

PLEASE READ THIS ENDORSEMENT CAREFULLY AS IT CHANGES YOUR POLICY

UNINSURED MOTORISTS COVERAGE – CALIFORNIA
(includes Underinsured Motorists Coverage)

PART C – UNINSURED MOTORISTS COVERAGE is replaced by the following **PART C – UNINSURED MOTORISTS COVERAGE**:

INSURING AGREEMENT

A. Uninsured Motorists Bodily Injury Coverage.

If the premium for Uninsured Motorists Bodily Injury Coverage has been paid, we will pay for compensatory damages that an “insured” is legally entitled to recover from the owner or operator of an “uninsured motor vehicle” or “underinsured motor vehicle” for “bodily injury” sustained by that “insured” and caused by a motor vehicle accident.

B. Uninsured Motorists Property Damage Coverage.

If the premium for Uninsured Motorists Property Damage Coverage has been paid, we will pay for “property damage” that you or a “family member” are legally entitled to recover from the owner or operator of an “uninsured motor vehicle” because of an accident caused by that “uninsured motor vehicle” that resulted in a collision between the vehicles involving actual physical contact between that “uninsured motor vehicle” and “your covered auto” for which a premium has been paid for this Uninsured Motorists Property Damage Coverage.

For **Uninsured Motorists Coverage** to apply for “property damage”:

1. The owner, operator or license number of that “uninsured motor vehicle” must be identified; and
2. The accident must be reported within 10 business days of the date of that accident to us or your agent.

C. The uninsured or underinsured owner’s or operator’s liability for these damages must:

1. Be due to a motor vehicle accident; and
2. Arise out of and be causally connected to the ownership, maintenance or use of the “uninsured motor vehicle” or “underinsured motor vehicle”.

Any payment by us for this **Uninsured Motorists Coverage** is subject to the limits elected and shown in the Declarations or Schedule, and as further described in the **Limit of Liability** provision of this endorsement.

ADDITIONAL DEFINITIONS

When used in this Endorsement, the following additional definitions apply when the term is used in its singular, plural or possessive form.

A. “Insured” as used in this endorsement means:

1. You or a “family member” while “occupying” “your covered auto”.
2. You or a “family member” while not “occupying” a motor vehicle.
3. Any other person while “occupying” “your covered auto” with permission from you.
4. Any person, for damages that person is legally entitled to recover because of “bodily injury” to a person described in this definition in 1., 2., or 3. above. This does not increase our limit of liability in any accident to an amount greater than the limit that applies to the person who has sustained a “bodily injury” and is described in this definition in 1., 2., or 3. above.

However, “insured” shall NOT mean and does NOT include:

1. You;
2. Any “family member” or any other person related to you who resides with you; or

3. Any other person;

while “occupying”, operating or otherwise using:

1. Any vehicle owned by, leased under a written contract for a period of six months or longer to, or furnished or available for the regular use of, you, or any person related to you who resides with you, if that vehicle is not “your covered auto”; or
2. “Your covered auto”, or any motor vehicle rented or leased to that person, for public or livery conveyance purposes. This does not apply to a share-the-expense car pool.
3. A motor vehicle, other than “your covered auto” shown on the Declarations or Schedule, if the owner of that vehicle has similar insurance available for that vehicle.

B. “Property damage” means physical injury to or destruction of:

1. “Your covered auto” for which a premium has been paid for this Uninsured Motorists Property Damage Coverage under this policy; and
2. A child passenger restraint system that:
 - a. Meets applicable federal motor vehicle safety standards; and
 - b. Was damaged, or in use by a child, in “your covered auto” (described in paragraph #1 above of this “property damage” definition) at the time of the accident resulting from a collision caused by an “uninsured motor vehicle”.

However, “property damage” does not include:

1. Any loss of use;
2. Physical injury to or destruction of any other property; or
3. Diminution of value.

C. “Underinsured motor vehicle” means, for purposes of “bodily injury” only, a land motor vehicle for which one or more motor vehicle or automobile “bodily injury” liability bonds or policies, or self-insurance or cash deposits which have been posted to satisfy a financial responsibility law, apply at the time of the accident, but all limits available under those bonds and policies for “bodily injury” liability coverage, or the amount of the self-insurance or cash deposits, are less than the Uninsured Motorists Bodily Injury Coverage limit for this policy. This definition only applies for purposes of “bodily injury” damages, and does not apply to any “property damage”.

An “underinsured motor vehicle” does NOT include any vehicle or its equipment:

1. Located for use as a residence or premises;
2. Designed or modified for use mainly off public roads, while not on public roads;
3. Operated on rails or crawler treads;
4. Owned by any government or any of its subdivisions or agencies;
5. That is either:
 - a. Shown in the Declarations or Schedule, or insured under the liability coverage, of this policy; or
 - b. Owned by you, any “family member” or any relative who resides with you;

unless, at the time of the accident, that vehicle owned by you or a “family member” is being operated, or caused to be operated, by a person without the consent of the owner of that vehicle in connection with criminal activity that has been documented in a police report, and the injured “insured” struck by such vehicle is not a party to that criminal activity; or
6. Furnished or available for the regular use of, you, any “family member” or any other person related to you who resides with you.

D. “Uninsured motor vehicle” means a land motor vehicle that is:

1. Not insured or bonded for "bodily injury" liability at the time of the accident;
2. Insured or bonded for liability at the time of the accident, but the:
 - a. Bonding or insuring company:
 - (1) Denies coverage; or
 - (2) Refuses to admit coverage except conditionally or with reservation; or
 - (3) Is, or becomes, insolvent within one year of the accident; or
 - b. "Motor vehicle" is an "underinsured motor vehicle". An "underinsured motor vehicle" applies only as to "bodily injury" damages, and does not apply to any "property damage"; or
3. For "bodily injury" only, a hit-and-run motor vehicle for which the owner or operator cannot be identified, and that motor vehicle causes "bodily injury" to an "insured" by actually physically striking or hitting that "insured", "your covered auto", or a vehicle an "insured" is "occupying", provided the "insured" or someone on that person's behalf:
 - a. Reports the accident within 24 hours to the proper law enforcement of the locale where the accident occurred; and
 - b. Files with us, within 30 calendar days after the accident, a statement under oath that the "insured", or that person's legal representative, has a cause of action arising out of the accident for damages against a person whose identity is unascertainable and has set forth facts in support thereof.

An "uninsured motor vehicle" does NOT include any vehicle or its equipment:

1. Located for use as a residence or premises;
 2. Designed or modified for use mainly off public roads, while not on public roads;
 3. Operated on rails or crawler treads;
 4. Owned by any government or any of its subdivisions or agencies;
 5. That is either:
 - a. Shown in the Declarations or Schedule, or insured under the liability coverage, of this policy; or
 - b. Owned by you, any "family member" or any relative who resides with you;

unless, at the time of the accident, that vehicle owned by you or a "family member" is being operated, or caused to be operated, by a person without the consent of the owner of that vehicle in connection with criminal activity that has been documented in a police report, and the injured "insured" struck by such vehicle is not a party to that criminal activity;
 6. Furnished or available for the regular use of, you, any "family member" or any other person related to you who resides with you; or
 7. Owned or operated by a self-insurer within the meaning of the Financial Responsibility Law of the state in which the motor vehicle is registered or under any motor vehicle law that applies, other than:
 - a. A self-insurer that is or becomes insolvent within one year of the accident, or
 - b. An "underinsured motor vehicle".
- E. When used in this Endorsement, the policy definition of "you" and "your" does not apply and "you" and "your" mean the "named insured" shown in the Declarations of this policy and that person's spouse or legally registered domestic partner.

ADDITIONAL TERMS & DUTIES

The coverage provided by this endorsement is also subject to these additional terms and duties:

- A. If an "insured" brings a lawsuit against the owner or operator of an:

1. "Uninsured motor vehicle", we must be given notice in writing of that suit within a reasonable time after the "insured" knew or should have known of the uninsured status of the motorist. This notice requirement does not apply to an "underinsured motor vehicle".
 2. "Underinsured motor vehicle", that "insured" shall give us a copy of the complaint by personal service or certified mail. All pleadings and depositions shall be made available for copying or copies furnished to us, at our expense, within a reasonable time.
- B. If the owner or operator of an "uninsured motor vehicle" or "underinsured motor vehicle" has liability insurance, self-insurance or bond, we will not make a payment under **Uninsured Motorists Coverage** to or for an "insured" until after one of the following occurs:
1. You and we agree, in writing, to a written settlement;
 2. We have been given both:
 - a. Prompt written notice of an offer of settlement by the owner, operator or insurer of an "uninsured motor vehicle" or "underinsured motor vehicle", and
 - b. Within 30 days of that offer notice, an opportunity to advance payment to the "insured" in an amount equal to that offer of settlement so as to protect our rights to recover against the liable owner and/or operator (or its insurer); or
 3. For a claim involving an "underinsured motor vehicle", the limits of liability under those other applicable motor vehicle or automobile liability policies or bonds have been exhausted by payment of judgments or settlements, and proof of that payment is given to us.
- C. Without our prior written consent, we are not bound by:
1. Any settlement for damages; or
 2. Any judgment arising out of a lawsuit;
- against the owner or operator of an "uninsured motor vehicle" or "underinsured motor vehicle".
- D. Notwithstanding any clause in the **Legal Action Against Us** section of this policy's **PART F – GENERAL PROVISIONS**, no cause of action shall accrue to an "insured" against us with respect to coverage under this **Uninsured Motorists Coverage** and an accident involving an "uninsured motor vehicle" (though not an "underinsured motor vehicle") that causes "bodily injury" and gives rise to a claim unless:
1. There has been full compliance with all the terms of the policy; and
 2. One of the following actions has been taken within two years from the date of the accident:
 - a. A lawsuit for "bodily injury" has been filed against the owner or operator of the "uninsured motor vehicle", in a court of competent jurisdiction; or
 - b. Agreement as to the amount due under the policy has been concluded; or
 - c. The "insured" has started arbitration proceedings by notifying us, or our agent for process, in writing sent by certified mail, return receipt requested.
- E. Notwithstanding any clause in the **Our Right to Recover Payment** section of this policy's **PART F – GENERAL PROVISIONS**, our right of subrogation otherwise set forth under that section does not apply as to the owner or operator of an "underinsured motor vehicle".

EXCLUSIONS

- A. **Uninsured Motorists Coverage** does NOT cover "bodily injury" to an "insured" or any person or any "property damage":
1. If the claim is settled, or prosecuted to judgment, without our written consent and our rights are prejudiced. However, this exclusion does not apply to "bodily injury" caused by an "underinsured motor vehicle".
 2. That occurs while using or "occupying" a vehicle without permission from the owner of the vehicle. This does not apply to you or a "family member" when using or "occupying" "your covered auto".

3. That occurs while that "insured" or person is using "your covered auto", or "occupying" any motor vehicle rented or leased to the "insured", for public or livery conveyance purposes.
 4. That occurs while "occupying", operating or otherwise using any vehicle owned by, leased under a written contract for a period of six months or longer to, or furnished or available for the regular use of, you, a "family member" or any other person related to you who resides with you, if that vehicle is not "your covered auto".
 5. That occurs while that "insured" or person is "occupying", operating or otherwise using a motor vehicle, other than "your covered auto" shown on the Declarations or Schedule, if the owner of that vehicle has similar insurance available for that vehicle.
 6. That occurs when struck by a vehicle owned by an "insured" unless, for purposes of "bodily injury" only, at the time of the accident that vehicle is:
 - a. Owned by you or a "family member";
 - b. Is being operated, or caused to be operated, by a person without the consent of the owner of that vehicle in connection with criminal activity that has been documented in a police report; and
 - c. The injured "insured" struck by such vehicle is not a party to that criminal activity.
- B. **Uninsured Motorists Coverage** does NOT apply to any damage to, or destruction of, any property:
1. Not expressly included within the definition of "property damage" herein, including, but not limited to, any trailer of any type, or any type of vehicle other than "your covered auto" for which **Uninsured Motorists Coverage** applies.
 2. Caused by any type of "underinsured motor vehicle" or underinsured motorist.
- C. **Uninsured Motorists Coverage** shall NOT apply, directly or indirectly, to benefit any:
1. Workers' compensation or disability benefits insurer;
 2. Self-insurer under any workers' compensation, or disability benefits or similar law; or
 3. Insurer of property.
- D. **Uninsured Motorists Coverage** shall NOT apply directly to the benefit of the United States, or any state or any political subdivision thereof.
- E. We do NOT provide any coverage of any kind for any punitive or exemplary damages, however named, and we do not cover any and all:
1. Damages that are separate from sums intended to provide compensation, and are instead intended or awarded to:
 - a. Punish or deter wrongful, malicious or unlawful conduct by any person or party; or
 - b. Fine, penalize or impose a statutory penalty; and
 2. Attorney fees, interest, costs or other fees awarded in connection with the award of any such punitive or exemplary damages.

LIMIT OF LIABILITY

Our **Uninsured Motorists Coverage** limit of liability, which is the most we will pay, is the limit shown in the Declarations or Schedule. That limit is subject to the following terms:

- A. The most we will pay for all covered damages is:
1. The limit for each person shown in the Declarations or Schedule, which shall:
 - a. Apply for all claims due to "bodily injury" to one person in any one accident; and
 - b. Include all claims allowed by law and incurred by persons other than the person who sustains the actual "bodily injury" that results from an accident. These claims include, but are not limited to, derivative or independent claims (however labeled and where allowed by law) for: wrongful

- death; loss of consortium, companionship, society, support and services; and emotional distress or mental anguish as a result of seeing the accident or "bodily injury".
2. If the limit shown in the Declarations or Schedule shows a per person and per accident limit for "bodily injury", that per accident limit:
 - a. Shall apply for "bodily injury" to two or more persons in any one accident; and
 - b. Is subject to the "bodily injury" limit for "each person" as described above.
 3. If only a single per accident limit is shown as the limit of liability in the Declarations or Schedule, that amount shown is the most we will pay for the total of all covered damages resulting from any one accident, though the "property damage" limits set out in A.4. below will still apply. We will comply with any law requiring us to provide any separate limits, but this does not increase the total limit of liability that applies to each accident.
 4. If the Declarations or Schedule shows you have purchased Uninsured Motorists Property Damage Coverage, the limit shown is the most we will pay for all covered "property damage" sustained in any one accident, and is subject to the following:
 - a. For "property damage", we shall not pay more than the lowest of the:
 - (1) "Property damage" limits shown in the Declarations or Schedule for Uninsured Motorists Property Damage Coverage;
 - (2) Cost of repair or replacement;
 - (3) Guaranteed Value® of the damaged property, as shown in the Declarations or Schedule, at the time of the accident, if the damaged property is "your covered auto"; or
 - (4) The amount of your collision coverage deductible on "your covered auto" (to which coverage also applies under this **Uninsured Motorists Coverage**), but only if there is valid and collectible collision coverage under this policy on "your covered auto" (that also has coverage under this **Uninsured Motorists Coverage**) and you have the **Collision Deductible Waiver**, as shown in the Declarations or Schedule. If you are legally entitled to recover only a percentage of the loss, we will pay that percentage of your deductible. However, if the amount of the loss is less than your deductible, we will pay the percentage of the loss you are legally entitled to recover.
 - b. Payment will also include, if covered by this **Uninsured Motorists Coverage** as "property damage", the cost to replace a damaged child passenger restraint system.
- B. There will be no adding, stacking or combining of limits for any one covered accident no matter the number of:
1. Injured persons, claims or lawsuits asserted;
 2. Vehicles or trailers involved in the accident;
 3. Insureds on this policy or involved in the accident;
 4. Vehicles or premiums shown in the Declarations or Schedule; or
 5. Policies issued by us.
- C. Our limit of liability for **Uninsured Motorists Coverage** shall be reduced by any amount paid or to be paid because of:
1. "Bodily injury" or "property damage" by or on behalf of any persons or parties that may be legally responsible for the injury, including, but not limited to, all amounts paid under **PART A – LIABILITY COVERAGE** of this policy; and
 2. "Bodily injury" under any workers' compensation law, disability benefits law, or similar laws, exclusive of any state non-occupational disability benefits law, though exclusive of non-occupational disability benefits.
- D. As to an accident caused by an "underinsured motor vehicle" and covered under this Endorsement:

1. When "bodily injury" is caused by one or more motor vehicles, whether insured, underinsured, or uninsured, our maximum liability for **Uninsured Motorists Coverage** due to an "underinsured motor vehicle" shall not exceed the coverage limit under **Uninsured Motorists Coverage** limit reduced by the amount paid to the "insured" by or for any person or organization that may be held legally liable for the "bodily injury".
2. Provided further, if we pay a claim due to an accident caused by "underinsured motor vehicle", to the extent of such payment, we are entitled to reimbursement or credit in all amounts received by the "insured" person from the owner or operator of the "underinsured motor vehicle", or that party's insurer.
3. If you have the **Collision Deductible Waiver**, as shown in the Declarations or Schedule, and there is a loss to "your covered auto" insured for Collision Coverage under this Policy, we will pay the full Collision deductible if:
 - a. The loss involves an "uninsured motor vehicle", as the term is defined in Items 1. and 2. of the "uninsured motor vehicle" definition in the **Additional Definitions** section above; and
 - b. You are legally entitled to recover the full amount of the loss from the owner or operator of the "uninsured motor vehicle".

Subject to the above, if you are legally entitled to recover only a percentage of the loss, we will pay that percentage of your deductible. However, if the amount of the loss is less than your deductible, we will pay the percentage of the loss you are legally entitled to recover.

In no event will we pay more than the amount of the loss.

- E. If the "insured" has valid and collectible automobile medical payment insurance available to him or her (under this or any other policy), the damages recoverable under this **Uninsured Motorists Coverage** as damages that "insured" is entitled to recover from the owner or operator of an "uninsured motor vehicle" or "underinsured motor vehicle" shall be reduced, for purposes of **Uninsured Motorists Coverage**, by the amounts paid or due to be paid under that automobile medical payment insurance.
- F. Duplicate payments will not be allowed or made for the same element of damages, expense or loss that has been or will be paid by any other coverage under this policy, any other policy or by any other source.

OTHER INSURANCE

Subject to all exclusions under this coverage and all other terms and limits in this policy, if there is other uninsured and/or underinsured motorists coverage, or similar type of insurance or source of recovery, that applies or is available under one or more policies:

- A. Except when the "insured" is "occupying" "your covered auto", the coverage under this policy, if applicable, shall be excess to all other insurance, whether that insurance is considered primary, secondary or excess. If there is other insurance with the same priority as this coverage, we will not pay more than our share of the covered damages or loss. Our share of the covered damages or loss is the proportion that our limit of coverage under **Uninsured Motorists Coverage** bears to the total of all applicable limits with the same priority as this coverage.
- B. Notwithstanding paragraph A. above in this **Other Insurance** section, the total recovery under all such policies or coverages cannot be greater than the single highest limit that applies for any one vehicle under one policy of insurance providing coverage on either a primary, secondary or excess basis.

In issuing this policy of insurance we have relied upon your representation that you will purchase and maintain other insurance providing this coverage on a primary basis with respect to you, "family members" and any other person related to you who resides with you. However, this insurance shall be primary to such other insurance for any "insured" while "occupying" or using "your covered auto".

Nothing under this **Other Insurance** section or any other provision of **Uninsured Motorists Coverage** creates any type of property or physical damage coverage for or related to any:

- A. Auto, vehicle or items of property unless expressly included within the definition of "property damage" herein and the terms of this **Uninsured Motorists Coverage** are otherwise applicable to provide coverage.

- B. Deductible amount, or other unpaid portions of loss, for which you are responsible, except only as to the collision coverage deductible amount under this policy for “your covered auto” that has **Uninsured Motorists Coverage** if you have the **Collision Deductible Waiver**, as shown in the Declarations or Schedule.

ARBITRATION

Arbitration is not available to resolve any disputes as to coverage or policy interpretation issues.

This provision applies to any loss where the **Collision Deductible Waiver** is applied as described under **Limit of Liability**, D.3. above.

If we and an “insured” do not agree as to:

- A. Whether or not that “insured” is legally entitled to recover “bodily injury” damages or for “property damage”; or
- B. The amount of those “bodily injury” damages or “property damage” that “insured” is legally entitled to recover;

from the owner or operator of an “uninsured motor vehicle” or “underinsured motor vehicle”, then the disagreement will be resolved by arbitration, if mutually agreed to by both parties.

The following terms govern the arbitration process unless we and the “insured” otherwise agree in writing:

- A. Either we or the “insured” may initiate arbitration by written demand. The arbitration shall be conducted by one neutral arbitrator.
- B. Arbitration will take place in the county in which the “insured” resides at time of accident.
- C. Local rules of law as to procedure and evidence will apply. Disputes as to procedure and evidence shall be subject to the authority of the arbitrator.
- D. Costs will be paid by each party as follows:
 1. Each party will pay the expenses it incurs; and
 2. Each party will share the expenses of the arbitrator equally.
- E. A decision made by the arbitrator will be binding as to:
 1. Whether or not that “insured” is legally entitled to recover “bodily injury” damages or for “property damage”; and
 2. The amount of “bodily injury” damages or for “property damage” that “insured” is legally entitled to recover.
- F. The arbitrator shall have no authority to:
 1. Resolve any disputes as to coverage, or who is an “insured”, the validity of any coverage election or rejection or selection, residency status of a claimant, qualification of a person as an “insured”, rights or duties under the policy, or statutes of limitations, or other policy interpretation issues; or
 2. Award any amount greater than the limit of liability; or
 3. Award any amount as punitive or exemplary damages, costs, interest, attorney fees or other fees.
- G. An award, or a judgment confirming an award, shall not be conclusive on any party in any action or proceeding between:
 1. The “insured”, the “insured’s” insurer, the “insured’s” legal representatives, or “insured’s” heirs; and
 2. The uninsured or underinsured motorist;

to recover damages arising out of the accident upon which the award is based.
- H. Any arbitration related to “bodily injury” instituted pursuant to this Arbitration clause shall be concluded either:
 1. Within five years from the institution of the arbitration proceeding; or

2. If the "insured" has a workers' compensation claim arising from the same accident, within three years of the date that claim is concluded or within the five-year period set forth directly above (whichever occurs later).
- I. Any arbitration related to "property damage", must be formally instituted by the "insured" within one year from the date of the accident.

All other policy provisions apply.