs; and
  2. Bear the expenses of the third arbitrator equally.
- D.** Unless both parties agree otherwise, arbitration will take place in the county in which the "insured" lives. Local rules of law as to procedure and evidence will apply. A decision agreed to by at least two of the arbitrators will be binding as to:
1. Whether the "insured" is legally entitled to recover damages; and
  2. The amount of damages.

#### **FLORIDA ARBITRATION CODE**

If we and an "insured" agree to arbitration, the Florida Arbitration Code will not apply.

#### **ADDITIONAL DUTY**

A person seeking Uninsured Motorists Coverage under Section 2. of the definition of "uninsured motor vehicle" must also promptly:

1. Send us copies of the legal papers if a suit is brought; and

2. Notify us in writing by certified or registered mail of a tentative settlement between the "insured" and the insurer of the "uninsured motor vehicle" and allow us 30 days to advance payment to that "insured" in an amount equal to the tentative settlement to preserve our rights against the insurer, owner or operator of such "uninsured motor vehicle".

## **II. Part F – General Provisions**

The following is added to the **Our Right To Recover Payment** Provision in Part F:

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

Our rights do not apply under Paragraph **A.** with respect to coverage under Section **2.** of the definition of "uninsured motor vehicle" if we:

1. Have been given prompt written notice of a tentative settlement between an "insured" and the insurer of an "uninsured motor vehicle"; and

2. Fail to advance payment to the "insured" in an amount equal to the tentative settlement within 30 days after receipt of notification.

If we advance payment to the "insured" in an amount equal to the tentative settlement within 30 days after receipt of notification:

1. That payment will be separate from any amount the "insured" is entitled to recover under the provisions of Uninsured Motorists Coverage; and
2. We also have a right to recover the advanced payment.

This endorsement must be attached to the Change Endorsement when issued after the policy is written.