

PLEASE READ THIS ENDORSEMENT CAREFULLY AS IT CHANGES YOUR POLICY

UNINSURED/UNDERINSURED MOTORISTS COVERAGE – ALASKA

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

INSURING AGREEMENT

A. Uninsured/Underinsured Motorists Bodily Injury Coverage

If the premium for this Uninsured/Underinsured Motorists Bodily Injury Coverage has been paid and Uninsured/Underinsured Motorists Bodily Injury Coverage is shown in your Declarations or Schedule, 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.

The 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”.

B. Uninsured/Underinsured Motorists Property Damage Coverage

If the premium for this Uninsured/Underinsured Motorists Property Damage Coverage has been paid and Uninsured/Underinsured Motorists Property Damage Coverage is shown in your Declarations or Schedule, we will pay for “property damage” that you are legally entitled to recover from the owner or operator of an “uninsured motor vehicle” or “underinsured motor vehicle” for that “property damage” caused by a motor vehicle accident.

The 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”.

C. Any payment by us for coverage under this **PART C** 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.

D. “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 and including when either you or a “family member” are injured as a pedestrian or bicyclist.
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. 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”.

E. “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 and/or and property damage limit required by these laws.

If “your covered auto” is shown in our records as garaged in Alaska and we have issued you Alaska policy forms, then “minimum limits” as used in this **PART C** is the amount that is the per person/per accident limit and/or property damage limit required by the financial responsibility and compulsory insurance laws of the State of Alaska, as amended, that apply to a private passenger automobile.

- F. “Property damage”, as used in this endorsement, means physical harm to or destruction of “your covered auto” for which Uninsured/Underinsured Motorists Property Damage Coverage has been purchased on this policy.

“Property damage” does not include any:

1. Amount for loss of use; or
2. Damage to any other property.

- G. “Underinsured motor vehicle” means a land motor vehicle for which one or more liability bonds or policies apply at the time of the accident, but all limits available under those bonds and policies for liability coverage are less than the amount the “insured” is legally entitled to recover for “bodily injury” and/or “property damage” from the owner or operator of that motor vehicle.

An “underinsured motor vehicle” does NOT include any conveyance, device or vehicle (or equipment attached):

1. Owned by any government or any of its subdivisions or agencies;
2. Shown in the Declarations or Schedule, or insured under the liability coverage, of this policy;
3. Owned by, or furnished or available for the regular use of you or a “family member”; or
4. That is an “uninsured motor vehicle”.

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

1. Not insured or bonded for liability at the time of the accident;
2. Insured or bonded for liability at the time of the accident, but the bonding or insuring company denies coverage or is, or becomes, insolvent; or
3. 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”, or “property damage”, by actually physically striking or hitting that “insured” or “your covered auto”.

An “uninsured motor vehicle” does NOT include any conveyance, device or vehicle (or equipment attached):

1. Owned by any government or any of its subdivisions or agencies;
2. Shown in the Declarations or Schedule, or insured under the liability coverage, of this policy;
3. Owned by, or furnished or available for the regular use of you or a “family member”;
4. Owned or operated by a self-insurer under any motor vehicle law that applies, other than a self-insurer that is or becomes insolvent; or
5. That is an “underinsured motor vehicle”.

ADDITIONAL TERMS & DUTIES

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

- A. 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 **PART C** 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. The limits of liability under those other applicable liability policies or bonds have been exhausted by payment of judgments or settlements.
- 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 “uninsured motor vehicle” or “underinsured motor vehicle”.
- C. In the event of an accident involving a hit-and-run or unidentified vehicle, you (or someone on your behalf) must contact:
 - 1. The police (or other law enforcement with proper jurisdiction) within 24 hours of, or as soon as practicable after, that accident, and file a written report; and
 - 2. Us within 30 days of, or as soon as practicable after, that accident.
- D. If this **PART C** applies to cover damages that arise from an accident, we also will pay to an “insured” for the following items that are owed by, but are otherwise unrecoverable from, the owner or operator of the “uninsured motor vehicle” or “underinsured motor vehicle”, but only if such similar payments are also a part of the **PART A** of this policy:
 - 1. Court costs, including “limited attorney’s fees” if such costs and/or fees would be awarded or assessed against the owner or operator of the “uninsured motor vehicle” or “underinsured motor vehicle” in any suit in Alaska. “Limited attorney’s fees” are that portion of the attorney’s fees awarded or assessed under Alaska Rule of Civil Procedure 82, as amended, and computed using the limit of liability shown on the Declarations. As related to these “limited attorney’s fees”, any payment by us for such fees is further limited as allowed by law and set forth in more detail on the “Limited Attorney Fees Coverage Notice A”, separately provided.
 - 2. Interest on all compensatory damages owed by the owner or operator of the “uninsured motor vehicle” or “underinsured motor vehicle” as the result of a judgment in any suit in Alaska. This includes prejudgment interest on the amount of the judgment that is less than or equal to “minimum limits”, but our payment of prejudgment interest is not in addition to the policy limits shown on the Declarations for **Uninsured/Underinsured Motorists Bodily Injury** and/or **Uninsured/Underinsured Motorists Property Damage** unless those policy limits are “minimum limits”. Prejudgment interest costs will not reduce coverage available for compensatory damages below the minimum required limits. We have no duty to make any interest payment if we have not been given notice of suit.

Any such payments by us as set forth in paragraphs D.1 and/or D.2 above are separate from the **PART C** limit of liability that applies to that covered accident, but only to the extent required by Alaska law and/or as described directly above.

EXCLUSIONS

- A. **PART C** does NOT cover “bodily injury” to an “insured” or any person, and does NOT cover “property damage”:
 - 1. If the claim is settled without our written consent and our rights are prejudiced.
 - 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 “your covered auto” is being used as a public or livery conveyance or for any delivery of persons or property for compensation or a fee. This exclusion (A.3.) does not apply to shared expense carpools.
 - 4. That occurs while “occupying”, operating or otherwise using any conveyance, device or vehicle owned by, or furnished or available for the regular use of, you, a “family member”, if that conveyance, device or vehicle is not insured for this coverage by you or a “family member”.

This exclusion (A.4.) does not apply when you or a “family member” are injured as a bicyclist.

- B. **PART C** 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;
 3. Government body or agency; or
 4. Insurer or self-insurer of property.
- 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.
- D. There is no coverage under **PART C** for or related to any:
1. Deductible amount for or related to any "property damage", or other unpaid portions of loss or damage related to "property damage", for which you or any "insured" are responsible for under this or any other policy or source of recovery.
 2. Loss of use of damaged or destroyed property.

LIMIT OF LIABILITY

Our limit of liability is the limit shown in the Declarations or Schedule. That limit is subject to the following terms:

- A. This is the most we will pay for all covered damages is:
1. If a split limit of liability is shown in the Declarations for **Uninsured/Underinsured Motorists Bodily Injury** for each person/each accident, 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.

The 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".
 2. The separate limit of liability shown in the Declarations or Schedule for **Uninsured/Underinsured Motorists Property Damage** shall apply to all claims for "property damage" related to, or arising out of, or sustained in any one accident.
 3. If a single limit of liability is shown in the Declarations or Schedule for **Uninsured/Underinsured Motorists Coverage**, that amount shown is the most we will pay for the total of all covered damages resulting from any one accident for "bodily injury" and/or "property damage". 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. "Property damage" is subject to the following:
 - a. We shall not pay more than the lowest of the:
 - 1) The limit shown in the Declarations for **Uninsured/Underinsured Motorists Property Damage**;
 - 2) Cost of repair or replacement; or
 - 3) "Guaranteed Value[®]" of the damaged property as shown in the Declarations at the time of the

accident, if the damaged property is “your covered auto”.

b. Our payment will not include, and you are responsible for, the amount of:

- 1) Any deductible that applies as shown in the Declarations or Schedule, or the statutory deductible which is the first \$250 of the amount of “property damage” in any one accident.
- 2) The salvage value if you or the owner retains salvage.

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 in the same household. In this case, the maximum amount payable may be limited to the highest limit of any one coverage under the policies.

C. The total damages an “insured” is legally entitled to recover because of the accident with an “uninsured motor vehicle” or “underinsured motor vehicle” shall be reduced by any amount paid or to be paid because of “bodily injury” and/or “property damage”:

1. 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; and
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; and
4. Paid under **PART D**; and
5. From any other source of recovery, including this or any other insurance policy, and paid in the order of priority described in the **Other Insurance** provision.

D. 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

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 providing motor vehicle liability coverage:

Except when the “insured” is either:

1. “Occupying” “your covered auto”; or
2. Injured and covered as a pedestrian or bicyclist;

Any applicable coverage under this policy shall be paid in the following order of priority and subject to the limit of liability of each applicable policy or coverage, as directed in A.S. § 28.22.221:

1. A policy or coverage covering a motor vehicle occupied by the injured person or a policy or coverage covering a pedestrian as a named insured;
2. A policy or coverage covering a motor vehicle occupied by the injured person as an insured other than as a named insured;
3. A policy or coverage not covering a motor vehicle occupied by the injured person but covering the injured person as a named insured;
4. A policy or coverage not covering a motor vehicle occupied by the injured person but covering the injured person as an insured other than as a named insured;

5. A policy or coverage covering, as excess, umbrella, or similar insurance, a motor vehicle occupied by the injured person or a policy or coverage covering, as excess, umbrella, or similar insurance, a pedestrian as a named insured;
6. A policy or coverage covering, as excess, umbrella, or similar insurance, a motor vehicle occupied by the injured person or a policy or coverage covering, as excess, umbrella, or similar insurance, a pedestrian as an insured other than as a named insured;
7. A policy or coverage not covering a motor vehicle occupied by the injured person but covering, as excess, umbrella, or similar insurance, the injured person as a named insured;
8. A policy or coverage not covering a motor vehicle occupied by the injured person but covering, as excess, umbrella, or similar insurance, the injured person as an insured other than as a named insured.

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 this **PART C** bears to the total of all applicable limits with the same priority as this coverage.

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 or any "family members". However, this insurance shall be primary to such other insurance for any "insured" while "occupying" or using "your covered auto".

ARBITRATION

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

Arbitration may be used, if mutually agreed to by both parties, if we and an "insured" do not agree as to:

- A. Whether or not that "insured" is legally entitled to recover damages; or
- B. The amount of damages that "insured" is legally entitled to recover; though, any dispute as to the amount of "property damage" must be resolved by appraisal if and as required by Alaska law, as amended, and as set forth further below in the **Appraisal** provision;

from the owner or operator of an "uninsured motor vehicle" or "underinsured motor vehicle". Any such arbitration is limited to resolving only either one or both of those issues.

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

- A. Each party will select an impartial and qualified arbitrator. Those two arbitrators will select a third impartial and qualified arbitrator. If the first two arbitrators cannot agree within 30 days, either may request that selection of the third arbitrator be made by a court with proper jurisdiction.
- B. Arbitration will take place in the judicial district 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. Participation in the arbitration proceedings may be done by telephone.
- D. A decision agreed to by two of the arbitrators will be binding as to:
 1. Whether or not that "insured" is legally entitled to recover damages;
 2. The amount of damages that "insured" is legally entitled to recover; and
 3. Who is responsible for payment of all expenses and fees, not including counsel fees or adjuster fees, incurred because of arbitration.

Each party will pay the counsel fees and/or adjuster fees it incurs.

- E. The arbitrators 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; the residency status of a claimant, or the qualification of a person as an "insured"; any 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 except for those incurred because of arbitration and that the arbitrators are authorized to award pursuant to Alaska law, as amended.

If there is no mutual agreement to arbitrate, all issues shall be resolved in a court of proper and competent jurisdiction.

APPRAISAL

If and as required by Alaska law we and the "insured" do not agree on the amount of the covered "property damage" loss, either party may request in writing an appraisal of the amount of that "property damage".

The following terms govern the appraisal process:

- A. In the event of a request for such an appraisal and within 10 days of that written demand, each party must notify the other that a competent and impartial appraiser has been chosen. The two appraisers will promptly select a competent and impartial umpire. Not later than 15 days after the umpire has been chosen, unless the time period is extended by the umpire, the appraisers will state separately, in writing, the actual cash value and the amount of "property damage". If the appraisers submit a written report of agreement on the amount of the actual cash value and/or the "property damage", the agreed amount will be binding. If the appraisers fail to agree, they will submit their differences to the umpire. A decision agreed to by one of the appraisers and the umpire will be binding.
- B. The appraisers and umpire have authority only to decide the amount of the actual cash value of the "property damage". They have no authority to:
 1. Decide any coverage or policy issues under the Policy; or
 2. Award any interest.
- C. Each party will pay its chosen appraiser. All expenses and fees, not including counsel or adjuster fees, incurred because of the appraisal shall be paid as determined by the umpire. The cost of counsel fees and/or adjuster fees shall be paid by the party who hired them.
- D. Neither our rights nor the "insured's" rights under this policy may be waived by agreeing to an appraisal.

All other policy provisions apply.