

PLEASE READ THIS ENDORSEMENT CAREFULLY AS IT CHANGES YOUR POLICY

## **UNDERINSURED MOTORISTS BODILY INJURY COVERAGE – MISSOURI**

### **IMPORTANT NOTICES ABOUT MISSOURI UNDERINSURED MOTORISTS BODILY INJURY COVERAGE**

- A. **UNDERINSURED MOTORISTS BODILY INJURY COVERAGE IS A LIMITS-COMPARED-TO-LIMITS GAP TYPE COVERAGE.** THIS MEANS **UNDERINSURED MOTORISTS BODILY INJURY COVERAGE** IS A COVERAGE MEANT TO PROVIDE PROTECTION TO AN “INSURED” TO RECOVER THE SAME PAYMENT FOR “BODILY INJURY” DAMAGES THAT PERSON WOULD HAVE BEEN ABLE TO RECOVER UNDER LAW IF THE AT-FAULT OWNER OR OPERATOR OF THE “UNDERINSURED MOTOR VEHICLE” HAD, AT THE TIME OF THE ACCIDENT, LIABILITY INSURANCE LIMITS FOR “BODILY INJURY” IN THE SAME LIMITS AS THE “INSURED’S” **UNDERINSURED MOTORISTS BODILY INJURY COVERAGE** LIMITS.
- B. **THE LIMIT OF THIS UNDERINSURED MOTORISTS BODILY INJURY COVERAGE SHOWN IN THE DECLARATIONS IS FOR REFERENCE ONLY,** AND THAT LIMIT SHALL BE REDUCED BY AMOUNTS PAID BY OR ON BEHALF OF ALL PERSONS AND PARTIES THAT MAY BE LEGALLY RESPONSIBLE, AND REDUCED BY AMOUNTS PAID OR PAYABLE FROM OTHER SOURCES. **THIS MAY RESULT IN NO UNDERINSURED MOTORISTS BODILY INJURY COVERAGE PAYMENT AT ALL** AS THERE IS NO GAP IN COVERAGE TO COVER. **WE HAVE NO DUTY TO PAY THE ENTIRE UNDERINSURED MOTORISTS BODILY INJURY COVERAGE LIMIT SHOWN IN THE DECLARATIONS,** as per the terms of this endorsement.
- C. **UNDERINSURED MOTORISTS BODILY INJURY COVERAGE** UNDER THIS POLICY IS NOT INTENDED TO COVER ALL OF AN INSURED’S DAMAGES, AND THIS **UNDERINSURED MOTORISTS BODILY INJURY COVERAGE** IS NOT IN EXCESS TO LIABILITY COVERAGE.
- D. **THERE IS NO ADDING, STACKING, OR COMBINING OF ANY COVERAGE IN ANY MANNER WHATSOEVER.**
- E. WHEN AN INSURED IS NOT IN “YOUR COVERED AUTO”, THIS COVERAGE DOES NOT APPLY UNTIL ALL LIABILITY INSURANCE AND ALL OTHER INSURANCE HAS BEEN PAID, and subject to all reductions and terms of this endorsement.

**Read ALL terms of your Underinsured Motorists Bodily Injury Coverage below describing when coverage applies, what is and is not covered, and what amount of coverage (if any) applies after all reductions and limitations.**

### **INSURING AGREEMENT**

- A. If the premium for **Underinsured 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 “underinsured motor vehicle” for “bodily injury” sustained by an “insured” and caused by an auto accident, and subject to all other policy terms, definitions, conditions, exclusions, duties, and limitations, which reduce coverage to less than the limit shown in the Declarations, for coverage to apply.

The owner’s or operator’s liability for these damages must:

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

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

- B. “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” or using “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. A "family member"; or
3. Any other person;

while "occupying", operating, or otherwise using any vehicle owned by, furnished, or available for the regular use of you or a "family member", if that vehicle is not "your covered auto".

- C. "Minimum limits", as used in this endorsement, means the minimum amounts of liability insurance required under a financial responsibility or compulsory insurance law of the state where "your covered auto" is registered, as shown in our records, that apply to the owner or operator of a private passenger automobile. The minimum limits amount will be the each person/each accident limit required by these laws.
- D. "Underinsured motor vehicle" means a land motor vehicle for which one or more "bodily injury" liability bonds or policies apply at the time of the accident, but all limits available under those bonds and policies for "bodily injury" liability coverage are less than the amount set forth for the **Underinsured Motorists Bodily Injury Coverage** limit for this policy as shown in the Declarations.

There will be NO adding, stacking, or combining of any **Underinsured Motorists Bodily Injury Coverage** from any source in any way to determine or attempt to increase the limit of **Underinsured Motorists Bodily Injury Coverage** for this policy.

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

1. Located for use as a residence or premises;
2. Designed 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. Shown in the Declarations or insured under the liability coverage of this policy;
6. Owned by, furnished, or available for the regular use of you or a "family member";
7. For which the sum of the limits of liability under all "bodily injury" bonds or policies that apply at the time of the accident is equal to or greater than the amount set forth for the **Underinsured Motorists Bodily Injury Coverage** limit for this policy as shown in the Declarations; or
8. That is an uninsured motor vehicle, meaning a land motor vehicle that is:
  - a. Not insured or bonded for "bodily injury" liability at the time of the accident;
  - b. Insured or bonded for "bodily injury" liability at the time of the accident, but either the bonding or insuring company denies coverage or is/becomes insolvent, if that insolvency is within 2 years after the date of the accident, or the limit of liability for "bodily injury" under that policy or bond is less than the "minimum limits" except when the liability insurer or bonding company offers or pays an amount equal to "minimum limits"; or
  - c. A motor vehicle for which the owner or operator cannot be identified, and that motor vehicle causes "bodily injury" to an "insured".

#### **ADDITIONAL TERMS AND DUTIES**

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

- A. If the owner or operator of an "underinsured motor vehicle" has liability insurance, self-insurance, or bond, we will not make a payment under **Underinsured Motorists Bodily Injury 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 "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. The limits of liability under those other applicable liability policies or bonds have been exhausted by payment of judgments or settlements. This exhaustion provision does NOT create **Underinsured Motorists Bodily Injury Coverage** if no such **Underinsured Motorists Bodily Injury Coverage** is triggered or afforded per the terms, definitions, conditions, exclusions, duties, and limitations for coverage to apply.

B. 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 “underinsured motor vehicle”.

C. In the event of an accident, you, or someone on your behalf, must contact:

- 1. The police, or other law enforcement with proper jurisdiction, within 24 hours, or as soon as reasonably possible, and file a written report with the proper authorities as soon as practicable after that accident; and
- 2. Us within 30 days of, or as soon as practicable, after that accident. However, no claim will be denied based upon your failure to provide notice within such specified time, unless this failure operates to prejudice our rights, as per Missouri regulation 20 CSR 100-1.020.

## EXCLUSIONS

A. **Underinsured Motorists Bodily Injury Coverage** does NOT cover “bodily injury” to an “insured” or any person:

- 1. If the claim is settled without our written consent and our rights are prejudiced.
- 2. That occurs while “occupying” or using a vehicle without permission from the owner of the vehicle. This does not apply to you or a “family member” when “occupying” or using “your covered auto”.
- 3. That occurs while “your covered auto” is being used to carry persons or property for a fee. This exclusion does not apply to shared expense carpools.
- 4. That occurs while “occupying”, operating, or otherwise using any vehicle owned by, furnished, or available for the regular use of you or a “family member”, if that vehicle is not “your covered auto”.
- 5. Who is involved in any prearranged, organized, or spontaneous race, or who is involved in:
  - a. Preparation for a race of this type, but only while in any pit area, on the track or racecourse, or its entrance or exit lanes; or
  - b. Practicing or qualifying for a race of this type.

A race includes any contest for speed or endurance, whether against another competitor or against a time measuring device.

- 6. Using “your covered auto” at a:
  - a. Racing facility; or
  - b. Facility or roadway temporarily designated for speed, time, racing, or performance driving events. This includes, but is not limited to, the use of “your covered auto” at a performance or racing driving school, a rally in excess of the legal speed limit, or a closed road rally.

However, Exclusions 5.a. and 6. do not apply while “your covered auto” is:

- a. In a race facility’s “paddock” area or a specified show display area;
- b. Being trailered from one location to another;
- c. Used by you to attend a racing event as a spectator;
- d. Being operated for purposes of display in any pre- or post-race parade laps; or

- e. Involved in an organized event on public roads while operated within legal speed.
- 7. Using "your covered auto" to prepare, practice, qualify for, or participate in any of the following activities, regardless of where they take place:
  - a. Forced hydraulic bouncing competitions or exhibitions;
  - b. Pulling against another vehicle, or pulling of a weighted object during competitions or exhibitions, but not including trailer pulling;
  - c. Stereo thumping competitions or exhibitions; or
  - d. Any other similar competitive or exhibition activity that a reasonable person could foresee may cause injury or damage.

However, this Exclusion 7. does not apply while "your covered auto" is:

- a. In a facility or a specified show display area and is not involved in any competitive or exhibition activity described in this exclusion;
- b. Being trailered from one location to another; or
- c. Used by you to attend an event as a spectator.

**B. Underinsured Motorists Bodily Injury 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. Government body or agency.

**C. 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 limit of liability, which is the most we will pay, is the limit shown in the Declarations, though that limit is for reference as a purchase limit only and we have no duty to pay that full limit. That limit is subject to all other policy terms, definitions, conditions, exclusions, duties, and limitations, which reduce coverage to less than the limit shown in the Declarations, for coverage to apply as well as all the following terms:

**A. Subject to all reductions and terms as set forth in all paragraphs of this **Limit of Liability** provision, if a split limit of liability is shown in the Declarations for Underinsured Motorists Bodily Injury Coverage for each person and each accident, this is the most we will pay for all covered damages.**

- 1. This limit shall apply to all claims due to "bodily injury" to:
  - a. Any one person in any one accident; and
  - b. Two or more persons in any one accident, subject to the "bodily injury" limit for each person as described in a. above.

This each person limit includes 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".

**B. If a single limit of liability is shown in the Declarations for **Underinsured Motorists Bodily Injury Coverage**, this is the most we will pay for the total of all covered damages for "bodily injury" resulting from any one accident, and subject to all reductions and terms as set forth in all paragraphs of this **Limit of Liability****

provision. 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.

- C. 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
  5. Policies issued by us.

THERE IS NO ADDING, STACKING, OR COMBINING OF ANY COVERAGE FOR ANY "INSURED" IN ANY MANNER WHATSOEVER. Further:

1. If two or more of "your covered autos" are shown in the Declarations with **Underinsured Motorists Bodily Injury Coverage**, only the **Underinsured Motorists Bodily Injury Coverage** limit shown in the Declarations for "your covered auto" that is actually involved in the accident will apply, subject to all reductions and terms as set forth in all paragraphs of this **Limit of Liability** provision; or
  2. If a covered accident under this **Underinsured Motorists Bodily Injury Coverage** does not involve "your covered auto", only the highest coverage limit shown in the Declarations for **Underinsured Motorists Bodily Injury Coverage** for any one of "your covered autos" will apply, subject to all reductions and terms as set forth in all paragraphs of this **Limit of Liability** provision.
- D. Our limit of liability for **Underinsured Motorists Bodily Injury Coverage** that is shown in the Declarations, and which is only referenced as a purchase limit and we have no duty to pay that full limit, shall be reduced by any amount":
1. Paid or payable because of "bodily injury" 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** of this policy;
  2. Paid under **PART B** of this policy; and
  3. Paid or payable because of "bodily injury" under any workers' compensation law, disability benefits law, or similar laws, exclusive of any state non-occupational disability benefits law.
- We have no duty to pay any "insured" entitled to **Underinsured Motorists Bodily Injury Coverage** under this policy the entire limit of liability shown in the Declarations for this **Underinsured Motorists Bodily Injury Coverage**. However, any reductions described above shall not reduce the available amount to less than "minimum limits".
- E. 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

- A. This **Other Insurance** provision does NOT in any way create, add, expand, or imply any:
1. Coverage that does not already exist under this policy or this coverage based on all the policy terms, definitions, conditions, exclusions, duties, and limitations for coverage to apply.
  2. Right to add, stack, or combine coverage for any person, party, or "insured". Notwithstanding anything that might be interpreted to the contrary under this **Underinsured Motorists Bodily Injury Coverage's Other Insurance** provision or any other part of the policy, THERE IS NO ADDING, STACKING, OR COMBINING OF ANY COVERAGE IN ANY MANNER WHATSOEVER.
- B. If there is other underinsured motorists coverage, or similar type of underinsured motorists insurance or source of recovery, that applies or is available under one or more policies:
1. Subject to paragraph B.2. below in this **Other Insurance** provision, except when the "insured" is "occupying" "your covered auto", the coverage under this policy, if applicable, shall be excess to all other underinsured motorists insurance, whether that underinsured motorists insurance is considered primary, secondary, or excess. If there is other underinsured motorists 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 **Underinsured Motorists Bodily Injury Coverage** bears to the total of all applicable limits with the same priority as this coverage.

2. Notwithstanding paragraph B.1. above in this **Other Insurance** provision, 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 similar 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 and any "family members". However, this insurance shall be primary to such other insurance for any "insured" while "occupying" or using "your covered auto".

All other policy provisions apply.