

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## UNDERINSURED MOTORISTS COVERAGE – WISCONSIN

### SCHEDULE

Auto Premium	Limits	
1. \$	\$	Each Person
	\$	Each Accident
2. \$	\$	Each Person
	\$	Each Accident
3. \$	\$	Each Person
	\$	Each Accident

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

#### 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".

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 written 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 either:

1. Less than the limit of liability for this coverage; or
2. Reduced by payments to others injured in the accident to an amount which is less than the limit of liability for this coverage.

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

1. To which a bodily injury liability bond or policy applies at the time of the accident but its limit for bodily injury liability is less than the applicable minimum limits for bodily injury liability specified by the financial responsibility law of Wisconsin.
2. Operated exclusively on rails or crawler treads.
3. Designed mainly for use off public roads while not upon public roads.

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. Owned by any governmental unit or agency.

#### **EXCLUSIONS**

- A. We do not provide Underinsured Motorists Coverage for "bodily injury" sustained:
  1. By an "insured" while "occupying", or when struck by, 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", or when struck by, 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":
  1. While "occupying" "your covered auto" when it is being used as a public or livery conveyance. This exclusion **(B.1.)** does not apply to a share-the-expense car pool.
  2. Using a vehicle without a reasonable belief that that "insured" is entitled to do so. This exclusion **(B.2.)** 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 Declarations; or
  4. Vehicles involved in the accident.
- B. The limit of liability shall be reduced by all sums:
    1. Paid because of the "bodily injury" by or on behalf of persons or organizations who may be legally responsible. This includes all sums paid under Part **A**; and
    2. Paid or payable because of the "bodily injury" under any of the following or similar law:
      - a. Workers' compensation law; or
      - b. Disability benefits law.
  - C. No one will be entitled to receive duplicate payments for the same elements of loss under this coverage and Part **A**, Part **B** or Part **C** of this policy.
  - 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 make a duplicate payment to the extent amounts are paid or payable because of the "bodily injury" under any of the following or similar law:

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

#### **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 endorsement:

1. Any recovery for damages under all such policies or provisions of coverage may equal but not exceed the highest applicable limit for any one vehicle under any insurance providing coverage on either a primary or excess basis.
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", shall be excess over any collectible insurance providing such coverage on a primary basis.
3. If the coverage under this policy is provided:
  - a. On a primary basis, we will pay only our share of the loss that must be paid under insurance providing coverage on a primary basis. Our share is the proportion that our limit of liability bears to the total of all applicable limits of liability for coverage provided on a primary basis.
  - b. On an excess basis, we will pay only our share of the loss that must be paid under insurance providing coverage on an excess basis. Our share is the proportion that our limit of liability bears to the total of all applicable limits of liability for coverage provided on an excess basis.

#### **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 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. This applies only if the amount does not exceed the applicable minimum limits for bodily injury liability specified by the financial responsibility law of Wisconsin.

If the amount exceeds the applicable minimum 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**

A. Any person seeking coverage under this endorsement must also promptly send us copies of the legal papers if a suit is brought.

B. A person seeking Underinsured Motorists Coverage must also 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". However, this paragraph (B.) does not apply if failure to notify us does not prejudice our rights against the insurer, owner or operator of such "underinsured motor vehicle".

## **PART F – GENERAL PROVISIONS**

Part **F** is amended as follows:

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

### **Our Right To Recover Payment**

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 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 Underinsured Motorists Coverage; and
2. We also have a right to recover the advance payment.