PLEASE READ THIS ENDORSEMENT CAREFULLY AS IT CHANGES YOUR POLICY

UNINSURED MOTORISTS COVERAGE - COLORADO

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

INSURING AGREEMENT

A. Uninsured Motorists Bodily Injury Coverage

If the premium for this 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.

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".

Any payment by us for this Uninsured Motorists Bodily Injury 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.

B. Uninsured Motorists Property Damage Coverage

If the premium for this 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" (but not an "underinsured motor vehicle") for "property damage" 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".

Any payment by us for this Uninsured Motorists Property Damage Coverage is subject to the **Limit of Liability** provision of this endorsement.

C. "Diminution of value" means the difference in "market value" of the covered property just prior to loss and just after loss, whether or not the covered property is repaired. "Market value" means the price which the property might be expected to realize if offered for sale by a willing seller to a willing buyer in a fair market on the date of loss or damage.

D. "Insured" as used in this endorsement means:

1. You or a "family member" while using or "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 any vehicle owned by, 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”.

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 required by these laws.

F. “Property damage” means, when caused by actual direct physical contact with the “uninsured motor vehicle”, physical injury to or destruction of “your covered auto” for which Uninsured Motorists Property Damage Coverage has been purchased.

“Property damage” does not include any:

1. Injury to or destruction of any other property;
2. Loss of use; or
3. “Diminution of value”.

G. “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:

1. Is not enough to pay the full amount the “insured” is legally entitled to recover for compensatory damages for “bodily injury”; or
2. Has been reduced by payments to other persons injured in the accident to an amount which is not enough to pay the full amount the “insured” is legally entitled to recover for compensatory damages for “bodily injury”.

This definition only applies for purposes of “bodily injury”, and does not apply to, and no coverage is provided for, any “property damage” caused by an “underinsured motor vehicle”.

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. Shown in the Declarations or Schedule, or insured under the liability coverage, of this policy; or
5. Owned by, or furnished or available for the regular use of, you, any “family member” or any other person related to you who resides with you.

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;
3. For “bodily injury” only:
   a. Insured or bonded for liability at the time of the accident, but the vehicle is an “underinsured motor vehicle”;

b. A motor vehicle that causes an accident resulting in "bodily injury" to an "insured", for which the owner or driver cannot be identified; or

c. Owned or operated at the time of the accident by a person who cannot be located after a reasonable attempt for service of process and either:

(1) Service of process on the insurer, as authorized by Colorado Revised Statute § 42-7-414(3), as amended, is found by a court to be insufficient or ineffective after reasonable effort has failed; or

(2) The report of a law enforcement agency investigating the accident fails to disclose the insurer covering the motor vehicle, and the insurance coverage of such owner or operator when the accident occurred is not actually known by the person trying to serve process.

This clause H.3. only applies with respect to "bodily injury" and does not apply to "property damage"; or

4. For "property damage" only, a hit-and-run motor vehicle that hits, with actual physical contact, "your covered auto" to which this coverage applies, for which Uninsured Motorist Property Damage Coverage has been purchased on this Policy.

An "uninsured 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. Shown in the Declarations or Schedule, or insured under the liability coverage, of this policy;
5. Owned by, or furnished or available for the regular use of, you, any "family member" or any other person related to you who resides with you; or
6. Owned or operated by a self-insurer under any motor vehicle law that applies, other than a self-insurer that is or becomes insolvent.

However, notwithstanding the list of vehicles described above as excluded from the definition of "uninsured motor vehicle", "your covered auto" (if insured for purposes of uninsured or underinsured motorists coverage under this policy) may be deemed an "uninsured motor vehicle" if it was stolen and being used by a person who is a thief of such auto and without any applicable liability coverage at the time of the accident.

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 **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).

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.

EXCLUSIONS

A. **Uninsured Motorists Coverage** does NOT cover **“**bodily injury” to an “insured” or any other person, or any “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 car pools.
4. If the “insured” is using or occupying a motorized vehicle when that “insured” is a converter of that vehicle without a good faith belief that he or she is legally entitled to operate or use such vehicle.

B. **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;
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 for “property damage” for any type of damages or loss:

1. Arising out of an accident where there is no actual physical contact between the property of the “insured” with the “uninsured motor vehicle”.
2. For loss of use.
3. Which is paid or payable under any other property insurance including, but not limited to, any coverage under this Policy.
4. Caused by an “underinsured motor vehicle”.

5. For any diminution of value.

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, 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 for Uninsured Motorists Coverage, that amount shown is the most we will pay for the total of all covered damages resulting from any one accident. 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.

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; or

   4. Vehicles or premiums shown in the Declarations or Schedule.

C. When necessary to avoid duplication of benefits, and subject to all other limits of liability set forth in this Policy, the total damages for “bodily injury” 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”:

   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 – LIABILITY COVERAGE** of this policy; and

   2. Under any disability benefits law, or similar laws, exclusive of any state non-occupational disability benefits law.

   However, this reduction clause shall not reduce the available amount to less than “minimum limits”.

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.

E. As to any coverage afforded as related to an accident caused by an “underinsured motor vehicle”, this coverage shall:

   1. Be in addition to and excess over any legal liability coverage for “bodily injury” that applies to the responsible tortfeasor; and

2. Cover only the difference, if any, between the amount of the limits of any such legal liability coverage for the responsible tortfeasor and the amount of the damages sustained for “bodily injury”, up to the limit of liability for Uninsured Motorists Bodily Injury Coverage shown on the Declarations or Schedule.

F. The limit of liability for Uninsured Motorists Property Damage Coverage, as described in this endorsement, is the most we will pay for all “property damage” sustained in any one accident, and we shall not pay more for the covered property damaged at the time of the accident than the lowest of the:

   1. Guaranteed Value®, as shown in the Declarations or Schedule; or

   2. cost of repair or replacement of the damaged covered property.

   Our payment will not include, and you are responsible for (when applicable), the amount of:

   1. Any deductible that applies as shown on the Declarations or Schedule. When applying the deductible, if the “property damage”:

      a. is to more than one auto covered by this Uninsured Motorists Property Damage Coverage resulting from the same accident, only the highest applicable deductible will apply.

      b. is the result of more than one accident, a separate deductible shall apply to each accident.

   2. Betterment to any property, including but not limited to any costs for labor, parts, and materials to repair prior damage, deterioration, and/or defects to the property that had not been repaired prior to the “property damage”.

   3. The salvage value if you or the owner retains salvage.

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:

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. If there is other similar “property damage” coverage available, or any other source of recovery for “property damage” under any insurance including, but not limited to, any coverage under this Policy, that is paid or payable for “property damage”, then no Uninsured Motorists Property Damage Coverage will apply for that “property damage” under this Policy.

C. 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”.

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;

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 (i.e. liability and damages).

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 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 the costs of its own experts and lawyer; and

   2. We will pay the expenses of the arbitration and the arbitrators.

E. 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; and

   2. The amount of damages that “insured” is legally entitled to recover, but only if that amount is not greater than “minimum limits”.

F. 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, 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.

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

All other policy provisions apply.