

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

UNDERINSURED MOTORISTS COVERAGE – NORTH DAKOTA

With respect to the coverage provided by this endorsement, the provisions of the policy apply unless modified by the endorsement.

SCHEDULE

Limit Of Liability		Premium	
\$	Each Person	\$	Auto 1
\$	Each Accident		
\$	Each Person	\$	Auto 2
\$	Each Accident		
\$	Each Person	\$	Auto 3
\$	Each Accident		

INSURING AGREEMENT

A. We will pay compensatory damages which an "insured" is legally entitled to recover from the owner or operator of an "underinsured 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 "underinsured motor vehicle".

No judgment for damages arising out of a suit brought against the owner or operator of an "underinsured motor vehicle" is binding on us unless we:

1. Received reasonable notice of the pendency of the suit resulting in judgment; and
2. Had a reasonable opportunity to protect our interests in the suit.

We will pay under this coverage only if 1. or 2. below applies:

1. The limits of liability under any bodily injury liability bonds or policies applicable to the "underinsured motor vehicle" have been exhausted by payment of judgments or settlements; or

2. A tentative settlement has been made between an "insured" and the insurer of the "underinsured motor vehicle" which would exhaust the limits of liability under any applicable bodily injury liability bonds or policies and we:

- a. Have been given prompt notice of such tentative settlement; and
- b. Advance payment to the "insured" in an amount equal to the tentative settlement within 30 days after receipt of notification.

B. "Insured" as used in this endorsement 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. "Underinsured motor vehicle" means a land motor vehicle or trailer of any type to which a bodily injury liability bond or policy applies at the time of the accident, but its limit for bodily injury liability is:

1. Less than the limit of liability for this coverage; or

2. Reduced by payments to others injured in the accident to less than the limit of liability for this coverage.

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

1. For which liability coverage is provided under Part **A** of this policy.
2. Owned by any governmental unit or agency.
3. While located for use as a residence or premises.
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.
5. Operated by any person who is specifically excluded from coverage under this policy.

EXCLUSIONS

- A.** We do not provide Underinsured 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 Underinsured Motorists Coverage for "bodily injury" sustained by any "insured" using a vehicle without a reasonable belief that that "insured" is entitled to do so. This exclusion (**B.**) does not apply to a "family member" using "your covered auto" which is owned by you.
- 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 Underinsured Motorists Coverage for punitive or exemplary damages.

LIMIT OF LIABILITY

- A.** The Limit Of Liability shown in the Schedule or in the Declarations for each person for Underinsured Motorists Coverage 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 any one accident. Subject to this limit for each person, the Limit Of Liability shown in the Schedule or in the Declarations for each accident for Underinsured Motorists Coverage is our maximum limit of liability for all damages for "bodily injury" resulting from any one 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 Schedule or in the Declarations; or
 4. Vehicles involved in the accident.
- B.** No one will be entitled to receive duplicate payments for the same elements of loss under this coverage and:
 1. Part **A**, Part **B** or Part **C** of this policy; or
 2. Any No-fault Coverage.
 - C.** 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.
 - D.** 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, except nonoccupational disability benefits.

OTHER INSURANCE

If there is other applicable insurance available under more than one policy or provision of coverage that is similar to the insurance provided under this endorsement:

- A.** Any recovery for damages for "bodily injury" sustained by an "insured" may equal but not exceed the higher of the applicable limit for any one vehicle under this insurance or any other insurance.

B. The following priorities of recovery apply if a vehicle the "insured" is operating at the time of the accident is not owned by the "insured", including any vehicle while used as a temporary substitute for "your covered auto", and is insured under a policy affording Underinsured Motorists Coverage to a named insured engaged in the "business" of:

1. Selling;
 2. Repairing;
 3. Servicing;
 4. Storing;
 5. Leasing;
 6. Renting; or
 7. Parking;
- motor vehicles:

First	Any policy affording Underinsured Motorists Coverage to the "insured" as a named insured on a vehicle not involved in the accident.
Second	Any policy affording Underinsured Motorists Coverage to the "insured" as a family member on a vehicle not involved in the accident.
Third	The policy affording Underinsured Motorists Coverage to the vehicle the "insured" was occupying at the time of the accident.

This paragraph **(B.)** applies only if an "insured":

1. Is operating the vehicle; and
2. Is neither the person engaged in such "business" nor that person's employee or agent.

C. The following priorities of recovery apply to vehicles not described in Paragraph **B.** above:

First	The policy affording Underinsured Motorists Coverage to the vehicle the "insured" was occupying at the time of the accident.
Second	Any policy affording Underinsured Motorists Coverage to the "insured" as a named insured on a vehicle not involved in the accident.
Third	Any policy affording Underinsured Motorists Coverage to the "insured" as a family member on a vehicle not involved in the accident.

D. We will pay only for our share of the loss. Our share is the proportion that our limit of liability bears to the total of all limits applicable on the same level of priority.

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 "underinsured motor vehicle", then the matter may be arbitrated. However, disputes concerning coverage under this endorsement may not be arbitrated.

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.

B. Each party will:

1. Pay the expenses it incurs; and
2. Bear the expenses of the third arbitrator equally.

C. 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 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. This applies only if the amount does not exceed the minimum limit for bodily injury liability specified by the financial responsibility law of North Dakota. If the amount exceeds that limit, either party may demand the right to a trial. This demand must be made within 60 days of the arbitrators' decision. If this demand is not made, the amount of damages agreed to by the arbitrators will be binding.

ADDITIONAL DUTIES

Any person seeking coverage under this endorsement must also:

- A.** Promptly send us copies of the legal papers if a suit is brought.
- B.** Promptly notify us in writing of a tentative settlement between the "insured" and the insurer of the "underinsured 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 "underinsured motor vehicle".
- C.** Notify the proper law enforcement authorities as soon as practicable.

GENERAL PROVISIONS

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

Our rights do not apply under Paragraph **A.** with respect to Underinsured Motorists Coverage if we:

1. Have been given prompt written notice of a tentative settlement between an "insured" and the insurer of an "underinsured 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 written notification.

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

1. That payment will be separate from any amount the "insured" is entitled to recover under the provisions of Underinsured Motorists Coverage.
2. We also have a right to recover the advanced payment from the insurer, or the owner or operator, of the "underinsured motor vehicle".