

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Dana Bass

(b) County of Residence of First Listed Plaintiff Rapides Parish, LA (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Herman Herman & Katz, 820 O'Keefe Ave., New Orleans, LA 70113 (504) 581-4892

DEFENDANTS

Imperial Fire & Casualty Ins. Co.

County of Residence of First Listed Defendant Wake County, NC (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, 1 1, 2 2, 3 3, 4 4, 5 5, 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, INTELLECTUAL PROPERTY RIGHTS, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes codes like 110 Insurance, 310 Airplane, 365 Personal Injury, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. 1332. Brief description of cause: Breach of Insurance Contract; Statutory Bad Faith Penalties

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

Feb. 24, 2022 /s/ Stephen J. Herman

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

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- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA**

DANA BASS, individually and on behalf of
others similarly situated,

Plaintiffs-Petitioners,

v.

IMPERIAL FIRE & CASUALTY
INSURANCE COMPANY,

Defendants-Respondents.

CIVIL ACTION NO.

CLASS ACTION

JURY DEMAND

PETITION FOR DAMAGES, PENALTIES, ATTORNEY FEES, AND EXPENSES

Class Action Requested

Jury Demand

The Petition of Dana Bass, an individual of full age of majority who is a resident of the Parish of Rapides and a citizen of the State of Louisiana, individually and on behalf of all others similarly situated, hereinafter referred to as Plaintiff or Ms. Bass, brings this suit as a class actual pursuant to Fed. R. Civ. P. 23(a) and (b)(3), against Defendant Imperial Fire & Casualty Insurance Company (“Defendant” or “Imperial”), respectfully representing as follows:

1. Defendant, Imperial Fire & Casualty Insurance Company, is a North Carolina corporation with its principal place of business in Raleigh, North Carolina, and may be served through its registered agent for service of process at 2626 Glenwood Ave Ate 500, Raleigh, NC 27608.

2. Defendant is liable to Plaintiff and all others similarly situated for all elements of damages allowed by Louisiana law, whether past, present, and/or future damages, in an amount that is just and reasonable in the premises.

JURISDICTION

3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332, because (a) Plaintiff is a member of the putative class, which consists of at least 100 members, and Plaintiff and Defendant are citizens of different states; (b) the amount-in-controversy exceeds \$5 million dollars; and (c) none of the exceptions under § 1332 apply to this claim.

4. At all relevant times, Plaintiff and putative class members were Louisiana policyholders and residents, and Defendant is a foreign corporation licensed to do business and transact in insurance in Louisiana.

VENUE

5. Venue is proper in this court because a substantial portion of the acts and course of conduct giving rise to the claims alleged occurred within the district and Defendant is subject to personal jurisdiction in this district. Plaintiff is a citizen of the State of Louisiana, residing and domiciled in the Parish of Rapides.

NATURE OF THE CASE

6. Defendant is an automobile insurer in Louisiana and provides, *inter alia*, coverage for first-party property damage under collision and/or comprehensive coverage. Such policies, issued to Plaintiff and all putative Class Members, are form policies that promise to pay for loss up to a limit on liability of actual cash value (“ACV”).

7. In Louisiana, when an insurer elects to adjust and settle a claim based on ACV, and the insurer elects a “cash settlement,” the settlement must be based on the “actual cost to purchase a comparable motor vehicle.” LSA-R.S. 22:1892B(5).

8. Most car accidents are “partial” losses, which is the term used where insurers (including Defendant) pay to repair the damage to a vehicle. Where repair of the vehicle is

impossible or uneconomical, however, the loss is considered a “total loss.” When Defendant determines that a vehicle is a total loss, it elects to pay the vehicle’s ACV.

9. Total loss scenarios are taxing. Not only has the insured likely suffered more than a minor accident – and thus are often dealing with potential medical injuries – but there are numerous insurance-related issues, such as payment for storage, investigation of the vehicle and claim, finding a replacement vehicle, and so forth.

10. Louisiana law, in an attempt to minimize the uncertainty surrounding total-loss situations, prescribes certain regulatory requirements that all insurers must follow when reimbursing insureds after their vehicle is determined a total loss.

11. Specifically, LSA-R.S. 22:1892B(5) governs the adjustment and claim payment for total-loss vehicles, *i.e.*, where insurers decline to repair a vehicle and choose to instead base its payment on the vehicle’s actual cash value. The statute requires insurers to use one of three methods to determine “the actual cost to purchase a comparable vehicle.” *Id.*

12. The options are: (1) A fair market value survey using qualified retail automobile dealers in the local market; (2) the “retail cost as determined from a generally recognized used motor vehicle industry source...”; or (3) an expert appraiser selected and agreed to by both the insurance company and the insured. LSA-R.S. 22:1892B(5)(a)-(c).

13. Unsurprisingly, given that Louisiana requires payment of the *actual* cost to purchase a comparable vehicle, at least two of the methods permitted – the fair market survey method and the industry source method – require use of the *retail* cost of the vehicle.

14. Vehicles sold at retail cost—*i.e.*, vehicles sold through qualified retail automobile dealers—are sold at higher price points than those sold through private listings. As explained by Kelly Blue Book: “cars sold at “dealerships must meet basic safety standards to make the unit

ready to sell such as working brakes, lights, etc. These standards are not, however, factored into private party used car prices, therefore the values for private party are usually lower than retail. Additionally, there are no standards placed on private party cars and they do not face the legal liabilities that dealers experience.” Kelly Blue Book, *The Car Buying Market Today*, <https://www.kbb.com/car-advice/what-are-kelley-blue-book-values/> (last visited Jan. 26, 2022).

15. To prevent insurers from undervaluing totalled vehicles, the Louisiana legislature specifically requires insurers to determine the actual cost to purchase a vehicle at *retail* cost. LSA-R.S. 22:1892B. This requirement prevents insurers from artificially devaluing totaled vehicles by using unreliable Craigslist postings from private sellers, or suspicious price listings from “buy-here-pay-here” type car sellers. Instead, Louisiana requires use of “qualified retail” car dealers and “recognized used motor vehicle industry sources” to determine the “retail cost” of comparable vehicles.

16. Defendant fails entirely to abide by such requirements, and, in so doing, breaches its contract with its insureds in bad faith and violates numerous Louisiana regulatory requirements.

17. Defendant purports to calculate the ACV of total-loss vehicles via a third-party vendor, Kelly Blue Book Co., Inc., through a system called Kelly Blue Book Quick Values (“KBB”). Through the KBB system, Defendant artificially, capriciously, and intentionally undervalues or devalues total-loss vehicles in order to pay less than the ACV amount required by its policy and Louisiana law.

18. Ostensibly, the KBB system identifies the list price of comparable vehicles, which it then adjusts based on factors such as differences in equipment, packages, and/or condition between the comparable vehicle and the total-loss vehicle.

19. However, in violation of Louisiana law, to determine the value of the totaled vehicle, KBB relies on surveying vehicles listed by private parties instead of using qualified retail automobile dealers in the local market and only identifies to the insured a few of the comparable vehicles identified. In so doing, Defendant fails to compensate insureds for their loss and fails to pay the minimum amount required by its policy and Louisiana law.

20. Defendant only surveys vehicles listed by private parties and does not use “qualified retail” car dealers to determine the “retail cost” of comparable vehicles

PLAINTIFF’S ACCIDENT AND VALUATION

21. At all times relevant, Plaintiff was insured under a policy of insurance issued by Defendant for a 2013 Dodge Avenger SE Sedan 4D. *See* Exh. A (Policy).

22. On or about January 8, 2021, Plaintiff’s vehicle sustained damage. After Plaintiff submitted a physical damage claim, Defendant declined to pay to repair the vehicle and elected to determine it was a total-loss.

23. Defendant, through the KBB system, purportedly determined that the vehicle had a valuation range of \$2,651.00 to \$5,103.00, based on private-party vehicle listings. *See* Exh. B (Market Valuation Report) at 1.

24. Defendant then determined the actual cash value of the vehicle to be \$3,411.00 and then subtracted the \$500.00 deductible for a total of \$2,911.00. *See* Exh. C (Settlement Summary) at 1.

25. Defendant did not include any amounts for sales tax, or any title and/or registration fees.

26. Plaintiff is a victim to Defendant’s general scheme of using an arbitrary and capricious selection of private-party vehicle listings.

DEFENDANT DOES NOT ABIDE BY LSA-R.S. 22:1892B(5)(a)

27. LSA-R.S. 22:1892B(5)(a) requires the use of a “fair market value survey conducted using *qualified retail automobile dealers* in the local market area as resources.” *Id.* (emphasis added).

28. The KBB system used by Defendant does not comply. Instead, the system utilizes vehicle data from private parties, the details of which Defendant obscures from its insureds.

29. In Plaintiff’s case, for example, Defendant utilized four “comparable” vehicles listed only from private parties and did not provide any vehicles from “qualified retail automobile dealers.”

30. Thus, Defendant does not abide by LSA-R.S. 22:1892B(5)(a) in adjusting Plaintiff’s total-loss claim.

DEFENDANT DOES NOT ABIDE BY LSA-R.S. 22:1892B(5)(b)

31. LSA-R.S. 22:1892B(5)(b) requires Defendant to determine the “retail cost as determined from a generally recognized used motor vehicle industry source; such as, an electronic database, if the valuation documents generated by the database are provided to the first-party claimant, or a guidebook that is available to the general public.”

32. Defendant does not comply with LSA-R.S. 22:1892B(5)(b) because it does not determine the “retail cost” of total-loss vehicles. While the KBB system used by Defendant may be “generally recognized used motor vehicle industry source” within the meaning of § 22:1892B(5)(b),¹ the system violates the “retail cost” requirement because it relies solely on vehicles sold by private-parties and not vehicles sold by retailers in the motor vehicle industry.

¹ Further investigation is needed to determine whether the KBB system utilized by Defendant is a “generally recognized used motor vehicle industry source.”

33. Defendant also fails to provide its insureds any valuation documents generated by the KBB system to its insureds, as required by LSA-R.S. 22:1892B(5)(b).

34. Thus, Defendant does not abide by LSA-R.S. 22:1892B(5)(b) in adjusting Plaintiff's total-loss claim

DEFENDANT DOES NOT ABIDE BY LSA-R.S. 22:1892B(5)(c)

35. LSA-R.S. 22:1892B(5)(c) requires Defendant to determine the "Actual cost to purchase" by using "[a] qualified expert appraiser selected and agreed upon by the insured and insurer. The appraiser shall produce a written nonbinding appraisal establishing the actual cash value of the vehicle's preloss condition."

36. Defendant did not use a "qualified expert appraiser" to determine the "actual cost to purchase," and Plaintiff did not agree to the use of any qualified appraiser. Accordingly, Defendant did not abide by LSA-R.S. 22:1892B(5)(c).

DEFENDANT DOES NOT PAY THE "ACTUAL COST TO PURCHASE" A VEHICLE BECAUSE IT FAILS TO PAY THE COSTS OF SALES TAX AND TAG, TITLE, AND REGISTRATION FEES

37. Pursuant to LSA-R.S. 22:1892B, when an insurer elects to settle a claim through a cash payment based on ACV, the insurer is obligated to make a "cash settlement based on the actual cost to purchase a comparable motor vehicle."

38. The "cost to purchase a comparable motor vehicle" includes sales tax and regulatory fees required to purchase a "comparable motor vehicle."

39. Throughout the class period, Louisiana levied a sales and use tax on the sale or lease of any automobile sold or leased throughout the State of Louisiana. La. R.S. §§ 47:301-37:318.

40. Throughout the class period, Louisiana prohibited the purchase, transfer, or lease of a vehicle without the transfer of title, and the payment of a minimum \$8.00 title transfer handling fee. La. R.S. § 32:412.1 (A)(3)(b):

- a. Except as provided for in Subsection E of this Section, the office of motor vehicles shall collect, in addition to any fee authorized by law, a handling charge of eight dollars for each of the following transactions:

...

(3) Vehicle titling and registration:

...

(b) Transfer of ownership.

41. Throughout the class period, Louisiana prohibited the purchase, transfer, or lease of a private passenger vehicle without proper registration, and the payment of a minimum \$3.00 license plate transfer fee. La. R.S. § 47:509 (B)(3) (“To effect such transfer and registration the owner of the vehicle shall pay a total registration transfer fee of three dollars. Such fee shall cover only the transfer of said registration.”).

42. Throughout the class period, Louisiana does not recognize the transfer or ownerships of a motor vehicle without payment of the \$68.50 title fee, La. R.S. § 32:728 (a vehicle will not be legally transferred until the new owner makes proper application for title).

43. Together, sales tax, a title fee, a title transfer handling fee, and a license plate transfer fee (“ACV Taxes and Fees”) are all included in the “cost to buy a comparable vehicle” and, thus, should be included in the cash settlement paid by an insurer after a total loss. LSA-R.S. 22:1892B.

44. Nonetheless, Defendant failed to include any amount for ACV Taxes and Fees in its cash settlements paid to insureds after a total loss during the class period.

**DEFENDANT’S CONDUCT BREACHES ITS CONTRACTS AND VIOLATES
LOUISIANA LAW**

45. Defendant is aware that the relying on private listings results in unlawfully low vehicle valuations and that, were Defendant to use a method prescribed by Louisiana law, the amounts paid to total-loss insureds would be significantly higher.

46. Because retail motor vehicle industry players and sources are aware of and accurately reflect the used vehicle market – which are then used by others in the industry, including car dealers, and relied upon by consumers – it is virtually impossible for a system designed to provide an artificially *lower* amount to indemnify insureds for their loss.

47. Defendant is aware that retail vehicle industry sources provide higher – and more accurate – vehicle values than the private-party listings employed by Defendant.

48. The arbitrary and capricious vehicle values provided by KBB is lower than “the actual cost to purchase” a vehicle of like kind and quality, and concomitantly lower than the vehicle’s fair market retail cost. Moreover, it is lower than the vehicle’s ACV, as reasonably understood under the Policy and as conformed to Louisiana law.

49. As an example, a valuation report provided by the National Automobile Dealers Association (“NADA”)--a “generally recognized used motor vehicle industry source--describes Plaintiff’s insured vehicle as having a “Clean Retail” value of \$4,845 (adjusted for mileage and options before applying tax and deductible), so that the total paid to Plaintiff using a lawful valuation method would have been higher than that provided by Defendant.

50. Defendant’s failure to properly pay the actual cash value of an insured’s loss constitutes a breach of contract. Defendant’s use of a system that intentionally devalues total-loss vehicles constitutes a breach of contract.

51. Defendant breaches its contracts with insureds by refusing to utilize a legitimate method prescribed by LSA-R.S. 22:1892B(5), thereby refusing to pay the recognized “actual cost to purchase” or market retail cost as required by Louisiana law and its own Policy.

52. Moreover, the aforementioned conduct – and breaches of contract – are the result of actions that constitute bad faith, and are capricious and arbitrary in violation of Defendant’s duties and obligations to its insureds.

53. As set forth above, Defendant violates LSA-R.S. 22:1892 because it does not use a survey of qualified retail automobile dealers in the market area or the closest nearest market area – KBB utilizes data from private parties and its algorithms are not merely illegitimate and arbitrary, but are based on incorrect data. And even if Defendant did, its system is designed not to pay the “actual cost to purchase” or market retail cost for the total-loss vehicle.

54. Defendant’s conduct set forth herein and use of the KBB system constitutes violations of La. R.S. § 22:1973A in that Defendant violates its “duty of good faith and fair dealing” by failing to “adjust claims fairly and promptly and to make a reasonable effort to settle claims” with its insureds.

55. Upon information and belief, Defendant intentionally undervalues the total-loss claims, about which it knowingly and intentionally misinforms and misleads insureds concerning the KBB system, including the selection of “comparable” vehicles and utilizations of adjustments, and otherwise violates its duty of good faith and fair dealing and Louisiana law.

56. Defendant’s conduct set forth herein and use of the KBB system constitutes violations of La. R.S. § 22: 1973B(5) in that Defendant fails “to pay the amount of any claim due any person insured by the contract within sixty days after receipt of satisfactory proof of loss” and such failure is “arbitrary, capricious, or without probable cause.”

57. Not only does Defendant employ an improper method for determining the value of the total-loss vehicle, but Defendant also underpays its insureds after a total loss by failing to include mandatory ACV Taxes and Fees in its cash ACV payments.

58. Defendant's Policy, to the extent inconsistent, is conformed to comply with Louisiana law.

CLASS ACTION ALLEGATIONS

59. Pursuant to Fed. R. Civ. P. 23(a) and (b)(3), Plaintiff seeks to certify and represent the following Class:

All Louisiana Imperial Fire & Casualty Insurance Company insureds who had a property damage claim determined to be and adjusted as a covered total-loss, where such claim(s) had a date of loss from the time period of ten years prior to the filing of this suit through the date of an Order certifying the Class.

60. Excluded from the Class are Defendant and its agents, employees, subsidiaries, parents, and related entities, as well as the Judge assigned to this case and his staff employees. Also excluded from the Class are the undersigned counsel and anyone employed in their law firms.

61. **Numerosity:** Although unable to allege a precise number of Class Members absent confirmatory discovery, upon information and belief, including investigation by the undersigned and examination of the premiums written by Defendant over the past ten years, Plaintiff believes that the number of members of the Class numbers in the thousands and perhaps tens of thousands, such that members of the Class are so numerous that joinder of all individual claims at issue is impracticable. Thus, the Class is sufficiently numerous within the meaning of Rule 23(a)(1).

62. **Commonality:** This litigation raises common questions of law and fact subject to common resolution within the meaning of Rule 23(a)(2), including:

- a. Whether Defendant's KBB valuation system is a complies with LSA-R.S. 22:1892B(5)(a);
- b. Whether Defendant's KBB valuation system is a complies with LSA-R.S. 22:1892B(5)(b);
- c. Whether Defendant's use of the KBB valuation system constitutes breach of contract and/or bad faith.
- d. Whether Defendant's uniform method of relying on private-party vehicle listings and applying arbitrary adjustments violates Defendant's covenant of good faith and fair dealing, is exercised in bad faith, and/or constitutes a breach of contract; and
- e. Whether such practice violates LSA-R.S. 22:1793 and/or LSA-R.S. 22:1892.

63. **Typicality:** Plaintiff's claims and the defenses thereto are typical of members of the Class within the meaning of Rule 23(a)(3). Defendant injured Plaintiff and members of the Class through uniform misconduct and Plaintiff's legal claims arise from the same core practices. Plaintiff suffered the same harm as all Class Members and Plaintiff's interests are identical to those of the other Class Members.

64. **Adequacy:** Plaintiff will adequately – and zealously – protect the interests of members of the Class. Plaintiff is unaware of any interest in conflict with those of the Class, and Plaintiff and the undersigned have sufficient and adequate resources to prosecute this claim. Plaintiff is sufficiently knowledgeable concerning the subject matter at issue and is committed to protecting putative class members from any unfair or harmful conduct. Moreover, Plaintiff has retained the undersigned as counsel, who, collectively, have successfully litigated hundreds of class actions, many of which in the insurance context, through settlement and litigated judgments. Included in the undersigned are Louisiana counsel who not only have significant experience in

class litigation, but are well-versed in the idiosyncrasies and particularities of Louisiana law and local rules and procedures. As such, the adequacy requirement of Rule 23(a)(4) is satisfied.

65. **Predominance:** The aforementioned common issues of law and fact predominate over any individual issues within the meaning of Rule 23(b)(3). Issues of liability are common to the class, and, as such, even if issues of damages are individualized, that would not preclude class treatment. Moreover, while the *amount* of damages will vary, the *measure* of damages will not:

- a. Either of Plaintiff's theory of damages results in a uniform measure, *i.e.*, (1) the difference between the valuation amount asserted by Defendant through the KBB system and the value determined by a source using qualified retail automobile dealers in the local market; or (2) the amount of "adjustments" designed merely to reduce the retail cost to an amount less than retail cost.

66. **Superiority:** Class treatment is superior to any other viable alternative method of adjudication within the meaning of Rule 23(b)(3), in that:

- a. Neither the size of the Class, nor any other factor, make it likely that difficulties will be encountered in the management of this Class as a class action;
- b. The prosecution of separate actions by individual Class Members, or the individual joinders of all Class Members in this action, is impracticable and would create a significant and unnecessary burden on the resources of the courts and could result in inconsistent adjudication, while a single class action can determine, with judicial economy, the rights of each member of the Class;
- c. Because of the disparity of resources available to Defendant versus those available to individual members of the Class, prosecution of separate actions would work a financial hardship;

- d. The conduct of this action as a class action conserves the resources of the parties and the court system and protects the rights of each Class Member and meets all due process requirements. A class action is also superior to the maintenance of these claims on an individual basis when all actions arise out of the same circumstances and course of conduct; and
 - e. Because the claims are relatively small compared to the cost, time, and expense of litigation, individual actions will be rendered financially impractical, if not impossible.
67. Class members can be identified and ascertained through objective criteria within Defendant's own possession.

COUNT I: BREACH OF CONTRACT
(on behalf of the Class)

68. Paragraphs 1-58 are hereby incorporated by reference.
69. This Count is brought by Plaintiff individually and on behalf of the Class.
70. Plaintiff and all members of the putative Class paid all premiums and otherwise satisfied all conditions precedent, as evidenced by, *inter alia*, the fact that Defendant determined the claims were covered claims.
71. Given the duties and obligations imposed by the terms and conditions of the form insurance contract, interpreted in light of and (if necessary) conformed to Louisiana law, Defendant's use of the KBB valuation system constituted a breach of contract.
72. Moreover, the conduct set forth herein was knowingly capricious and illegitimate, and otherwise constitutes bad faith.
73. Plaintiff and putative members of the Class were damaged by Defendant's breaches of contract in amounts that will be demonstrated according to proof.

74. Plaintiff and putative members of the Class are entitled to compensatory damages, penalties, costs, attorneys' fees, and all other relief allowable by law and/or that this Court deems just and proper.

COUNT II: VIOLATIONS OF LSA-R.S. 22:1793
(on behalf of the Plaintiff and the putative Class)

75. Paragraphs 1-58 are hereby incorporated by reference.

76. This Count is brought by Plaintiff individually and on behalf of the Class.

77. As set forth herein, Defendant knowingly and/or intentionally undervalued total-loss vehicle property damage claims. Defendant did so notwithstanding its knowledge that use of legitimate used motor vehicle sources and vehicle sellers would have resulted in an accurate and fair valuation for its insureds.

78. The conduct set forth herein violated Defendant's duties of good faith and the requirements prescribed by Louisiana law.

79. Defendant's utilization of the KBB valuation system violated LSA-R.S. 22:1892.

80. As to Plaintiff and members of the putative Class, Defendant failed to fairly and promptly adjust claims and failed to make a reasonable efforts to settle claims with its insureds, which constitutes a violation of its good faith duties.

81. Similarly, Defendant failed to pay the amount of claims due its insureds within the statutorily-prescribed time of sixty days. Moreover, such failure, as outlined herein, was "arbitrary, capricious, or without probable cause."

82. As such, Plaintiff and members of the Class are entitled to all damages, penalties, attorney fees, costs, and relief permitted by law and deemed by this Court to be just and proper.

COUNT III: PENALTIES AND EXPENSES OF LITIGATION
(on behalf of Class pursuant to La. R.S. §22:1892)

83. Paragraphs 1-58 are hereby incorporated by reference.

84. This Count is brought by Plaintiff individually and on behalf of the Class.

85. Defendant has acted in bad faith, been stubbornly litigious, and caused Plaintiff and Class Members unnecessary trouble and expense by failing to comply with the clear requirements of its policies and Louisiana law.

86. Plaintiff and Class Members are entitled to, and expressly pray for, expenses of litigation, all allowable penalties, and all attorneys' fees and costs pursuant to La. R.S. §22:1892(B)(1), including 50% of damages found or \$1,000.00.

Jury Demand

Plaintiff, individually and on behalf of the putative Class, respectfully requests a trial by jury on all issues triable by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually, and on behalf of the Class that includes all other persons similarly situated, prays that Imperial Fire & Casualty Insurance Company be duly cited and served with this Complaint, be required to appear and answer the same, and after due proceedings had, that there by judgment rendered herein in favor of Plaintiff and the Class, and against Defendant as follows:

- a) For an order certifying this action as a class action on behalf of the Class, with Plaintiff serving as representative of the Class and with the undersigned serving as Counsel for the Class;
- b) For notice to be sent to the Class in a form and manner approved by the Court and comporting with due process;

- c) For an award of compensatory damages in amounts owed pursuant to the policies of insurance and Louisiana law;
- d) For all penalties, expenses, and relief allowable by law;
- e) For all other damages according to proof;
- f) For an award of attorneys' fees and expenses pursuant to La. R.S. §22:1892(B)(1) and/or La. R.S. §22:1973 or other applicable law;
- g) For costs of suit incurred herein;
- h) For pre-judgment and post-judgment interests on any amounts awarded; and
- i) For such other general and/or equitable relief to which the Plaintiff and/or the Class may be entitled that this Court deems just and proper.

This 24th day of February, 2022.

Respectfully submitted,

/s/ Stephen J. Herman

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Attorneys for Plaintiff & Proposed Class

EXHIBIT A

Louisiana Personal Automobile Policy



PERSONAL



COMMERCIAL



MOTORCYCLE



RV



HOMEOWNERS



FLOOD



HEALTH & LIFE

10954 (05/16)

National General 
Auto, Home & Health Insurance

5630 University Parkway • PO Box 3199
Winston-Salem NC 27102-3199

Imperial Fire & Casualty Insurance Company
A Stock Company

LOUISIANA PERSONAL AUTOMOBILE POLICY

Read your Policy carefully. Provisions of this contract and its endorsements (if any) restrict coverage. Be certain **you** understand all of the coverage terms, the exclusions, and **your** rights and duties.

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AGREEMENT

This Policy is a legal contract between **you** and **us**. The Policy provisions, along with the **Declarations Page** and Application, which are incorporated into and made part of this Policy, and any endorsements issued, complete this Policy. If there is no written Application, then the statements made by **you** at the time of application become a part of this Policy. Accordingly, if this Policy is bound on the phone then the recording of that conversation would contain the insured's certification and would become a part of this Policy.

This Policy is issued and renewed in reliance upon the truth and accuracy of the information **you** provide in the written or verbal Application for this insurance. The terms of this Policy impose obligations on all persons defined as **you** and on all persons or organizations seeking coverage under this Policy. **We** agree to provide insurance, subject to the terms, conditions and limitations set forth in this Policy, if **you** have paid, when due, all of the premiums for the coverages **you** have chosen. **We** will only insure **you** for the coverages and the Limits of Liability for which a premium is shown on the **Declarations Page** of the Policy.

If the initial payment to **us** is in any non-cash method, this insurance is conditioned on that initial payment being honored by **your** financial institution.

DEFINITIONS

The following words or phrases, when printed in bold-faced type, will have the following meaning throughout the Policy, whether in the singular, plural or possessive.

- A. **"Accident"** and **"accidental"** mean a sudden, unexpected and unintended event.
- B. **"Actual cash value"** means the fair market value of the stolen or damaged property at the time of **loss**.
- C. **"Additional auto"** means an **auto** that **you** acquire in addition to the **auto(s)** shown on the **Declaration Page**, if:
 - 1. No other insurance applies to the acquired **auto**;
 - 2. Within thirty (30) calendar days after **you** become the **owner** of the **additional auto**, **you** ask **us** to add the **additional auto** to **your** Policy; and
 - 3. **We** insure all **autos owned** by **you** on the date **you** take possession of the **additional auto**.

If **you** ask **us** to insure the **additional auto** within thirty (30) calendar days after **you** acquire the **auto** and **we** agree to insure it, any coverage **we** provide for the **additional auto** is subject to the following conditions:

- 1. On the date **you** become the **owner**, an **additional auto** will have the broadest coverage **we** provide on any **auto** shown on the **Declarations Page**.

- 2. Any coverage **you** ask **us** to add to the **auto** or any increase of limits of liability shall not begin until after:
 - a. **We** agree to add the coverage or increase the limits; and
 - b. **You** pay any additional premium when due.

- D. **"Auto"** means a four-wheeled private passenger vehicle or dual rear wheel six-wheeled pick-up truck designed for operation mainly on public roads with a gross vehicle weight (as determined by the manufacturer's specifications) of 10,000 pounds or less.

An **auto** does not include:

- 1. Vans with cabs separate from the cargo area;
 - 2. Delivery van;
 - 3. Step-van;
 - 4. Cargo cutaway van; or
 - 5. Any type of all-terrain or quad vehicle, dune buggy, go-cart or golf cart.
- E. **"Bodily injury"** means bodily harm, sickness or disease, including death that results from such **bodily injury**. **Bodily injury** does not include: harm; sickness; disease or death arising out of:
 - 1. The contraction of a medically defined communicable disease by any person; nor
 - 2. The exposure of such a disease by any person to any other person.
 - F. **"Business"** means any full-time or part-time job, trade, profession, occupation, employment or commercial enterprise.
 - G. **"Carry persons or property for compensation or a fee"** means to deliver, transport or carry persons; products; goods; materials; property; animals; or livestock for any form of money; salary; income; property; consideration; or any other thing of value, whether or not:
 - 1. Going to a pick-up or returning from a drop-off;
 - 2. The money or other item of value is paid or given;
 - a. By any passenger, recipient or other party on a per-trip basis; or
 - b. In the course of, or as related to, any **business** activities of a person insured under this Policy; or
 - 3. Any of the persons; products; goods; materials; property; animals; or livestock intended to be delivered or transported are actually in the vehicle or **trailer** at the time of the **accident** or **loss**.

"Carry persons or property for compensation or a fee" includes, but is not limited to, the delivery of goods, either on a wholesale or retail basis, such as food, magazines, newspapers, or flowers.

- H. **“Covered auto”** means:
1. Any **auto** shown on **your Declarations Page**, unless **you** have asked **us** to delete that **auto** from the Policy;
 2. A **newly acquired auto**;
 3. **Your trailer**; or
 4. A **temporary substitute auto**.
- I. **“Crime”** means any act or omission that is:
1. A state or federal felony in the United States;
 2. An attempt to flee or elude law enforcement or a crime scene; or
 3. An illegal activity, trade or transportation;
- whether or not there is an arrest, charge or conviction.
- “Crime”** does not include:
1. Misdemeanor violations of the motor vehicle or traffic laws other than an attempt to:
 - a. Flee or elude law enforcement; or
 - b. Flee a crime scene;
 2. Vehicular homicide; or
 3. Driving under the influence of alcohol or any illegal substance.
- J. **“Declarations Page”** means the policy document showing **your** coverages, limits of liability, **covered autos**, premiums and other policy related information.
- K. **“Depreciation”** means a decline in value due to wear and tear or obsolescence.
- L. **“Derivative claims”** include, but are not limited to, damages for care, emotional injury or mental anguish, wrongful death, or loss of:
1. Service;
 2. Consortium;
 3. Society; or
 4. Companionship;
- resulting from the **bodily injury** of another or from witnessing the **bodily injury** of another.
- M. **“Diminution in value”** means the actual or perceived loss in market or resale value by reason of the fact that the property has been damaged.
- N. **“Family member”** means:
1. A person related to **you** by blood, marriage or adoption who **resides** in **your** household; or
 2. A ward or foster child, or stepchild who **resides** in **your** household;
- at the time of the **accident** or **loss**.
- “Family member”** includes **your** unmarried, dependent children living temporarily away from home who intend to **reside** in **your** household.
- O. **“Loss”** means sudden, direct, and **accidental** destruction or damage. **“Loss”** does not include **diminution in value**.
- P. **“Minimum limits”** means the minimum amount of liability insurance required to apply to an **auto** by the motor vehicle compulsory insurance or financial responsibility laws of the state in which **you reside**, as shown in **our** records as the garaging address for a **covered auto**.
- Q. **“Motor vehicle business”** means the **business** of:
1. Selling;
 2. Repairing;
 3. Servicing;
 4. Storing;
 5. Parking;
 6. Road testing;
 7. Delivering;
 8. Leasing or renting;
 9. Washing; or
 10. Valet parking;
- any motor vehicle.
- R. **“Named insured”** means the individual(s) designated as the named insured(s) on the **Declarations Page**.
- S. **“Newly acquired auto”** means an **additional auto** or a **replacement auto** of which **you** become the **owner** during the policy period.
- T. **“Non-owned auto”** means any private passenger **auto**, pickup, or van that is not:
1. **Owned** by;
 2. Registered to; or
 3. Furnished or available for the regular use of; **you** or a **family member**, while in the custody of, or while being operated with the **owner’s** express or implied permission by, **you** or a **family member**.
- U. **“Occupying”** means in; upon; getting into, out of, on or off. A person cannot be **occupying** more than one motor vehicle at a time.
- V. **“Own”, “owned”, “owner”, and “ownership”**, with respect to an **auto** or **trailer**, mean the person who:
1. Holds the legal title to the **auto** or **trailer**; or
 2. Has legal possession of an **auto** or **trailer** that is:
 - a. Subject to a written security agreement; or
 - b. Leased to that person by a written agreement for a continuous period of six (6) months or longer.

W. **“Personal vehicle sharing program”** means the sharing of an **auto** for commercial use or for transporting people or property for a fee including, but not limited to, use of an **auto** while being operated on behalf of a **transportation network company** such as Uber, Lyft, Sidecar, etc. Coverage under this Policy is not provided during the following time periods:

1. While available for hire during the **pre-trip acceptance period**; or;
2. The trip acceptance period when a passenger has been picked up and is being driven to his/her destination.

“Pre-trip acceptance period” as used here in means any period of time during which a participating driver is logged into a **transportation network company’s** connection method other than the trip acceptance period.

X. **“Property damage”** means physical damage to, destruction of, or loss of use of, tangible property if caused solely by an **accident** covered under this Policy.

Y. **“Punitive or exemplary damages”** means all damages that may be awarded, other than compensatory damages, to:

1. Punish or deter conduct; and/or
2. Fine, penalize or impose a statutory penalty due to conduct;

because the conduct is malicious, grossly negligent, wanton, willful, fraudulent or unlawful. This includes, but is not limited to, any damages that have been defined by law as punitive damages or exemplary damages, and any additional costs, attorney fees, other fees or interest awarded because of such damages.

Z. **“Racing”** means:

1. Participating in, competing in, practicing for or preparing for any prearranged or organized racing, speed, demolition or stunting contest or activity;
2. Participating in or competing in an unarranged or spontaneous street or off-road race or stunt;
3. Operating an **auto** on an indoor or outdoor track, course or trail designed or used for:
 - a. Racing or speed contest or adventure;
 - b. Demonstration driving;
 - c. Driver or skills training;
 - d. High performance driving; or
 - e. Driving competition.

AA. **“Regular operator”** is someone who uses a **covered auto** at least once a week or at least thirty (30) times over the last twelve (12) months prior to an **accident** or **loss**.

BB. **“Rental auto”** means an **auto**, not **owned** or leased by **you** or a **family member**, which is:

1. Rented by **you** or a **family member** from a rental agency for a period of thirty (30) days or less; or
2. Provided by a **motor vehicle business** to **you** or a **family member** for the purpose of demonstrating or test-driving the **auto** for a period of twenty-four (24) hours or less.

The **rental auto** must be used with the express or implied permission of the **owner**. If other automobile insurance coverage or financial responsibility protection is purchased by **you** for the **rental auto**, that purchased coverage shall be primary and the coverage provided by this Policy shall be excess coverage only.

CC. **“Replacement auto”** means an **auto** that **you** acquire to replace an **auto** shown on the **Declarations Page** if no other insurance applies to the acquired **auto** and **we** insure all **autos** that **you own**.

Any coverage **we** provide for a **replacement auto** is subject to the following terms:

1. On the date **you** become the **owner** of a **replacement auto**, if coverage applies under this Policy, that **replacement auto** will have the same coverage as the **auto** shown on **your Declarations Page** that is being replaced.
2. The deductible that applies to a **replacement auto** shall be the same as the **auto** it replaced.
3. All coverage **we** provide for the **replacement auto** ends thirty (30) calendar days after **you** become the **owner** if **you** do not ask **us** to insure it within those thirty (30) calendar days.
4. Any coverage **you** ask **us** to add to the **auto** or any increase of limits of liability shall not begin until after:
 - a. **We** agree to add the coverage or increase the limits; and
 - b. **You** pay any additional premium when due.

DD. **“Reside”, “resides”, and “residing”** mean to dwell within the household as the person’s primary and legal domicile. Minor dependent children whose parents are separated or divorced shall be deemed to **reside** in both parents’ households.

EE. **“Temporary substitute auto”** means a **non-owned auto** which replaces a **covered auto** and used on a temporary basis as a substitute for that **covered auto** which is out of normal use because of its:

1. Breakdown;
2. Repair;
3. Servicing;

4. **Loss**; or
5. Destruction.

Coverage for a **temporary substitute auto** shall not exceed sixty (60) days. The **temporary substitute auto** must be used with the express or implied permission of the **owner**. Insurance provided under this Policy with respect to a **temporary substitute auto** shall be primary. However, if other automobile insurance coverage or financial responsibility protection is purchased by **you** for the **temporary substitute auto**, that purchased coverage shall be primary and the coverage provided under this Policy shall be excess coverage only.

FF. **"Trailer"** means a non-motorized vehicle, including a farm wagon or farm implement, designed to be pulled on public roads by an **auto** if the **trailer** is not being used:

1. As a primary residence, office, store, **business** or for display purposes;
2. For commercial purposes; or
3. To transport passengers.

GG. **"Transportation network company"** means a person, whether natural or juridical, who provides prearranged transportation services for compensation using a connection method to connect customers with drivers using their personal vehicles.

HH. **"We"**, **"us"** and **"our"** refer to the Company shown on the **Declarations Page** as providing this insurance.

II. **"You"** and **"your"** refer to:

1. The **named insured**; and
2. If **residing** in the same household at the time of the **accident** or **loss**:
 - a. The spouse of the **named insured**; or
 - b. The domestic partner of the **named insured** if the domestic partnership is established pursuant to a domestic partnership, civil union or similar law in any state.

JJ. **"Your trailer"** means a non-motorized vehicle, including a farm wagon or farm implement, designed to be pulled on public roads by an **auto** if the **trailer** is:

1. **Owned** by **you**;
2. Being towed by a **covered auto**; and
3. Shown on the **Declarations Page**; and

is not being used:

1. As a primary residence, office, store, **business** or for display purposes;
2. For commercial purposes; or
3. To transport passengers.

DUTIES AFTER AN ACCIDENT OR LOSS - FILING A CLAIM

GENERAL DUTIES

- A. **We** do not provide coverage under this Policy unless **you** have paid the required premium when due. Failure to give notice as required may affect coverage provided under this Policy. Failure to comply with any of the duties in this Policy may result in denial of coverage and relieve **us** of all duties to investigate, settle, defend, pay any judgment or otherwise honor any claims made by an **insured** or against an **insured**.
- B. As soon as the information is available, **we** must be notified of how, when and where the **accident** or **loss** happened. Notice should include the following:
 1. All known facts and circumstances. This notice to **us** should include all known names, addresses and telephone numbers of any injured persons and witnesses.
 2. All known license plate information of vehicles involved or vehicle descriptions; and
 3. All known driver's license information of persons involved.
- C. A person, organization or entity seeking coverage must:
 1. Cooperate with **us** in the investigation, settlement or defense of any claim or lawsuit and assist **us** in:
 - a. Making settlements;
 - b. Obtaining or authorizing **us** to obtain or secure evidence;
 - c. Giving evidence;
 - d. Obtaining the attendance of witnesses at hearings and depositions; and
 - e. The conduct of lawsuits.
 2. As soon as practicable send **us** copies of any notices or legal papers received in connection with the **accident** or **loss**. **We** will not pay for attorney fees or costs incurred by any **insured** or other person without **our** prior written consent.
 3. Agree to give **us** information and consent necessary for **us** to comply with any statutes or government regulations that apply including, but not limited to, the person's social security number.
 4. Submit as often as **we** require to medical or physical exams by physicians **we** select. **We** will pay for these exams.

5. Submit to examinations under oath by **us** or **our** representative as often as **we** reasonably require. These examinations will take place at a reasonable location of **our** choice and outside the presence of any witness, person or entity making a claim due to the same **accident** or **loss**, or any other person other than **your** attorney. **We** may:
 - a. Also require an examination under oath from any **family member** who may be able to assist **us** in obtaining relevant information even if that person is not claiming benefits under this Policy; and
 - b. Make a video and/or audio recording or any other type of recording of an examination under oath.
 6. Give **us** written and recorded statements as often as **we** reasonably request.
 7. Give **us** written authorization to obtain:
 - a. Medical records and reports, including current reports, notes and test results, records of prior medical history and treatment, therapy records and counseling records;
 - b. Credit and financial records;
 - c. Photographs;
 - d. Telephone, including cellular, text messaging and all other telephonic communication records, including billing records; and
 - e. Other records **we** deem relevant in the investigation or settlement of a claim.
 8. Submit a sworn statement as proof of loss as **we** require.
 9. Not voluntarily assume any obligation to pay, make any payment or incur any expense for **bodily injury** or **property damage** arising out of an **accident**.
 10. Attend hearings and trials as **we** require.
 11. Authorize **us** to get any information on any data, maintenance or event recorder device installed in a **covered auto** as **we** deem relevant to the facts of the **accident** or **loss**.
2. Take reasonable steps after a **loss** to protect all property insured under PART D > COVERAGE FOR DAMAGE TO YOUR AUTO from further **loss**. **We** will pay reasonable expenses incurred to protect that property. Any further **loss** due to failure to protect will not be covered under this Policy.
 3. Permit **us** to inspect and appraise all **loss** covered under PART D > COVERAGE FOR DAMAGE TO YOUR AUTO before its repair or disposal.
 4. As soon as practicable report any **accident** or **loss** to the police or other local law enforcement if the person cannot identify the **owner** or operator of an at-fault vehicle involved in the **accident**.
 5. Authorize **us** to move the damaged **auto** or **your trailer** to a storage facility of **our** choice at **our** expense.

PART A > LIABILITY COVERAGE

INSURING AGREEMENT

- A. Subject to the limit of liability shown on the **Declarations Page**, if **you** pay **us** the premium for Liability Coverage, **we** will pay compensatory damages for which an **insured** is legally liable due to **bodily injury** or **property damage** caused by an **accident** that arises out of the **ownership**, maintenance or use of an **auto** covered under this PART A. **We** will not pay for **punitive or exemplary damages**.
- B. **We** will settle or defend, as **we** consider appropriate, any claim or suit asking for these damages. If **we** defend, **we** will choose the counsel of **our** choice which may include an in-house counsel. In addition to **our** limit of liability, **we** will pay all defense costs **we** incur. **Our** duty to settle or defend ends when **our** limit of liability for this coverage has been exhausted by payment of judgments or by settlement. **We** have no duty to:
 1. Defend any suit;
 2. Settle any claim; or
 3. Pay any judgment;
 for **bodily injury** or **property damage** not covered under this Policy.

ADDITIONAL DEFINITION – PART A > LIABILITY COVERAGE

“**Insured**”, as used in this PART A, means:

1. **You** and any **family member** for:
 - a. Operation or use of any **auto** with permission from its **owner**; or
 - b. The **ownership**, maintenance or use of a **covered auto**.

ADDITIONAL DUTIES FOR COVERAGE FOR DAMAGE TO YOUR AUTO

A person seeking coverage under PART D > COVERAGE FOR DAMAGE TO YOUR AUTO must, in addition to the **GENERAL DUTIES**:

1. Within twenty-four (24) hours or as soon as practicable after discovery of the **loss**, report the theft or vandalism of any **auto** or other property insured under this Policy, or its equipment or parts, to the police or other local law enforcement.

2. Any person using a **covered auto** with **your** express or implied permission.
3. For the use of a **covered auto**, any person or organization, but only with respect to legal liability for acts or omissions of a person for whom coverage is afforded under this PART A.
4. With respect to the use of an **auto**, other than a **covered auto**, by **you** or a **family member**, any person or organization to the extent of legal liability within the limit of liability imputed due to the negligence of **you** or a **family member** for whom coverage is afforded under this PART A. This provision applies only if the person or organization does not **own** or hire the **auto**.

SUPPLEMENTARY PAYMENTS

In addition to **our** limit of liability, **we** will pay on behalf of an **insured**:

1. Premiums on appeal bonds and bonds to release attachments in any suit **we** defend and **we** choose to appeal. **We** have no duty to:
 - a. Apply for or furnish any bond; or
 - b. Pay premium on any bond in an amount exceeding **our** limit of liability.
2. Interest accruing after a judgment is entered in any suit **we** defend on that portion of the judgment that is within **our** limit of liability. **Our** duty to pay interest ends when **we** offer to pay that part of the judgment which does not exceed **our** limit of liability for this coverage.
3. Prejudgment interest awarded against the **insured** on that part of the judgment **we** pay. If **we** make an offer to pay **our** limit of liability, **we** will not pay any prejudgment interest based on that period of time after that offer.
4. Reasonable loss of earnings, up to \$200 per day, that is incurred by an **insured** due to attendance at hearings, proceedings, or trials at **our** request. The **insured** must make a written request for loss of earnings and provide written proof of such loss.
5. Other reasonable expenses incurred at **our** request.

EXCLUSIONS

PLEASE READ THE EXCLUSIONS CAREFULLY. IF ANY EXCLUSION APPLIES, COVERAGE WILL NOT BE PROVIDED FOR AN ACCIDENT OR LOSS THAT OTHERWISE WOULD BE COVERED UNDER THIS POLICY.

- A. **We** do not provide Liability Coverage for, nor do **we** have a duty to defend for:
 1. **Bodily injury** or **property damage**:
 - a. Caused intentionally by, or at the direction of, an **insured**; or

- b. That is, or should be, reasonably expected to result from an intentional act of an **insured**;
 even if the actual **bodily injury** or **property damage** that results is different than that which was intended.

2. **Property damage** to property:

- a. Owned by;
- b. Rented to;
- c. Used by;
- d. Transported by; or
- e. In the care, custody or control of;
you, any **family member**, or an **insured**.

This exclusion does not apply to **property damage** to a residence or private garage rented to **you**, any **family member**, or an **insured**.

3. **Bodily injury** to an employee or fellow employee of any **insured** arising out of, and in the course of, employment. This exclusion does not apply to **bodily injury** to a domestic employee unless worker's compensation benefits, disability benefits, or similar benefits are required or available for that domestic employee.
4. Liability arising out of the **ownership**, maintenance or use of a vehicle while it is being used to **carry persons or property for compensation or a fee** or as a public or livery conveyance. This exclusion:
 - a. Applies only to damages in excess of the minimum limit mandated by the Louisiana Motor Vehicle Safety Responsibility Law; and
 - b. Does not apply to a share-the-expense car pool.
5. **Bodily injury** or **property damage** that occurs while the **insured** is employed or otherwise engaged in any **motor vehicle business**. This exclusion only applies to the extent that the limits of liability for this coverage exceed the limits of liability required by the Louisiana Motor Vehicle Safety Responsibility Law.
 However, this exclusion does not apply to the **ownership**, maintenance or use of a **covered auto** or a **rental auto** by **you** or a **family member**.
6. **Bodily injury** or **property damage** that occurs while maintaining or using any vehicle while an **insured** is employed or otherwise engaged in any **business** (other than farming or ranching). However, if a **business** or artisan use is noted on the **Declarations Page** for an **auto** shown on the **Declarations Page**, this exclusion does not

apply to the **ownership**; maintenance; or use of that **auto** by:

- a. **You**;
 - b. Any **family member**; or
 - c. Any partner, agent or employee of **you** or any **family member**.
7. **Bodily injury** or **property damage** that occurs while any person is using an **auto** without the **owner's** express or implied permission. This exclusion does not apply to **you** or a **family member** when using or **occupying** a **covered auto**.
8. Liability arising out of the **ownership**, maintenance or use of a vehicle while it is being used in a **personal vehicle sharing program**.
9. **Bodily injury** to **you**, any **family member**, or any **insured**.
10. **Bodily injury** or **property damage** for which an **insured**:
- a. Is an insured under a nuclear energy liability policy; or
 - b. Would be an insured under a nuclear energy liability policy but for its termination upon exhaustion of its limit of liability.
- For the purpose of this exclusion, a nuclear energy liability policy means a policy issued by any of the following or their successors:
- a. Nuclear Energy Liability Insurance Association;
 - b. Mutual Atomic Energy Liability Underwriters; or
 - c. Nuclear Insurance Association of Canada.
11. **Bodily injury** or **property damage** arising out of the **ownership**, maintenance, or use of any vehicle while **racing**.
12. **Bodily injury** or **property damage** for which the United States Government is held responsible under the Federal Tort Claims Act.
13. **Bodily injury** or **property damage** arising out of any liability assumed by an **insured** under any contract or agreement.
14. **Bodily injury** or **property damage** to any person that results from an **accident** or **loss** that occurs while the **insured** is committing a **crime**.
15. **Bodily injury** or **property damage** caused by or any consequence of:
- a. War, whether declared or undeclared;
 - b. Civil war;
 - c. Insurrection;

- d. Rebellion or revolution;
- e. Radioactive contamination; or
- f. Nuclear reaction or radiation, whether controlled or uncontrolled or however caused.

16. **Bodily injury** or **property damage** arising out of the **ownership**, maintenance, or use of a **covered auto** as a residence or premises.
17. **Bodily injury** or **property damage** arising out of or resulting from, in whole or in part, any actual, alleged, or threatened migration; release; existence; or presence of, or actual, alleged, or threatened exposure to, any mold, mildew, fungus or other microbes. This includes any type or form of: (i) decomposing or disintegrating organic material or microorganism; (ii) organic surface growth on moist, damp, or decaying matter; (iii) yeast or spore-bearing plant-like organism; or (iv) spores; scents; toxins; mycotoxins; bacteria; viruses; or any other by-products produced or released by any mold, mildew, fungus, or other microbes.
18. Court ordered criminal restitution.
19. **Bodily injury** or **property damage** resulting from the discharge of any firearm or weapon in connection with the **ownership**, maintenance or use of any **auto**.

B. **We** do not provide Liability Coverage for, nor do **we** have a duty to defend, any **insured** for **bodily injury** or **property damage** arising out of the **ownership**, maintenance, or use of:

1. Any vehicle which has less than four wheels or which is designed for use mainly off public roads such as any type of all-terrain or quad vehicle, dune buggy, go-cart, or golf cart. This exclusion does not apply to **your trailer**.
2. Any vehicle, other than a **covered auto**, that is:
 - a. **Owned** by **you**; or
 - b. Furnished or available for **your** regular use.
3. Any **auto**, other than a **covered auto**, that is:
 - a. **Owned** by any **family member**; or
 - b. Furnished or available for the regular use of any **family member**.

However, this exclusion B.3. does not apply to **you**.

4. A **covered auto** or **rental auto** that:
- a. Has been rented, leased, subleased, loaned or given by **you** or a **family member** to another party in exchange for money, value, goods, services, compensation or reimbursement;

- b. Has been given in exchange for compensation;
 - c. Is under a conditional sales agreement by **you** to another; or
 - d. Has been entrusted to anyone other than **you** or a **family member** for consignment; sale; promoting sale; subleasing; leasing; renting; or selling, and is no longer in **your** possession.
5. To any **auto**, farm **auto** or utility **auto** or any other type of motor vehicle, rented or leased by the **insured** where other valid and collectible insurance has been purchased by or furnished to the **insured** in connection with such rental or lease.
- C. Coverage under this PART A does not apply to charges, fees and/or administrative expenses for services performed by law enforcement and/or other municipal personnel when responding to an **accident** or **loss** involving a **covered auto**.

LIMIT OF LIABILITY

- A. The Bodily Injury limit of liability shown on the **Declarations Page** for each person is the most **we** will pay for all damages, including **derivative claims**, arising out of and due to **bodily injury** sustained by any one person in any one **accident**. For the purpose of such limit of liability, all damages, including **derivative claims**, shall constitute a single claim.
 - B. Subject to the limit of liability for each person, the Bodily Injury limit of liability shown on the **Declarations Page** for each **accident** is the most **we** will pay for all damages, including **derivative claims**, arising out of and due to **bodily injury** resulting from any one **accident**. For the purpose of such limit of liability, all damages, including **derivative claims**, shall constitute a single claim.
 - C. The Property Damage limit of liability shown on the **Declarations Page** for each **accident** is the most **we** will pay for all damages due to **property damage** sustained in any one **accident**.
 - D. If the **Declarations Page** indicates that a combined single limit applies, the limit of liability shown is the most **we** will pay for the total of all damages, including **derivative claims**, arising out of and due to **bodily injury** and/or **property damage** resulting from any one **accident**. For the purpose of such limit of liability, all damages, including **derivative claims**, shall constitute a single claim. However, without changing this total limit of liability, **we** will comply with any law that requires **us** to provide any separate limits.
- E. There will be no adding, stacking or combining of coverage. The limits of liability for Bodily Injury Liability Coverage and Property Damage Liability Coverage shown on the **Declarations Page** are the most **we** will pay as the result of any one **accident** without regard to the number of:
 - 1. **Insureds**, heirs or survivors;
 - 2. Claimants;
 - 3. Claims made;
 - 4. Lawsuits filed;
 - 5. Vehicles shown on the **Declarations Page**;
 - 6. Premiums shown on the **Declarations Page**;
 - 7. Vehicles involved in the **accident**; or
 - 8. Premiums paid.
 - F. An **auto** and attached **trailer** or a **covered auto** and **your trailer** are considered one **auto**. Therefore, the limit of liability will not be increased for an **accident** involving an **auto** with an attached **trailer** or a **covered auto** and **your trailer**.
 - G. To avoid paying in excess of actual damages sustained, any payment under PART A > LIABILITY COVERAGE will be reduced by all sums paid or payable from or on behalf of persons or organizations that may be legally liable. This includes, but is not limited to, all sums paid or payable under PART A > LIABILITY COVERAGE. However, this provision shall not reduce coverage under this PART A to an amount less than the **minimum limits**.
 - H. In order to avoid insurance benefits payments in excess of actual damages sustained, subject to the limits set out on the **Declarations Page** and other applicable provisions of this coverage, **we** will pay all covered damages not paid or payable under any worker's compensation law, disability benefits law or any similar law, auto medical expense coverage or Personal Injury Protection Coverage.
 - I. No one will be entitled to receive duplicate payments for the same elements of **loss** or damage under PART A for which payment has been made:
 - 1. Under any other coverage provided by this Policy;
 - 2. By or on behalf of the person or organization that may be legally responsible; or
 - 3. Under any other insurance or source of recovery.
 - J. If two or more policies are issued to **you** by **us** or any other member company of the National General Insurance group of companies apply to the same **accident**, only one of the policies will apply.

OUT OF STATE COVERAGE

If an **accident** to which this Policy applies occurs in any state or province other than the one in which a **covered auto** is principally garaged, **we** will interpret **your** Policy for that **accident** as follows:

If the state or province has:

1. A financial responsibility or similar law requiring a nonresident driver to maintain insurance with limits of liability for **bodily injury** or **property damage** higher than the limits shown on the **Declarations Page**, the limits of liability under this Policy that apply to that **accident** will be the higher minimum Liability Coverage limits required by the law in that state or province. However, **we** will not provide any Liability Coverage for an **accident** if the **Declarations Page** does not show **you** have purchased that Liability Coverage unless that state or province has a financial responsibility or similar law that requires **us** to do so; or
2. A compulsory insurance or similar law requiring a nonresident to maintain insurance whenever the nonresident uses an **auto** in that state or province, this Policy will provide the greater of:
 - a. The minimum limits and types of coverage; or
 - b. The applicable limits of liability provided for that **insured** under this Policy.
3. However, this Policy will not provide No-Fault coverage regardless of the state, territory or possession of the United States of America or province or territory of Canada, in which an **accident** may occur.

FINANCIAL RESPONSIBILITY REQUIRED

When this Policy is certified as proof of financial responsibility, this Policy will comply with the law of the state in which the Policy is written to the extent required. If **we** make a payment for an **accident** which is not covered under the terms of this Policy but which **we** paid solely to comply with the terms of a financial responsibility certification, **you** must reimburse **us** to the extent of such payment.

OTHER INSURANCE

- A. If there is other applicable liability insurance, self-insurance or bond, **we** will pay only **our** share of the damages. **Our** share is the proportion that **our** limits of liability bear to the total of all applicable limits with the same priority. However, any insurance **we** provide for an **auto you** do not **own** shall be excess over any other collectible insurance, self-insurance or bond. If the vehicle is a **temporary substitute auto** or a **rental auto**, this coverage shall be primary unless the **insured** has purchased other automobile insurance coverage for those vehicles.

- B. If the other insurer refuses to defend, **we**:
 1. Will continue to defend where required by law;
 2. Shall be subrogated to the **insured's** rights against the other insurer;
 3. Reserve **our** rights against such insurer; and
 4. Do not waive any of **our** rights against the other insurer by continuing to defend.

PART B > MEDICAL PAYMENTS COVERAGE

INSURING AGREEMENT

- A. Subject to the limit of liability shown on the **Declarations Page**, if **you** pay **us** the premium for Medical Payments Coverage, **we** will pay **medical expenses** and funeral service expenses arising out of **bodily injury**:

1. Caused by an **accident**;
2. Sustained by an **insured**; and
3. Arising out of the **ownership**, maintenance or use of an **auto**;

provided the **bodily injury** is diagnosed within one year of the date of the accident and reported to **us** within three years of the date of the accident. If the **bodily injury** is not diagnosed within three years of the date of the **accident**, **we** will only pay for such expenses incurred within three years of the date of the **accident**.

- B. **We** have the right to review the **medical expenses** to determine if they are reasonable and necessary for diagnosis and treatment of **bodily injury**. **We** may use independent sources of information selected by **us** to assist **us** in determining if any **medical expense** is reasonable and necessary. These sources may include, but are not limited to:

1. Physical exams paid for by **us** and performed by physicians **we** select;
2. Review of medical files;
3. Computer databases; or
4. Published sources of **medical expense** information.

- C. **We** may refuse to pay for:

1. Any portion of a **medical expense** that is unreasonable because the fee for the service is greater than the **usual and customary charge**; and/or
2. Any **medical expense** because the service rendered is unnecessary for the treatment of the **bodily injury** sustained.

If **we** refuse to pay for any portion of a **medical expense** because the fee is unreasonable or for any service because the service is unnecessary and the **insured** is sued for payment of this **medical expense**, **we** will defend the **insured** with an attorney of **our** choice. **We** will pay defense costs and any judgment against the **insured** up to **our** limit of liability for this coverage. The **insured** must cooperate with **us** in the defense of the lawsuit and attend depositions, hearings, or trials at **our** request. **We** will pay, upon written request by the **insured**:

1. Reasonable loss of earnings to an **insured**, up to \$200 per day, that is incurred by an **insured** due to attendance at hearings, proceedings or trials at **our** request. The **insured** must provide **us** written proof of such loss; and
2. Other reasonable expenses the **insured** incurs at **our** request as a result of a lawsuit by a health care provider to recover **medical expenses** **we** refuse to pay because the fee is unreasonable or unnecessary.

D. **We** may refuse to pay for any medical services that are not provided and prescribed by a medical provider licensed by the state and acting within the scope of that license.

E. **We** will not pay for any portion of a **medical expense** that exceeds the amount that the medical provider charges to patients who do not have insurance.

F. **We** have the right to make payment directly to a provider of necessary **medical expenses** and funeral service expenses.

ADDITIONAL DEFINITIONS – PART B > MEDICAL PAYMENTS COVERAGE

As used in this PART B:

A. “**Insured**” means:

1. **You** or any **family member**:
 - a. While **occupying**; or
 - b. As a pedestrian when struck by:

a motor vehicle designed for use mainly on public roads.
2. Any other person while **occupying** a **covered auto** or a **rental auto** when the **covered auto** or **rental auto** is being used with **your** express or implied permission.

B. “**Medical expense**” and “**medical expenses**” mean the **usual and customary charge** for reasonable and necessary:

1. Services, treatment, procedures and products provided by a state licensed health care provider;

2. Medications, orthopedic and prosthetic devices, eyeglasses, hearing aids and other medical supplies when prescribed by a state licensed health care provider; and
3. Services, treatment, procedures and products provided by a state licensed health care provider for physical therapy, vocational rehabilitation, occupational therapy and speech pathology and audiology.

“**Medical expense**” and “**medical expenses**” do not include any fees, costs or charges for:

1. Massage therapy not prescribed by a state licensed doctor of chiropractic;
2. Treatment, services, products, or procedures that are:
 - a. Experimental or for research; or
 - b. Not commonly and customarily recognized in the medical profession in the United States as customary treatment for **bodily injury**;
3. Thermography, acupuncture or other related procedures of similar nature; or
4. The purchase or rental of equipment not primarily designed to serve a medical purpose.

C. “**Usual and customary charge**” means the fees, costs or charges **we** determine that represents a common and typical charge for services in the geographical area in which the service is rendered. **We** may determine the **usual and customary charge** by using independent sources of **our** choice.

EXCLUSIONS

PLEASE READ THE EXCLUSIONS CAREFULLY. IF ANY EXCLUSION APPLIES, COVERAGE WILL NOT BE PROVIDED FOR AN ACCIDENT OR LOSS THAT OTHERWISE WOULD BE COVERED UNDER THIS POLICY.

A. **We** do not provide Medical Payments Coverage for any person for **bodily injury**:

1. Caused intentionally by, or at the direction of, an **insured** or that is, or should be, reasonably expected to result from an intentional act of an **insured** even if the actual **bodily injury** that results is different than that which was intended.
2. Arising out of, and in the course of, employment if worker’s compensation benefits, disability benefits or similar benefits are required or available for the **bodily injury**.
3. Arising out of the **ownership**, maintenance or use of a vehicle while it is being used to **carry persons or property for compensation or a fee** as a public or livery conveyance. This exclusion does not apply to a share-the-expense car pool.

4. That occurs while the **insured** is employed or otherwise engaged in any **motor vehicle business**. However, this exclusion does not apply to the **ownership**, maintenance or use of a **covered auto** by **you** or a **family member**.
 5. That occurs while maintaining or using any vehicle while an **insured** is employed or otherwise engaged in any **business** (other than farming or ranching). However, if a **business** or artisan use is noted on the **Declarations Page** for an **auto** shown on the **Declarations Page**, this exclusion does not apply to the **ownership**; maintenance; or use of that **auto** by:
 - a. **You**;
 - b. Any **family member**; or
 - c. Any partner, agent or employee of **you** or any **family member**.
 6. That occurs while any person is using an **auto** without the **owner's** express or implied permission. This does not apply to **you** or a **family member** when using or **occupying** a **covered auto**.
 7. Arising out of the **ownership**, maintenance or use of a vehicle while it is being used in a **personal vehicle sharing program**.
 8. For which an **insured**:
 - a. Is an insured under a nuclear energy liability policy; or
 - b. Would be an insured under a nuclear energy liability policy but for its termination upon exhaustion of its limit of liability.

For the purpose of this exclusion, a nuclear energy liability policy means a policy issued by any of the following or their successors:

 - a. Nuclear Energy Liability Insurance Association;
 - b. Mutual Atomic Energy Liability Underwriters; or
 - c. Nuclear Insurance Association of Canada.
 9. Arising out of the **ownership**, maintenance or use of any vehicle while **rac**ing.
 10. For which the United States Government is held responsible under the Federal Tort Claims Act.
 11. Arising out of any liability assumed by an **insured** under any contract or agreement.
 12. Resulting from an **accident** or **loss** that occurs while the **insured** is committing a **crime**.
 13. Caused by or any consequence of:
 - a. War, whether declared or undeclared;
 - b. Civil war;
 - c. Insurrection;
 - d. Rebellion or revolution;
 - e. Radioactive contamination; or
 - f. Nuclear reaction or radiation, whether controlled or uncontrolled or however caused.
 14. Arising out of the **ownership**, maintenance or use of a **covered auto** as a residence or premises.
 15. Arising out of or resulting from, in whole or in part, any actual, alleged, or threatened migration; release; existence; or presence of, or actual, alleged, or threatened exposure to, any mold, mildew, fungus or other microbes. This includes any type or form of: (i) decomposing or disintegrating organic material or microorganism; (ii) organic surface growth on moist, damp, or decaying matter; (iii) yeast or spore-bearing plant-like organism; or (iv) spores; scents; toxins; mycotoxins; bacteria; viruses; or any other by-products produced or released by any mold, mildew, fungus, or other microbes.
 16. Resulting from the discharge of any firearm or weapon in connection with the **ownership**, maintenance or use of any **auto**.
 17. Arising out of or resulting from the operator of a **covered auto** or any **non-owned auto**:
 - a. Having a blood alcohol content above the legal limit for operation of a motor vehicle; or
 - b. While under the influence of any controlled dangerous substance described in R.S. 14:98 (A)(1)(c) or R.S. 40:964.
- B. **We** do not provide Medical Payments Coverage for any **insured** for **bodily injury** arising out of the **ownership**, maintenance, or use of:
1. Any vehicle which has less than four wheels or which is designed for use mainly off public roads such as any type of all-terrain or quad vehicle, dune buggy, go-cart or golf cart. This exclusion does not apply to **your trailer**.
 2. Any vehicle, other than a **covered auto** for which this coverage has been purchased, that is:
 - a. **Owned** by **you**; or
 - b. Furnished or available for **your** regular use.
 3. Any **auto**, other than a **covered auto** for which this coverage has been purchased, that is:
 - a. **Owned** by any **family member**; or
 - b. Furnished or available for the regular use of any **family member**.

However, this Exclusion B.3. does not apply to **you**.

4. A **covered auto** that:
- a. Has been rented, leased, subleased, loaned or given by **you** or a **family member** to another party in exchange for money, value, goods, services, compensation or reimbursement;
 - b. Has been given in exchange for compensation;
 - c. Is under a conditional sales agreement by **you** to another; or
 - d. Has been entrusted to anyone other than **you** or a **family member** for consignment; sale; promoting sale; subleasing; leasing; renting; or selling, and is no longer in **your** possession.

LIMIT OF LIABILITY

- A. The limit of liability shown on the **Declarations Page** for Medical Payments Coverage is the most **we** will pay for all damages arising out of and due to **bodily injury** for each person injured in any one **accident**. There will be no adding, stacking or combining of coverage. The limit of liability for Medical Payments Coverage shown on the **Declarations Page** is the most **we** will pay without regard to the number of:
1. **Insureds**, heirs or survivors;
 2. Claimants;
 3. Claims made;
 4. Lawsuits filed;
 5. Vehicles shown on the **Declarations Page**;
 6. Premiums shown on the **Declarations Page**;
 7. Vehicles involved in the **accident**; or
 8. Premiums paid.
- B. To avoid paying in excess of actual damages sustained, any payment under PART B > MEDICAL PAYMENTS COVERAGE will be reduced by any payment made to that person under PART A > LIABILITY COVERAGE or PART C (I) > UNINSURED/UNDERINSURED MOTORIST BODILY INJURY COVERAGE.
- C. No one will be entitled to receive duplicate payments for the same elements of damage under PART B for which payment has been made:
1. Under any other coverage provided by this Policy;
 2. By or on behalf of the person or organization that may be legally responsible; or
 3. Under any other insurance or source of recovery.
- D. If two or more policies issued to **you** by **us**, or any other member company of the National General Insurance group of companies, apply to the same **accident**, only one of the policies will apply.

ASSIGNMENT OF BENEFITS

We will pay for **medical expenses** directly to a licensed health care provider if the **insured** gives **us** a signed written assignment of benefits payable under PART B > MEDICAL PAYMENTS COVERAGE. If **we** pay benefits directly to a health care provider, **we** have no further duty or liability to pay those same benefits to an **insured** or to any other person or entity.

OTHER INSURANCE

- A. If there is other applicable insurance that provides coverage for **medical expenses** and/or funeral service expenses including, but not limited to, other motor vehicle medical payments coverage, health or medical insurance, personal injury protection coverage, no-fault coverage, worker's compensation or similar insurance, any insurance **we** provide shall be excess to all other collectible insurance and bonds.
- B. If there is any other insurance for **medical expenses** with the same priority as this Medical Payments Coverage, **we** will not pay more than **our** share of the unpaid covered **medical expenses**. **Our** share is the proportion that **our** limit of liability bears to the total of all applicable limits with the same priority.
- C. This Policy will be excess over any coverage afforded to a permissive user of a **covered auto**.
- D. Any insurance **we** provide for a vehicle **you** do not **own** shall be excess over any other collectible insurance. However, if the vehicle is a **temporary substitute auto** or is a **rental auto**, this coverage shall be primary unless the **insured** has purchased other automobile insurance coverage for those vehicles.

PART C (I) > UNINSURED/UNDERINSURED MOTORIST BODILY INJURY COVERAGE

INSURING AGREEMENT

- A. Subject to the limit of liability shown on the **Declarations Page**, if **you** pay **us** the premium for Uninsured/Underinsured Motorist Bodily Injury Coverage, **we** will pay compensatory damages for which an **insured** is legally entitled to recover from the **owner** or operator of an **uninsured motor vehicle** because of **bodily injury**:
1. Sustained by that **insured**;
 2. Caused by an **accident**; and
 3. Arising out of the **ownership**, maintenance or use of an **uninsured motor vehicle**.

We will not pay for **punitive or exemplary damages**.

- B. **We** will pay under this PART C (I) only after the limits of liability under any applicable **bodily injury** liability policies, self-insurance and bonds have been exhausted by payment of judgments or settlements.
- C. Any judgment for damages against an operator or **owner** of the **uninsured motor vehicle** which arises out of a lawsuit brought without **our** written consent is not binding on **us**.

**ADDITIONAL DEFINITIONS – PART C (I) >
UNINSURED/UNDERINSURED MOTORIST BODILY
INJURY COVERAGE**

As used in this PART C (I):

A. “**Insured**” means:

1. **You** or any **family member**.
2. Any other person **occupying**, but not operating, a **covered auto** or **rental auto** with **your** express or implied permission.
3. Any other person operating a **covered auto** with **your** express or implied permission.
4. Any person for damages that person is legally entitled to recover because of **bodily injury** to which this coverage applies sustained by a person listed in A.1. or A.2. above. This shall not increase **our** limit of liability to an amount that exceeds the limit of liability applicable to that person referred to in A. 1 or A.2. above.

B. “**Underinsured motor vehicle**” means a land motor vehicle to which a **bodily injury** liability bond or policy applies at the time of the **accident** but the sum of all applicable limits of liability for **bodily injury** is less than the amount the **insured** is legally entitled to recover as damages from the **owner** or operator of the vehicle.

C. “**Uninsured motor vehicle**” means a land motor vehicle or **trailer**:

1. To which no **bodily injury** liability bond or policy applies at the time of the **accident**.
2. Which is a hit-and-run vehicle whose operator or **owner** cannot be identified and which hits or causes an **accident** without hitting:
 - a. **You** or a **family member**;
 - b. A vehicle that **you** or a **family member** are **occupying**; or
 - c. A **covered auto** or a **rental auto**.

If there is no physical contact with the hit-and-run vehicle, the facts of the **accident** must be corroborated by an independent eyewitness other than the person or persons making claim under this or similar coverage.

3. 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.

4. Which is an **underinsured motor vehicle**.

However, “**uninsured motor vehicle**” does not include any vehicle or equipment:

1. **Owned** or operated by a self-insurer under any applicable motor vehicle law, except a self-insurer which is or becomes insolvent;
2. **Owned** by any governmental unit or agency;
3. Operated on rails or crawler treads;
4. Designed mainly for use off public roads while not on public roads;
5. While located for use or being used as a residence or premises;
6. **Owned** by, furnished to or made available for the regular use of **you** or any **family member**;
7. Which is shown on the **Declarations Page** or which is insured for coverage under PART A of this Policy; or
8. That is not required to be registered as a motor vehicle.

**ADDITIONAL DUTIES FOR PART C (I) >
UNINSURED/UNDERINSURED MOTORIST BODILY
INJURY COVERAGE**

A person seeking coverage under PART C (I) > UNINSURED/UNDERINSURED MOTORIST BODILY INJURY COVERAGE must also, in addition to the **GENERAL DUTIES**:

1. Promptly report any **accident** or **loss** to the police or other local law enforcement.
2. Notify the police as soon as practical after an **accident** that involves a hit-and-run vehicle or unknown driver.
3. Report the **accident** to **us** within thirty (30) days of the **accident**.
4. Serve a copy of any legal action and all pleadings on **us** as required by law.
5. Send **us** copies of legal papers if a lawsuit is commenced.
6. Promptly notify **us** in writing of an offer of settlement between the **insured** and the **owner**, operator or insurer of the **underinsured motor vehicle**.
7. Allow **us** thirty (30) days after an offer of settlement to advance payment to that **insured** in an amount equal to the offer to preserve all of **our** rights against the **owner**, operator or insurer of any **underinsured motor vehicle**.
8. Give **us** proof that the limits of liability under any liability policies that apply to an **uninsured motor vehicle** or **underinsured motor vehicle** have been exhausted by payment of judgments or settlements.

EXCLUSIONS

PLEASE READ THE EXCLUSIONS CAREFULLY. IF ANY EXCLUSION APPLIES, COVERAGE WILL NOT BE PROVIDED FOR AN ACCIDENT OR LOSS THAT OTHERWISE WOULD BE COVERED UNDER THIS POLICY.

A. **We** do not provide Uninsured/Underinsured Motorist Coverage for **bodily injury** sustained by any **insured**:

1. If the **insured** or his or her legal representative, without thirty (30) days advance written notice to **us**, either:
 - a. Settles the **bodily injury** claim; or
 - b. Brings suit and obtains a judgment related to the **bodily injury** claim;
 and, in doing so, impairs or prejudices **our** rights or interests.
2. If **our** interests or rights have been impaired or prejudiced by a judgment in any lawsuit against any person or organization that may be liable for such **bodily injury** and **we** have not given prior written consent to the **insured** to proceed with that lawsuit.
3. Caused intentionally by, or at the direction of, an **insured** or that is, or should be, reasonably expected to result from an intentional act of an **insured** even if the actual **bodily injury** that results is different than that which was intended.
4. Arising out of, and in the course of, employment. This exclusion does not apply to **bodily injury** to a domestic employee unless worker's compensation, disability benefits or similar benefits are required or available for that domestic employee.
5. That occurs while the **insured** is employed or in any way involved while working for another person or entity in any **motor vehicle business**. However, this exclusion does not apply to the **ownership**, maintenance or use of a **covered auto** by **you** or a **family member**.
6. That occurs while maintaining or using any vehicle while an **insured** is employed or otherwise engaged in any **business** (other than farming or ranching). However, if a **business** or artisan use is noted on the **Declarations Page** for an **auto** shown on the **Declarations Page**, this exclusion does not apply to the **ownership**; maintenance; or use of that **auto** by:
 - a. **You**;
 - b. Any **family member**; or
 - c. Any partner, agent or employee of **yours** or any **family member**.

7. While using an **auto** without the **owner's** express or implied permission. This exclusion does not apply to **you** or a **family member** when using or **occupying** a **covered auto**.
8. Who:
 - a. Is an insured under a nuclear energy liability policy; or
 - b. Would be an insured under a nuclear energy liability policy but for its termination upon exhaustion of its limit of liability.

For the purpose of this exclusion, a nuclear energy liability policy means a policy issued by any of the following or their successors:

- a. Nuclear Energy Liability Insurance Association;
 - b. Mutual Atomic Energy Liability Underwriters; or
 - c. Nuclear Insurance Association of Canada.
9. Arising out of the **ownership**, maintenance, or use of any vehicle while **racing**.
 10. For which the United States Government is held responsible under the Federal Tort Claims Act.
 11. That results from an **accident** or **loss** that occurs while the **insured** is committing a **crime**.
 12. Caused by or any consequence of:
 - a. War, whether declared or undeclared;
 - b. Civil war;
 - c. Insurrection;
 - d. Rebellion or revolution;
 - e. Radioactive contamination; or
 - f. Nuclear reaction or radiation, whether controlled or uncontrolled or however caused.

13. Resulting from the discharge of any firearm or weapon in connection with the **ownership**, maintenance or use of any **auto**.
14. Resulting from use of a **covered auto** or **rental auto** by a person or persons specifically excluded by endorsement.

B. **We** do not provide Uninsured/Underinsured Motorist Coverage for any **insured** for **bodily injury** arising out of the **ownership**, maintenance or use of:

1. Any vehicle which has less than four wheels or which is designed for use mainly off public roads such as any type of all-terrain or quad vehicle, dune buggy, go-cart, or golf cart. This exclusion does not apply to use of a **trailer**.

2. Any vehicle which is not insured for Uninsured/Underinsured Motorist Bodily Injury Coverage under this Policy, that is:
 - a. **Owned by you**; or
 - b. Furnished or available for **your** regular use. This includes a **trailer** of any type used with that vehicle.
3. Any vehicle which is not insured for Uninsured/Underinsured Motorist Bodily Injury Coverage under this Policy that is:
 - a. **Owned by any family member**; or
 - b. Furnished or available for the regular use of any **family member**.
4. A **covered auto** that:
 - a. Has been rented, leased, subleased, loaned or given by **you** or a **family member** to another party in exchange for money, value, goods, services, compensation or reimbursement;
 - b. Has been given in exchange for compensation;
 - c. Is under a conditional sales agreement by **you** to another; or
 - d. Has been entrusted to anyone other than **you** or a **family member** for consignment; sale; promoting sale; subleasing; leasing; renting; or selling, and is no longer in **your** possession.

This exclusion does not apply to **you** or a **family member**.

- C. Coverage under this PART C (I) shall not apply directly or indirectly to benefit any insurer or self-insurer under any of the following or similar laws:
 1. Worker's compensation law; or
 2. Disability benefits law.
- D. **We** will not be bound by judgment entered into with a party who is liable for damages without **our** consent.

LIMIT OF LIABILITY

- A. The Uninsured/Underinsured Motorist Bodily Injury limit of liability shown on the **Declarations Page** for each person is the most **we** will pay for all damages, including **derivative claims**, arising out of and due to **bodily injury** sustained by any one person in any one **accident**. For the purpose of such limit of liability, all damages, including **derivative claims**, shall constitute a single claim.
- B. Subject to the limit of liability for each person, the Uninsured/Underinsured Motorist Bodily Injury limit of liability shown on the **Declarations Page** for each **accident** is the most **we** will pay for all damages,

including **derivative claims**, arising out of and due to **bodily injury** resulting from any one **accident**. For the purpose of such limit of liability, all damages, including **derivative claims**, shall constitute a single claim.

- C. If the **Declarations Page** indicates that a combined single limit applies, the limit of liability shown is the most **we** will pay for the total of all damages, including **derivative claims**, arising out of and due to **bodily injury** and **property damage** as the result of any one **accident**. For the purpose of such limit of liability, all damages, including **derivative claims**, shall constitute a single claim. However, without changing this total limit of liability, **we** will comply with any law that requires **us** to provide any separate limits.
- D. There will be no adding, stacking or combining of coverage. The limits of liability for Uninsured/Underinsured Motorist Bodily Injury shown on the **Declarations Page** are the most **we** will pay as the result of any one **accident** without regard to the number of:
 1. **Insureds**, heirs or survivors;
 2. Claimants;
 3. Claims made;
 4. Lawsuits filed;
 5. Vehicles shown on the **Declarations Page**;
 6. Premiums shown on the **Declarations Page**;
 7. Vehicles involved in the **accident**;
 8. Premiums paid; or
 9. Policies issued by **us**.
- E. Any payment under PART C (I) > UNINSURED/UNDERINSURED MOTORIST BODILY INJURY COVERAGE will be reduced, but only to the extent necessary to prevent duplicate payments for the same elements of damages, by all sums:
 1. Paid or payable from or on behalf of persons or organizations that may be legally liable. This includes, but is not limited to, all sums paid or payable under PART A > LIABILITY COVERAGE; and
 2. Paid or payable under any of the following or similar laws:
 - a. Worker's compensation law;
 - b. Disability benefits law;
 - c. Personal Injury Protection Coverage or No-Fault Coverage; or
 - d. Medical Payments Coverage.

- F. No one will be entitled to receive duplicate payments for the same elements of **loss** or damage under PART C (I) for which payment has been made:
1. Under any other coverage provided by this Policy;
 2. By or on behalf of the person or organization that may be legally responsible; or
 3. Under any other insurance or source of recovery.

OTHER INSURANCE

- A. If there is other Uninsured/Underinsured Motorist Bodily Injury Coverage, or similar insurance, that applies or is available under one or more policies, **we** will pay only **our** share of the damages or **loss**. **Our** share is the proportion that **our** limits of liability under this PART C (I) bears to the total of all applicable limits with the same priority as this coverage on either a primary or excess basis, whichever is applicable.
- B. However:
1. The total recovery under all such policies or coverage may not exceed the highest applicable limit for any one vehicle under any insurance providing coverage on either a primary or excess basis.
 2. While **occupying** a vehicle not **owned** by that **insured**, the following priorities of recovery will apply:
 - a. The uninsured/underinsured motorist coverage on the vehicle in which the **insured** is **occupying** is primary.
 - b. If the primary insurance is exhausted, any excess recovery for damages sustained by an **insured** as a **named insured** or **family member** may equal but not exceed the highest applicable limit of uninsured/underinsured motorist coverage under this insurance or any other insurance. In no instance will more than one limit be available as excess insurance.
 3. Any insurance **we** provide to an **insured** that is not **occupying a covered auto** shall be excess over any collectible insurance providing insurance on a primary basis.
- C. If two or more policies issued to **you** by **us**, or any other member company of the National General Insurance group of companies, apply to the same **accident**, only one of the policies will apply.

ARBITRATION

- A. If **we** and an **insured** do not agree:
1. Whether the **insured** is legally entitled to recover damages for **bodily injury** under this PART C (I); or

2. On the amount of damages that are recoverable by the **insured**;

then upon mutual agreement of both parties prior to the expiration of the bodily injury statute of limitations in the state in which the **accident** occurred, only these two issues may be submitted to arbitration. However, unless required by law, neither party may be compelled to participate in arbitration, and neither party shall be liable to the other for refusing to arbitrate.

- B. If both **we** and an **insured** agree to arbitration, each party will select a competent, licensed and impartial arbitrator. The two arbitrators will select a third arbitrator. If they cannot agree upon the selection of a third arbitrator within thirty (30) days, **you** or **we** may request that a judge of a court of record, in the county where the **insured** lives, select the third arbitrator.
- C. Unless both parties agree otherwise, arbitration will take place in the parish or county in which the **insured** lives and the American Arbitration Association rules as to procedure and evidence will apply. If the parties do not agree to be governed by the American Arbitration Association rules, local rules of law as to procedure and evidence will apply.
- D. A decision agreed to by two of the arbitrators will determine:
1. The legal liability of the operator or **owner** of an **uninsured motor vehicle**; and
 2. The amount of the damages sustained by the **insured**;
- but will not be binding on either the **insured** or **us**.
- E. The arbitrators shall have no authority to:
1. Award an amount in excess of the limit of liability for this coverage as shown on the **Declarations Page**;
 2. Award any amount as **punitive or exemplary damages**;
 3. Award any costs or fees;
 4. Award any amount as interest;
 5. Decide any coverage issue; or
 6. Decide any issues or resolve any dispute with respect to anything other than:
 - a. The legal liability of the **owner** or operator of an **uninsured motor vehicle**; and
 - b. The amount of compensatory damages that is recoverable by the **insured**.
- F. Each party will:
1. Pay the costs, fees and other expenses it incurs; and
 2. Bear the expenses of the third arbitrator equally.

PART C (II) > UNINSURED/UNDERINSURED MOTORIST PROPERTY DAMAGE COVERAGE

INSURING AGREEMENT

- A. Subject to the limit of liability shown on the **Declarations Page**, if **you** pay **us** the premium for Uninsured/Underinsured Motorist Property Damage Coverage, then **we** will pay compensatory damages for which an **insured** is legally entitled to recover from the **owner** or operator of an **uninsured motor vehicle** because of **property damage**:
- To a **covered auto** or **rental auto** for which Uninsured/Underinsured Motorist Property Damage has been purchased;
 - Caused by an **accident**; and
 - Arising out of the **ownership**, maintenance or use of an **uninsured motor vehicle**.
- We** will not pay for **punitive or exemplary damages**.
- B. **We** will pay under this PART C (II) only after the limits of liability under any applicable **property damage** liability policies, self-insurance and bonds have been exhausted by payment of judgments or settlements.
- C. Any judgment for damages against an operator or **owner** of the **uninsured motor vehicle** which arises out of a lawsuit brought without **our** written consent is not binding on **us**.

CHILD RESTRAINTS

In the event of a **loss** to which Uninsured/Underinsured Motorist Property Damage Coverage applies and **we** determine the integrity of a child safety seat or restraint system is compromised, **we** will pay up to \$250 to replace it with a child safety seat or restraint system of like kind and quality, provided:

- It was in the **covered auto** at the time of the **accident**; and
- Uninsured/Underinsured Motorist Property Damage Coverage applies due to the liability of the **owner** or operator of the **uninsured motor vehicle**.

ADDITIONAL DEFINITIONS - PART C (II) > UNINSURED/UNDERINSURED MOTORIST PROPERTY DAMAGE

As used in this PART C (II):

- A. "**Insured**" means **you** or a **family member**.
- B. "**Original equipment manufacturer**" and "**OEM**" mean parts or items:
- Produced and/or installed by the manufacturer of the **auto**; or

- Produced by a vendor of the manufacturer of the **auto** that the manufacturer intends as a part of the **auto** or manufacturer's option when new.
- C. "**Property damage**" means physical damage to, or destruction of, a **covered auto** or **rental auto** for which this coverage has been purchased. "**Property damage**" does not include loss of use.
- D. "**Uninsured motor vehicle**" means a land motor vehicle or **trailer** of any type:
- To which no **property damage** liability bond or policy applies at the time of the **accident**.
 - Which is a hit-and-run vehicle whose operator or **owner** cannot be identified and which hits or causes an **accident** without hitting a **covered auto**. If there is no physical contact with the hit-and-run vehicle, the facts of the **accident** must be corroborated by an independent eyewitness other than the person or persons making claim under this or similar coverage.
 - To which a **property damage** liability bond or policy applies at the time of the **accident**, but the bonding or insuring company:
 - Denies coverage; or
 - Is or becomes insolvent.
 - Which is an **underinsured motor vehicle**.
- However, "**uninsured motor vehicle**" does not include any vehicle or equipment:
- Owned** or operated by a self-insurer under any applicable motor vehicle law, except a self-insurer which is or becomes insolvent;
 - Owned** by any governmental unit or agency;
 - Operated on rails or crawler treads;
 - Designed mainly for use off public roads while not on public roads;
 - While located for use or being used as a residence or premises;
 - Owned** by, furnished to or available for the regular use of **you** or any **family member**.
 - Which is shown on the **Declarations Page** or which is covered under PART A of this Policy; or
 - That is not required to be registered as a motor vehicle.
- E. "**Underinsured motor vehicle**" means a land motor vehicle to which a **property damage** liability bond or policy applies at the time of the **accident** but the sum of all applicable limits of liability for **property damage** is less than the damages **you** are legally entitled to recover as damages from the **owner** or operator of the vehicle.

**ADDITIONAL DUTIES FOR PART C (II) >
UNINSURED/UNDERINSURED MOTORIST
PROPERTY DAMAGE COVERAGE**

A person seeking coverage under PART C (II) > UNINSURED/UNDERINSURED MOTORIST PROPERTY DAMAGE COVERAGE must also, in addition to the **GENERAL DUTIES**:

1. Promptly report any **accident** or **loss** to the police or other local law enforcement.
2. Notify the police as soon as practical after an **accident** that involves a hit-and-run vehicle or unknown driver.
3. Report the **accident** to **us** within thirty (30) days of the **accident**.
4. Serve a copy of any legal action and all pleadings on **us** as required by law.
5. Send **us** copies of legal papers if a lawsuit is commenced.
6. Promptly notify **us** in writing of an offer of settlement between the **insured** and the **owner**, operator or insurer of the **underinsured motor vehicle**.
7. Allow **us** thirty (30) days after notice of an offer of settlement to advance payment to that **insured** in an amount equal to the offer to preserve all of **our** rights against the **owner**, operator and insurer of any **underinsured motor vehicle**.
8. Give **us** proof that the limits of liability under any liability policies that apply to an **underinsured motor vehicle** have been exhausted by payment of judgments or settlements.
9. Take reasonable steps after a **loss** to protect all property insured under PART C (II) from further **loss**. **We** will pay reasonable expenses incurred to protect that property. Any further **loss** due to failure to protect will not be covered under this Policy.
10. Permit **us** to inspect and appraise all **loss** covered under PART C (II) before its repair or disposal.
11. Authorize **us** to move the damaged **auto** or **your trailer** to a storage facility of **our** choice at **our** expense.

EXCLUSIONS

PLEASE READ THE EXCLUSIONS CAREFULLY. IF ANY EXCLUSION APPLIES, COVERAGE WILL NOT BE PROVIDED FOR AN ACCIDENT OR LOSS THAT OTHERWISE WOULD BE COVERED UNDER THIS POLICY.

- A. **We** do not provide Uninsured/Underinsured Motorist Property Damage Coverage for **property damage** sustained by any **insured**:

1. If the **insured** or his or her legal representative, without thirty (30) days advance written notice to **us** brings suit and obtains a judgment related to the **property damage** claim and, in doing so, impairs or prejudices **our** rights or interests.
2. If **our** interests or rights have been impaired or prejudiced by a judgment in any lawsuit against any person or organization that may be liable for such **property damage** and **we** have not given prior written consent to the **insured** to proceed with that lawsuit.
3. Caused intentionally by, or at the direction of, an **insured** or that is or should be reasonably expected to result from an intentional act of an **insured** even if the actual **property damage** that results is different than that which was intended.
4. That occurs while the **covered auto** or **rental auto** is being maintained or used by any person while employed or otherwise engaged in any **motor vehicle business**.
5. That occurs while the **covered auto** or **rental auto** is being maintained or used by any person employed or otherwise engaged in any **business** (other than farming or ranching). If a **business** or artisan use is noted on the **Declarations Page** for an **auto** shown on the **Declarations Page**, this exclusion does not apply to the **ownership**; maintenance; or use of that **auto** by:
 - a. **You**; or
 - b. Any **family member**.
6. For which insurance:
 - a. Is afforded under a nuclear energy liability policy; or
 - b. Would be afforded under a nuclear energy liability policy but for its termination upon exhaustion of its limit of liability.

For the purpose of this exclusion, a nuclear energy liability policy means a policy issued by any of the following or their successors:

 - a. Nuclear Energy Liability Insurance Association;
 - b. Mutual Atomic Energy Liability Underwriters; or
 - c. Nuclear Insurance Association of Canada.
7. While the **covered auto** or **rental auto** is engaged in **rac**ing.
8. While the **covered auto** or **rental auto** is being used in the course of committing a **crime**.
9. Caused by or any consequence of:
 - a. War, whether declared or undeclared;

- b. Civil war;
 - c. Insurrection;
 - d. Rebellion or revolution;
 - e. Radioactive contamination; or
 - f. Nuclear reaction or radiation, whether controlled or uncontrolled or however caused.
10. Using a **covered auto** or **rental auto** without the **owner's** express or implied permission.
11. For the first \$250 of the amount of **property damage** to each **covered auto** or **rental auto** as the result of any one **accident**.
- B. **We** do not provide coverage for **property damage** arising out of the **ownership**, maintenance, or use of:
- 1. Any vehicle that has less than four wheels or which is designed for use mainly off public roads such as any type of all-terrain or quad vehicle, dune buggy, go-cart, or golf cart. This exclusion does not apply to **your trailer**.
 - 2. A **covered auto** that:
 - a. Has been rented, leased, subleased, loaned or given by **you** or a **family member** to another party in exchange for money, value, goods, services, compensation or reimbursement;
 - b. Has been given in exchange for compensation;
 - c. Is under a conditional sales agreement by **you** to another; or
 - d. Has been entrusted to anyone other than **you** or a **family member** for consignment; sale; promoting sale; subleasing; leasing; renting; or selling, and is no longer in **your** possession.
 - 3. Any vehicle **owned** by **you** for which **you** have purchased Collision Coverage under this Policy or any other policy.
- C. Coverage under this PART C (II) will not apply directly or indirectly to benefit any insurer or self-insurer of property.
- D. **We** will not be bound by any judgment entered into with a party who is liable for damages without **our** consent.

LIMIT OF LIABILITY

- A. The Uninsured/Underinsured Motorist Property Damage limit of liability shown on the **Declarations Page** is the most **we** will pay for all **property damage** sustained in any one **accident**. In the event **we** make payment for Uninsured/Underinsured Motorist Property Damage, such payment will not exceed the lowest of the:

- 1. **Actual cash value** of the damaged property at the time of the **accident** or **loss**, reduced by:
 - a. The applicable deductible shown on the **Declarations Page**; and
 - b. It's salvage value if **you** or the **owner** retain the salvage.
- 2. Amount necessary to repair the physical damage to the **covered auto** or **rental auto**, or its parts if the **loss** is limited to parts, to return it to its pre-**loss** physical condition, reduced by the applicable deductible shown on the **Declarations Page**;
- 3. Amount necessary to replace the stolen or damaged property, or its parts if the **loss** is limited to parts, reduced by:
 - a. The applicable deductible shown on the **Declarations Page**; and
 - b. Its salvage value if **you** or the **owner** retain the salvage; or
- 4. The limit of Uninsured/Underinsured Motorist Property Damage shown on the **Declarations Page**.

However, **our** limit of liability under this PART D > COVERAGE FOR DAMAGE TO YOUR AUTO may never exceed \$1000 for **customized equipment and parts** unless **you** purchase Additional Customized Equipment and Parts Coverage.

- B. There will be no adding, stacking or combining of coverage. The limit of liability for Uninsured/Underinsured Motorist Property Damage shown on the **Declarations Page** is the most **we** will pay for all **property damage** sustained in any one **accident** without regard to the number of:
- 1. **Insureds**, heirs or survivors;
 - 2. Claimants;
 - 3. Claims made;
 - 4. Lawsuits filed;
 - 5. Vehicles shown on the **Declarations Page**;
 - 6. Premiums shown on the **Declarations Page**;
 - 7. Vehicles involved in the **accident**;
 - 8. Premiums paid; or
 - 9. Policies issued by **us**.
- C. If two or more policies issued to **you** by **us**, or any other member company of the National General Insurance group of companies, apply to the same **accident**, only one of the policies will apply.

- D. A deduction for **depreciation** and betterment will be made from the amount **we** will pay for repair or replacement of the **covered auto**, or any part thereof, if the repair or replacement results in better property or in a better part with regard to:
1. Its market value;
 2. The useful life of the part; or
 3. The improvement of the condition of the **auto** considering wear and tear and damage that existed prior to the **loss**.
- Our** adjustment to the amount payable by **us** due to betterment or depreciation on parts replaced includes, but is not limited to:
1. Batteries;
 2. Tires;
 3. Engines;
 4. Transmissions; and
 5. Any other parts that wear out over time or have a finite useful life or duration typically shorter than the life of the **auto** as a whole. This does not include external crash parts, wheels, windshields or other glass.
- E. In repairing damaged property, **we** may specify the use of mechanical, non-safety related automobile parts not made by the original manufacturer. These parts will be at least equal in terms of fit, quality, performance and warranty to the original manufacturer parts they replace. Warranties applicable to non-**OEM** parts may be provided by the manufacturer or distributor of these parts rather than the manufacturer of the **covered auto**. If **we** specify the use of non-**OEM** parts, **we** will identify each such part on **your** repair estimate.
- F. In determining the amount necessary to repair the damaged parts, **we** will not pay more than the prevailing competitive labor rates charged in the area in which the property is to be repaired. **We** will also not pay more than the cost of repair or replacement parts as reasonably determined by **us**. **Our** liability for the cost of repairing damaged property is limited to the amount needed to perform physical repairs to the stolen or damaged property. PART C (II) > UNINSURED/UNDERINSURED MOTORIST PROPERTY DAMAGE does not cover, and **we** will not pay for, **diminution in value**.
- G. In the event of a total **loss** to an **auto** listed on the **Declarations Page**, **you**, or someone on **your** behalf, must provide **us** the key to such **auto** at **our** request. If **we** are not provided the key to such **auto**, **we** will reduce any amount payable to **you** by \$250 because of:
1. The cost in duplicating the key; or
 2. The loss in salvage value.
- This provision will not apply if **you** retain the salvage.
- H. Payments for **loss** covered under this PART C (II) are subject to the terms set forth here:
1. No more than one deductible shall be applied to any one covered **loss**.
 2. In determining the amount necessary to repair damaged property to its pre-**loss** condition, the amount to be paid by **us** will be based on the cost of repair or on the cost of replacement parts and equipment which may be new, reconditioned, remanufactured or used including, but not limited to:
 - a. Original manufacturer parts or equipment; and
 - b. Non-**OEM** parts or equipment.
 3. The **actual cash value** is determined by the market value, age and condition of the **covered auto** at the time the **loss** occurs.
- I. **We** have no duty to pay the **actual cash value** of window glass or to replace window glass after a **loss** if **you** agree to have the window glass repaired at **our** expense.
- J. No one will be entitled to receive duplicate payments for the same elements of damages or **loss** under this coverage for which payment has been made:
1. Under any other coverage provided by this Policy;
 2. By or on behalf of the person or organization that may be legally responsible; or
 3. Under any other insurance or source of recovery.
- K. After an **accident** to which PART C (II) applies, **we** will pay reasonable charges, as determined by **us**, for transporting and storing a **covered auto** to a repair facility near the location of **loss**. **We** will only pay up to three (3) days of reasonable storage charges incurred arising out of the **loss** and incurred before the claim is reported to **us**. However, in the event of a total **loss** to an **auto** listed on the **Declarations Page**, any storage charges owed prior to notification to **us** within three (3) days after a loss, or for any and all days after we have sent a storage cut off letter requesting that we be permitted to move the covered auto to a storage free lot where such permission is not granted, will be reduced by the **actual cash value** of the **covered auto**.

PAYMENT OF LOSS

- A. At **our** option, **we** may pay for the **loss** in money or repair or replace the **property damage**.
- B. **We** may make payment for a **loss** to **you**, the owner of the property or the lienholder.
- C. If **we** make a payment for a total **loss** of a **covered auto**, **you** must transfer the title of that **auto** to **us** at or before the time of payment, unless **you** keep the salvage of the totaled **covered auto**.

- D. A party with an additional interest in a **covered auto** shall have no greater rights than **your** rights to recover for a **loss**.

PERMISSION TO RELEASE VEHICLE

This Policy allows **us** to act as an agent on **your** behalf in the event a **covered auto** is non-drivable and incurring storage and/or any additional **accident** related expenses thus conferring authority for **us** to move the **covered auto** to a secure, storage free inspection facility.

OTHER INSURANCE

- A. If there is other Uninsured/Underinsured Motorist Property Damage Coverage, or similar insurance, that applies and is available under one or more policies, **we** will pay only **our** share of the damages or **loss**. **Our** share of the damages or **loss** is the proportion that **our** limit of liability under this PART C (II) > UNINSURED/UNDERINSURED MOTORIST PROPERTY DAMAGE COVERAGE bears to the total of all applicable limits with the same priority as this coverage, on either a primary or excess basis, whichever is applicable. Any applicable deductible of this Policy will be taken in a proportionate share based on the applicable deductibles of each policy.

- B. However:

1. The total recovery under all such policies or coverage may not exceed the highest applicable limit for any one vehicle under one such insurance providing coverage on either a primary or excess basis.
2. Any insurance **we** provide with respect to a **covered auto** or a **rental auto** shall be excess over any other property insurance, self-insurance or other source of recovery that covers that **property damage**.

- C. **We** will provide primary insurance for a **non-owned auto** if a person engaged in the **business** of selling, repairing or servicing motor vehicles provides the **non-owned auto** as a loaner vehicle to **you** or a **family member**:

1. For temporary use while a **covered auto** is being serviced or repaired; or
2. To demonstrate or test drive the vehicle.

If the **non-owned auto** is a rental private passenger automobile, the following priorities of recovery apply:

FIRST PRIORITY: Any source of recovery purchased by **you** or any **family member** from the owner of the rental private passenger automobile.

SECOND PRIORITY: Any source of recovery applicable to the **insured** as a **named insured** or **family member**.

THIRD PRIORITY: Any source of recovery applicable to the **owner** of the rental private passenger automobile.

ARBITRATION

- A. If **we** and an **insured** do not agree:

1. Whether the **insured** is legally entitled to recover damages for **property damage** under this PART C (II); or
2. The amount of damages that are recoverable by the **insured**;

then upon mutual agreement of both parties, these two issues only may be submitted to arbitration. However, unless required by law, neither party may be compelled to participate in arbitration nor shall be liable to the other for refusing to arbitrate.

- B. If both **we** and an **insured** agree to arbitration, each party will select a competent, licensed and impartial arbitrator. The two arbitrators will select a third arbitrator. If they cannot agree upon the selection of a third arbitrator within thirty (30) days, either may request that selection of a third arbitrator be made by a judge of a court having jurisdiction.

- C. Unless both parties agree otherwise, arbitration will take place in the county in which the insured lives and the American Arbitration Association rules as to procedure and evidence will apply. If the parties do not agree to be governed by the American Arbitration Association rules, local rules of law as to procedure and evidence will apply.

- D. A decision agreed to by two of the arbitrators will determine:

1. The legal liability of the operator or **owner** of an **uninsured motor vehicle**; and
2. The amount of the damages sustained by the **insured**;

but will not be binding on either the **insured** or **us**.

- E. The arbitrators shall have no authority to:

1. Award an amount in excess of the limit of liability for this coverage shown on the **Declarations Page**;
2. Award any amount as **punitive or exemplary damages**;
3. Award any costs or fees;
4. Award any amount as interest;
5. Decide any coverage issue; or
6. Decide any issues or resolve any dispute with respect to anything other than:
 - a. The legal liability of the **owner** or operator of an **uninsured motor vehicle**; and
 - b. The amount of compensatory damages that are recoverable by the **insured**.

- F. Each party will:
1. Pay the costs, fees and other expenses it incurs; and
 2. Bear the expenses of the third arbitrator equally.

PART D > COVERAGE FOR DAMAGE TO YOUR AUTO

INSURING AGREEMENT – COLLISION COVERAGE

If **you** pay **us** the premium for Collision Coverage and it is shown on the **Declarations Page**, **we** will pay for **loss** to:

1. A **covered auto** and its equipment; and
2. Any **non-owned auto**;

caused by a **collision**. **Our** payment will be reduced by the applicable deductible shown on the **Declarations Page**.

INSURING AGREEMENT – COMPREHENSIVE COVERAGE

If **you** pay **us** the premium for Comprehensive Coverage and it is shown on the **Declarations Page**, **we** will pay for **loss** to:

1. A **covered auto** and its equipment; and
2. Any **non-owned auto**;

caused by **other than collision**. **Our** payment will be reduced by the applicable deductible shown on the **Declarations Page**.

Only **losses** caused by **collision** or one of the listed perils under **other than collision** are covered under PART D > COVERAGE FOR DAMAGE TO YOUR AUTO.

CHILD RESTRAINTS

In the event of a **loss** to which Collision Coverage or Comprehensive Coverage applies and **we** determine that the integrity of a child safety seat or restraint system is compromised, **we** will pay up to \$250 to replace it with a child safety seat or restraint system of like kind and quality. The child safety seat or restraint system must have been in the **covered auto** or **non-owned auto** at the time of the covered **loss**. If a covered **loss** occurs when the child safety seat or restraint system is in a **non-owned auto**, **we** will provide the broadest coverage applicable to any **covered auto** shown on the **Declarations Page**. No deductible applies to this child safety seat or restraint system.

TOWING AND LABOR COVERAGE

- A. Subject to the each occurrence and each term limit shown on the **Declarations Page**, if **you** pay **us** the premium for Towing and Labor Coverage, **we** will pay the reasonable cost, as determined by **us**, that **you** incur for a **covered auto** or any **non-owned auto** for:

1. Mechanical labor up to one hour at the place where the **covered auto** or **non-owned auto** broke down;
2. Towing to the nearest place where the necessary repairs can be made during regular business hours if the **covered auto** or **non-owned auto** will not run;
3. Towing the **covered auto** or **non-owned auto** out if it is stuck on or immediately next to a public roadway; and
4. Delivery of gas, oil, battery or change of tire.

- B. Towing and Labor Coverage will apply only to the **covered auto** for which this coverage and specific premium are shown on the **Declarations Page**. Towing and Labor Coverage applies to a **non-owned auto** only if this coverage has been purchased for an **auto** shown on the **Declarations Page**.
- C. **We** will not pay for the cost of the necessary repairs or the cost of the gas, oil, battery or tire.
- D. The each occurrence and each term limit shown on the **Declarations Page** for this coverage is the most **we** will pay for any one **loss**. This coverage is limited to no more than six (6) occurrences per policy period.
- E. **You** will not be entitled to receive duplicate payment under this coverage for reasonable costs **you** incur and which are covered elsewhere under this Policy.
- F. **We** will only provide Towing and Labor Coverage within the policy territory as defined in the GENERAL PROVISIONS of this Policy.

TRANSPORTATION EXPENSES COVERAGE

- A. **We** will pay up to \$20 per day subject to a maximum limit of \$600 for:
1. Transportation expenses incurred by **you** from a commercially licensed rental agency in the event of a total theft of a **covered auto**. This applies only if Comprehensive Coverage has been purchased for the **covered auto**; or
 2. Loss of use expenses for which **you** become legally responsible in the event of a total theft of a **non-owned auto**. This applies only if the **Declarations Page** indicates that Comprehensive Coverage applies to any **covered auto**.
- A deductible will not apply to this coverage.
- B. **We** will pay only transportation expenses or loss of use expenses, whichever is applicable, incurred during the period:
1. Beginning forty-eight (48) hours after **you** notify the police and **us** of the theft of a **covered auto** or a **non-owned auto**; and

2. Ending the earlier of:
 - a. When a **covered auto** or a **non-owned auto** has been recovered and returned to **you** or its **owner**;
 - b. When a **covered auto** or a **non-owned auto** has been recovered and repaired;
 - c. When a **covered auto** or a **non-owned auto** has been replaced;
 - d. Seventy-two (72) hours after **we** make an offer to pay for the **loss** if the **covered auto** or a **non-owned auto** is deemed by **us** to be a total **loss** or unrecoverable; or
 - e. When **you** have incurred the maximum \$600 expense limit.
 - C. **We** will not pay for transportation expenses if there is a theft only of **your trailer**.
 - D. **You** must give **us** written verifiable proof of **your** transportation and/or loss of use expenses.
 - E. At **your** request, **we** will guarantee payment of transportation expenses to the provider of such transportation up to \$20 per day, to a maximum limit of \$600, and shall pay such provider directly.
 - F. There shall be no duplicate recovery for the same elements of **loss** or expense under this coverage and any other coverage provided by this Policy. However, if **you** purchase Rental Reimbursement Coverage with the same or higher limits of coverage than this section provides, then the provisions and limits of the Rental Reimbursement Coverage shall apply to the total theft of a **covered auto** and **non-owned auto**. Transportation Expenses Coverage cannot be combined or stacked with the Rental Reimbursement Coverage provided under PART D.
- ### RENTAL REIMBURSEMENT COVERAGE
- A. Subject to the each day and each **accident** limit shown on the **Declarations Page**, if **you** pay **us** the premium for Rental Reimbursement Coverage, **we** will reimburse **you** or, at **our** option, pay directly on **your** behalf the daily rental expenses incurred by **you** when **you** rent an **auto** from a commercially licensed rental agency approved by **us**. The rental vehicle must be obtained from a company that is in the business of renting vehicles to the public as we will not reimburse for the rental of a vehicle from any other source whatsoever. No deductible will apply to this coverage. Rental Reimbursement Coverage will apply only to the **covered auto** for which this coverage and a specific premium are shown on the **Declarations Page**.
 - B. The length of time for which this coverage will apply will be limited to the lesser of:
 1. The period of time reasonably required, as determined by **us**, to repair a **covered auto**; or
 2. Seventy-two (72) hours after **we** make an offer to pay the **actual cash value** of the **covered auto** in the event of a total **loss**.
 - C. Daily rental expenses shall not include the cost of:
 1. Insurance related to the rental of the **auto**;
 2. Refueling the rental **auto**;
 3. Mileage fees;
 4. Navigation devices;
 5. **Collision** damage waiver; or
 6. Tolls.
 - D. If "SureDrive" is shown on the **Declarations Page** for the **covered auto** instead of the each day and each **accident** limit for this coverage, then **we** will reimburse **you** or, at **our** option, pay directly on **your** behalf the daily rental expenses incurred by **you** when **you** rent an **auto** from a commercially licensed rental agency approved by **us**. The rental vehicle must be obtained from a company that is in the business of renting vehicles to the public as **we** will not reimburse for the rental of a vehicle from any other source whatsoever. **We** will pay rental expenses for **you** to rent up to a "full size" **auto** approved by **us**. No deductible will apply to this coverage. The length of time for which this coverage will apply will be the lesser of:
 1. Forty-five (45) days;
 2. The period of time reasonably required, as determined by **us**, to repair the **covered auto**; or
 3. Seventy-two (72) hours after **we** make an offer to pay the **actual cash value** of the **covered auto** in the event of a total **loss**.
 - E. Rental Reimbursement Coverage applies only if the **covered auto** is withdrawn from use for more than twenty-four (24) hours and:
 1. **You** have purchased Collision Coverage for that **covered auto** and the **loss** falls under that coverage; or
 2. **You** have purchased Comprehensive Coverage for that **covered auto** and the **loss** falls under that coverage.
 - F. If **you** purchase Rental Reimbursement Coverage with a limit lower than that provided for in the Transportation Expenses Coverage provision in PART D and the **loss** involves the total theft of a **covered auto**, then the limits and provisions applicable to transportation expenses under Transportation Expenses Coverage will apply.
 - G. Rental Reimbursement Coverage cannot be combined or stacked with the Transportation Expenses Coverage provided under PART D.

CUSTOMIZED EQUIPMENT AND PARTS COVERAGE

- A. Unless **you** pay **us** the premium for Additional Customized Equipment and Parts Coverage and it is shown on the **Declarations Page** or on the applicable schedule, the limit of liability for **loss** to **customized equipment and parts** is the lowest of:
 - 1. The **actual cash value** of such **customized equipment and parts**, reduced by the applicable deductible and by its salvage value if **you** or the **owner** retain the salvage;
 - 2. The amount necessary to repair the **customized equipment and parts**, reduced by the applicable deductible;
 - 3. The amount necessary to replace the **customized equipment and parts**, reduced by the applicable deductible and reduced by its salvage value if **you** or the **owner** retain the salvage; or
 - 4. \$1000.
- B. If the **actual cash value** of the **covered auto** without the **customized equipment and parts** is less than \$1000, the most **we** will pay is the **actual cash value** of the **covered auto** unless Additional Customized Equipment and Parts Coverage has been purchased.
- C. Customized Equipment And Parts Coverage applies only if:
 - 1. **You** have purchased Collision Coverage for the **covered auto** containing the **customized equipment and parts** and the **loss** falls under that coverage; or
 - 2. **You** have purchased Comprehensive Coverage for the **covered auto** containing the **customized equipment and parts** and the **loss** falls under that coverage.

ADDITIONAL CUSTOMIZED EQUIPMENT AND PARTS COVERAGE

- A. Subject to the limits shown on the **Declarations Page**, if **you** pay **us** the premium for Additional Customized Equipment and Parts Coverage for a **covered auto**, **we** will pay for **loss** to the **customized equipment and parts** in or on that **covered auto** that results from a **loss**. All payments for **loss** to such **customized equipment and parts** shall be reduced by the applicable deductible, but only one deductible shall be applied to any one **loss** under this PART D > COVERAGE FOR DAMAGE TO YOUR AUTO.
- B. Additional Customized Equipment and Parts Coverage applies only if:
 - 1. **You** have purchased Collision Coverage for the **covered auto** containing the **customized equipment and parts** and the **loss** falls under that coverage; or

- 2. **You** have purchased Comprehensive Coverage for the **covered auto** containing the **customized equipment and parts** and the **loss** falls under that coverage.
- C. The limit of liability for **loss** to **customized equipment and parts** under this coverage is the lowest of:
 - 1. The **actual cash value** of such **customized equipment and parts**, reduced by the applicable deductible and by its salvage value if **you** or the **owner** retain the salvage;
 - 2. The amount necessary to repair the **customized equipment and parts**, reduced by the applicable deductible;
 - 3. The amount necessary to replace the **customized equipment and parts**, reduced by the applicable deductible and reduced by its salvage value if **you** or the **owner** retain the salvage; or
 - 4. The limit of liability for Additional Customized Equipment and Parts Coverage shown on the **Declarations Page**.
- D. Coverage for **customized equipment and parts** shall not cause **our** limit of liability for **loss** to an **auto** under this PART D > COVERAGE FOR DAMAGE TO YOUR AUTO to be increased to an amount in excess of:
 - 1. The **actual cash value** of the **auto**, including its **customized equipment and parts** covered under this coverage; or
 - 2. Any applicable limits or stated amount elected by **you** shown on the **Declarations Page** for this coverage.
- E. Any amount payable under this coverage shall be reduced to the extent any expense is payable under any other coverage under this Policy.
- F. There shall be no duplicate recovery for the same elements of **loss** or expense under this coverage and any other coverage provided by this Policy.

ADDITIONAL DEFINITIONS - PART D > COVERAGE FOR DAMAGE TO YOUR AUTO

As used in this PART D:

- A. **“Collision”** means the upset of a **covered auto** or a **non-owned auto** or its impact with another vehicle or object.
- B. **“Comprehensive”** and **“other than collision”** mean a **loss** caused by:
 - 1. Missiles or falling objects;
 - 2. Fire or lightning;
 - 3. Theft or larceny;
 - 4. Explosion or earthquake;
 - 5. Windstorm;
 - 6. Hail, water or flood;

7. Malicious mischief or vandalism;
8. Riot or civil commotion;
9. Impact with a bird or animal; or
10. Breakage of glass, except breakage of glass caused by a **collision**.

Only **losses** caused by one of these listed perils are covered under **other than collision**.

- C. “**Customized equipment and parts**” means equipment, devices, accessories, changes and enhancements, other than those installed by the original manufacturer, which alter the appearance or performance of an **auto**. This includes, but is not limited to, such items as: body or suspension alterations; custom or special wheels or tires; side exhausts; roll bars; light bars; spoilers; ground effects; bedliners; side exhausts; utility boxes; custom windows; custom painting; murals; or decals or graphics. **Customized equipment and parts** also includes, but is not limited to, such items as any electronic equipment; antennas; and other devices used exclusively to send or receive audio, visual or data signals, or play back recorded media. The **customized equipment and parts** must be permanently installed in a **covered auto** using bolts, brackets or slide-out brackets. **Customized equipment and parts** does not include snow plows or snow removal equipment.
- D. “**Original equipment manufacturer**” and “**OEM**” mean parts or items:
1. Produced and/or installed by the manufacturer of the **auto**; or
 2. Produced by a vendor of the manufacturer of the **auto** that the manufacturer intends as a part of the **auto** or manufacturer’s option when new.
- E. “**Your trailer**”, as used in PART D only, means a non-motorized vehicle, including a farm wagon or farm implement, designed to be pulled on public roads by an **auto** if the **trailer** is:
1. **Owned** by **you**; and
 2. Shown on the **Declarations Page**; and
- is not being used:
1. As a primary residence, office, store, **business** or for display purposes;
 2. For commercial purposes; or
 3. To transport passengers.

EXCLUSIONS

PLEASE READ THE EXCLUSIONS CAREFULLY. IF ANY EXCLUSION APPLIES, COVERAGE WILL NOT BE PROVIDED FOR AN ACCIDENT OR LOSS THAT OTHERWISE WOULD BE COVERED UNDER THIS POLICY.

A. **We** will not pay for:

1. **Loss**:

- a. Caused intentionally by, or at the direction of, **you** or any **family member**; or
- b. That is, or should be, reasonably expected to result from an intentional act of **you** or any **family member**;

even if the actual **loss** or damage is different than that which was intended.

2. **Loss** to a **covered auto** or any **non-owned auto** that occurs while it is being used to **carry persons or property for compensation or a fee** or as a public or livery conveyance. This exclusion does not apply to a share-the-expense car pool.
3. **Loss** to a **covered auto** or any **non-owned auto** being maintained or used by any person while employed or otherwise engaged in any **motor vehicle business**.
4. **Loss** to a **covered auto** while maintained or used by any person employed or otherwise engaged in any **business** (other than farming or ranching). If a **business** or artisan use is noted on the **Declarations Page** for an **auto** shown on the **Declarations Page**, this exclusion does not apply to the **ownership**, maintenance, or use of that **auto** by:
 - a. **You**; or
 - b. Any **family member**.
5. **Loss** to any vehicle for which insurance:
 - a. Is afforded under a nuclear energy liability policy; or
 - b. Would be afforded under a nuclear energy liability policy but for its termination upon exhaustion of its limit of liability.

For purposes of this exclusion, a nuclear energy liability policy means a policy issued by any of the following or their successors:

 - a. Nuclear Energy Liability Insurance Association;
 - b. Mutual Atomic Energy Liability Underwriters;
 - c. Nuclear Insurance Association of Canada.
6. **Loss** to a **covered auto** or any **non-owned auto** while such **auto** is engaged in **racing**.
7. **Loss** that occurs while a **covered auto** or a **non-owned auto** is being used in the course of committing a **crime**. This does not apply to **loss** that occurs when the **covered auto** or **non-owned auto** has been stolen.
8. **Loss** to a **covered auto** that occurs while it is being used in a **personal vehicle sharing program**.

9. **Loss** caused by or as any consequence of:

- a. War, whether declared or undeclared;
- b. Civil war;
- c. Insurrection;
- d. Rebellion or revolution;
- e. Radioactive contamination; or
- f. Nuclear reaction or radiation, whether controlled or uncontrolled or however caused.

10. **Loss** arising out of or resulting from, in whole or in part, any actual, alleged, or threatened migration; release; existence; or presence of, or actual, alleged, or threatened exposure to, any mold, mildew, fungus or other microbes. This includes any type or form of: (i) decomposing or disintegrating organic material or microorganism; (ii) organic surface growth on moist, damp, or decaying matter; (iii) yeast or spore-bearing plant-like organism; or (iv) spores; scents; toxins; mycotoxins; bacteria; viruses; or any other by-products produced or released by any mold, mildew, fungus, or other microbes.

11. Damage due and confined to:

- a. Wear and tear;
- b. Freezing;
- c. Mechanical, electronic or electrical breakdown or failure;
- d. Deterioration, rust or corrosion; or
- e. Road damage to tires.

This exclusion does not apply if the damage results from the total theft of a **covered auto** or any **non-owned auto** to which Comprehensive Coverage under this Policy applies.

12. **Loss** to a **trailer you own** that is not shown on the **Declarations Page**. This exclusion does not apply to a **trailer you**:

- a. Acquire during the policy period; and
- b. Ask **us** to insure within thirty (30) days after **you** become the **owner**.

13. **Loss** to a **covered auto** or any **non-owned auto** due to or as a consequence of:

- a. Destruction, seizure or confiscation by government or civil authorities including, but not limited to, destruction, seizure, or confiscation by any federal or state law enforcement officer in connection with any violation of any controlled substances law for which **you** are convicted; or
- b. Repossession by any entity acting on behalf of the **owner** of the **covered auto** or **non-owned auto**.

This exclusion does not apply to the interests of Loss Payees in a **covered auto**.

14. **Loss** to equipment designed or used for the detection or location of radar, laser or other speed measuring equipment or its transmission.

15. **Loss** to wearing apparel or tools.

16. **Loss** to portable equipment, devices, accessories and any other personal effects that are not permanently installed. This includes, but is not limited to:

- a. Tapes, records, compact discs, DVDs or other recording or recorded media;
- b. Any containers designed to carry or store tapes, records, compact discs, DVDs or other recording or recorded media;
- c. Personal computers, telephones, DVD players, two-way mobile radios or televisions; or
- d. Any other accessories used with electronic equipment designed to receive or transmit audio, visual or data signals.

17. Damage due and confined to:

- a. Prior **loss** or damage;
- b. Manufacturer's defects or faulty materials; and
- c. **Your** lack of routine and/or proper maintenance as prescribed by the manufacturer.

18. **Loss** due to theft, larceny or conversion of a **covered auto** or its equipment:

- a. By **you**, a **family member** or any other persons listed as a driver on the **Declarations Page**; or
- b. Where there is no visible sign of forced entry into the **covered auto**.

19. **Loss** to a **covered auto**:

- a. Prior to its delivery to **you**; or
- b. Due to theft prior to its delivery to **you**.

20. **Loss** resulting from the purchase of a **covered auto** from any person or organization other than the **auto's** rightful **owner**.

21. **Loss** to a snow plow or any snow removal equipment.

22. **Loss** to a recreational vehicle, motor home or travel trailer.

23. Amounts incurred for:

- a. Mileage;
- b. Fuel;
- c. **Collision** damage waiver;

- d. Navigation devices;
 - e. Insurance; or
 - f. Tolls.
24. **Loss** arising out of any liability assumed by **you** or a **family member** under any contract or agreement.
25. **Loss** arising out of or resulting from the operator of a **covered auto** or any **non-owned auto**:
- a. Having a blood alcohol content above the legal limit for operation of a motor vehicle; or
 - b. While under the influence of any controlled dangerous substance described in R.S. 14:98(A)(1)(c) or R.S. 40:964.
- B. **We** do not provide coverage for **loss** arising out of the **ownership**, maintenance or use of:
- 1. Any vehicle that has less than four wheels or which is designed for use mainly off public roads such as any type of all-terrain or quad vehicle, dune buggy, go-cart, or golf cart. This exclusion does not apply to **your trailer**.
 - 2. A **covered auto** or **rental auto** that:
 - a. Has been rented, leased, subleased, loaned or given by **you** or a **family member** to another party in exchange for money, value, goods, services, compensation or reimbursement;
 - b. Has been given in exchange for compensation;
 - c. Is under a conditional sales agreement by **you** to another; or
 - d. Has been entrusted to anyone other than **you** or a **family member** for consignment; sale; promoting sale; subleasing; leasing; renting; or selling and is no longer in **your** possession.
3. Amount necessary to replace the stolen or damaged property, or its parts if the **loss** is limited to parts, reduced by:
- a. The applicable deductible shown on the **Declarations Page**; and
 - b. Its salvage value if **you** or the **owner** retain the salvage; or
4. Stated amount shown on the **Declarations Page**, if any.
- However, **our** limit of liability under this PART D > COVERAGE FOR DAMAGE TO YOUR AUTO may never exceed \$1000 for **customized equipment and parts** unless **you** purchase Additional Customized Equipment and Parts Coverage.
- B. A deduction for **depreciation** and betterment will be made from the amount **we** will pay for repair or replacement of the damaged or stolen property, or any part thereof, if the repair or replacement results in better property or in a better part with regard to:
- 1. Its market value;
 - 2. The useful life of the part; or
 - 3. The improvement of the condition of the **auto** considering wear and tear and damage that existed prior to the **loss**.
- Our** adjustment to the amount payable by **us** due to betterment or **depreciation** on parts replaced includes, but is not limited to:
- 1. Batteries;
 - 2. Tires;
 - 3. Engines;
 - 4. Transmissions; and
 - 5. Any other parts that wear out over time or have a finite useful life or duration typically shorter than the life of the **auto** as a whole. This does not include external crash parts, wheels, windshields or other glass.

LIMIT OF LIABILITY

- A. **Our** limit of liability for **loss** shall not exceed the lowest of the:
- 1. **Actual cash value** of the damaged property at the time of the **accident** or **loss** reduced by:
 - a. The applicable deductible shown on the **Declarations Page**; and
 - b. Its salvage value if **you** or the **owner** retain the salvage;
 - 2. Amount necessary to repair the physical damage to the **auto**, or its parts if the **loss** is limited to parts, to return it to its pre-**loss** physical condition, reduced by the applicable deductible shown on the **Declarations Page**;
- C. If **you** have declared a stated amount for a specific **auto** shown on the **Declarations Page**, that stated amount is the most **we** will pay for **loss** to that **auto**, including its **customized equipment and parts**.
- D. In repairing damaged property, **we** may specify the use of mechanical, non-safety related automobile parts not made by the original manufacturer. These parts will be at least equal in terms of fit, quality, performance and warranty to the original manufacturer parts they replace. Warranties applicable to non-**OEM** parts may be provided by the manufacturer or distributor of these parts rather than the manufacturer of the **covered auto**. If **we** specify the use of non-**OEM** parts, **we** will identify each such part on **your** repair estimate.

- E. In determining the amount necessary to repair the damaged parts, **we** will not pay more than the prevailing competitive labor rates charged in the area in which the property is to be repaired. **We** will also not pay more than the cost of repair or replacement parts as reasonably determined by **us**. **Our** liability for the cost of repairing damaged property is limited to the amount needed to perform physical repairs to the stolen or damaged property. PART D > COVERAGE FOR DAMAGE TO YOUR AUTO does not cover, and **we** will not pay for, **diminution in value**.
- F. In the event of a total **loss** to an **auto** listed on the **Declarations Page**, **you**, or someone on **your** behalf, must provide **us** the key to such **auto** at **our** request. If **we** are not provided the key to such **auto**, **we** will reduce any amount payable to **you** by \$250 because of:

1. The cost in duplicating the key; or
2. The loss in salvage value.

This provision will not apply if **you** retain the salvage.

- G. Payments for **loss** covered under this PART D are subject to the terms set forth here:
1. No more than one deductible shall be applied to any one covered **loss**.
 2. If coverage applies to a **non-owned auto**, **we** will provide the broadest coverage applicable to any **covered auto** shown on **your Declarations Page**. However, the highest deductible on any **covered auto** shall apply.
 3. In determining the amount necessary to repair damaged property to its pre-**loss** condition, the amount to be paid by **us** will be based on the cost of repair or on the cost of replacement parts and equipment which may be new, reconditioned, remanufactured or used including, but not limited to:
 - a. Original manufacturer parts or equipment; and
 - b. Non-OEM parts or equipment.
 4. The **actual cash value** is determined by the market value, age and condition of the vehicle at the time the **loss** occurs.
 5. Duplicate recovery for the same elements of **loss** is not permitted. No one will be entitled to receive duplicate payments for the same elements of **loss** under this coverage and:
 - a. Any other coverage provided by this Policy; or
 - b. Under any other insurance or source of recovery.

- H. **We** have no duty to pay the **actual cash value** of window glass or to replace window glass after a **loss** if **you** agree to have the window glass repaired at **our** expense.
- I. After an **accident** to which PART D applies, **we** will pay reasonable charges, as determined by **us**, for transporting and storing a **covered auto** or any **non-owned auto** to a repair facility near the location of **loss**. **We** will only pay up to three (3) days of reasonable storage charges incurred arising out of the **loss** and incurred before the claim is reported to **us**. However, in the event of a total **loss** to an **auto** listed on the **Declarations Page**, any storage charges owed prior to notification to **us** within three (3) days after a **loss**, or for any and all days after **we** have sent a storage cut off letter requesting that **we** be permitted to move the **covered auto** to a storage free lot where such permission is not granted, will be reduced by the **actual cash value** of the **covered auto**.

PAYMENT OF LOSS

- A. At **our** option, **we** may pay for the **loss** in money or repair or replace the damaged or stolen property.
- B. **We** may, at **our** expense, return any stolen property to **you** or to the address last known by **us**. If **we** return stolen property, **we** will pay for any direct physical damage to a **covered auto** or any **non-owned auto**, or its equipment, resulting from the theft, subject to the provisions of the **LIMIT OF LIABILITY** section. **We** may keep all or part of the property at an agreed or appraised value, but there shall be no abandonment to **us**.
- C. **We** may make payment for a **loss** to **you**, the **owner** of the property or the lienholder.
- D. If **we** make a payment for theft or total **loss** of an **auto**, **you** or the **owner** must transfer the title of that **auto** to **us** at or before the time of payment, unless **you** or the **owner** keep the salvage of a totaled **auto**.
- E. A party with an additional interest in a **covered auto** shall have no greater rights than **your** rights to recover for a **loss**.

PERMISSION TO RELEASE VEHICLE

This Policy allows **us** to act as an agent on **your** behalf in the event a **covered auto** is non-drivable and incurring storage and/or any additional **accident** related expenses thus conferring authority for **us** to move the **covered auto** to a secure, storage free inspection facility.

NO BENEFIT TO BAILEE

This insurance shall not directly or indirectly benefit any carrier or other bailee for hire.

OTHER SOURCES OF RECOVERY

- A. If other insurance also covers the **loss**, **we** will pay only **our** share of the **loss**. **Our** share is the proportion that **our** limit of liability bears to the total of all applicable limits. Any applicable deductible of

this Policy will be taken in a proportionate share based on the applicable deductibles of each policy. However, any insurance **we** provide with respect to a **non-owned auto** shall be excess over any other collectible source of recovery including, but not limited to:

1. Any coverage provided by the **owner** of the **non-owned auto**;
 2. Any other applicable physical damage insurance; or
 3. Any other source of recovery applicable to the **loss**.
- B. **We** will provide primary insurance for a **non-owned auto** if a person engaged in the **business** of selling, repairing or servicing motor vehicles provides the **non-owned auto** as a loaner vehicle to **you** or a **family member**:
1. For temporary use while a **covered auto** is being serviced or repaired; or
 2. To demonstrate or test drive the vehicle.

If the **non-owned auto** is a rental private passenger automobile, the following priorities of recovery apply:

FIRST PRIORITY: Any source of recovery purchased by **you** or any **family member** from the owner of the rental private passenger automobile.

SECOND PRIORITY: Any source of recovery applicable to the **insured** as a **named insured** or **family member**.

THIRD PRIORITY: Any source of recovery applicable to the **owner** of the rental private passenger automobile.

APPRAISAL

- A. If **we** and **you** do not agree on the amount of **loss**, an appraisal of the **loss** may be made. In this event, each party will select a competent, licensed and impartial appraiser within fifteen (15) days of the demand for appraisal. The two appraisers will select an umpire. If they are unable to agree upon an umpire within fifteen (15) days, **we** or **you** may request that a judge of a court of record, in the county where **you** live, select an umpire. The appraisers will state separately the **actual cash value** and the amount of **loss**. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:
1. Pay its chosen appraiser; and
 2. Bear the expenses of the appraisal and umpire equally.
- B. **We** do not waive any of **our** rights under this Policy by agreeing to an appraisal.
- C. Appraisers have authority only to decide the amount of the **loss**. The appraisers have no authority to:

1. Make any coverage decisions under the Policy; or
2. Award any fees, interest or costs.

LOSS PAYABLE CLAUSE

- A. Subject to all the terms of this Policy, **loss** or damage shall be paid, as interest may appear, to the **named insured** and/or the loss payee shown on the **Declarations Page** of this Policy, both jointly or separately, at **our** discretion.
- B. The loss payee's interest will not be protected if the **loss** results from **your** fraudulent acts or omissions, conversion, secretion or embezzlement of a **covered auto** or **non-owned auto** or if the **loss** is not payable to **you** under the terms of this Policy.
- C. **We** reserve the right to cancel or nonrenew this Policy as permitted by policy terms and state law. The cancellation or nonrenewal shall terminate this agreement as to the loss payee's interest. If **we** are required by law or regulation to give the loss payee notice of cancellation, **we** will give such notice in accordance to such law or regulation. In addition, any continuance of coverage protecting the loss payee's interest shall terminate on the effective date of a policy contract or insurance binder for similar coverage issued by another insurance carrier.
- D. In the event the loss payee makes a claim under this Policy, the loss payee shall be required to abide by all terms and conditions of this Policy applicable to **you** and shall have no greater rights than **you** to receive payment.
- E. When **we** pay the loss payee, **we** shall, to the extent of payment, be subrogated to the loss payee's rights of recovery.
- F. This clause has no effect if the name of the loss payee is not shown on the **Declarations Page**.

GENERAL PROVISIONS

ADDITIONAL DEFINITIONS USED IN THIS SECTION

- A. "**Mail**", "**mailing**" or "**mailed**" means:
1. Delivery by **us** to any of the following:
 - a. United States Postal Service; or
 - b. Public or private mail carrier;
 2. Sent by **us** through electronic transmission, if not prohibited by state law; or
 3. Any other methods allowed by law.
- B. "**Proof of mailing**" means sufficient evidence that a correspondence or notice has been presented to the United States Postal Service for mailing. **Proof of mailing** includes, but is not limited to, any form of certificate of mailing or certificate of bulk mailing issued by the United States Postal Service, including a Certificate of Bulk Mail or any other form allowed by state law.

BANKRUPTCY

Bankruptcy or insolvency of the **insured** shall not relieve **us** of any obligations under this Policy.

CHANGES

- A. This Policy, along with the **Declarations Page** and Application, which are incorporated into and made part of this Policy, and any endorsements issued by **us**, contain all the agreements between **you** and **us**. Its terms may not be changed or waived except in writing by **us**.
- B. The premium for each **covered auto** is based on information **we** have received from **you** or other sources. **You** agree:
1. That if any of this information material to the development of the Policy premium is incorrect, incomplete or changed, **we** may adjust the premium accordingly during the policy period.
 2. To cooperate with **us** in determining if this information is correct and complete.
 3. To advise **us** of any changes such as the following which **we** consider material to the development of the Policy premium:
 - a. The number or types of **covered autos**;
 - b. The operators using the **autos** insured under **your** Policy (either additions or deletions);
 - c. People **residing** in **your** household;
 - d. **Your** address and/or the principal place where **you** garage any of the **autos** insured under this Policy;
 - e. The use of **autos** insured under **your** Policy;
 - f. **You** or a **family member** obtain a driver's license or operator's permit or have a driver's license revoked, suspended or reinstated; or
 - g. The marital status of **you**, a **family member** or any **regular operator**.
- C. Any adjustment of **your** premium will be made using **our** rules in effect at the time of the change. Premium adjustments may include, but are not limited to, changes in:
1. **Autos** insured under the Policy;
 2. Use of the **autos** insured under the Policy;
 3. Drivers;
 4. Coverages or coverage limits;
 5. Principle place where **you** garage any of the **autos** insured under this Policy;
 6. Eligibility for discounts or surcharges or other premium credits or debits;
 7. Marital status; or
 8. Other factors permitted by law.

- D. **We** may revise **your** Policy coverages to provide more protection without additional premium charge. If **we** do this and **you** have the coverage which is changed, **your** Policy will automatically provide the additional coverage as of the date the revision is effective in **your** state. This does not apply to changes made with a general program revision that includes both broadening and restrictions in coverage, whether that general program revision is made through introduction of a subsequent edition of **your** Policy or an amendatory endorsement.
- E. If **you** ask **us** to delete an **auto**, no coverage will apply as of the date and time **you** ask **us** to delete such **auto**.
- F. If **we** make a change to this Policy during the policy period that broadens any coverage without an additional premium charge, **you** will have the broadened coverage if that coverage is in effect on the date of change. The effective date of a change will be the date **we** implement that change in the state in which the Policy is written.

SETTLEMENT OF CLAIMS

We may use estimating, appraisal, or injury evaluation systems or tools to determine any amounts to be paid under this Policy. These systems or tools may be developed by **us** or by third parties and may include computer software, databases and special technology.

LEGAL ACTION AGAINST US

- A. No legal action may be brought against **us** until there has been full compliance with all the terms of this Policy. In addition, under PART A > LIABILITY COVERAGE, no legal action may be brought against **us** unless:
1. **We** agree in writing that the **insured** has an obligation to pay for damages due to a covered **accident**; or
 2. The amount of that obligation has been finally determined by judgment after trial.
- B. No person or organization has any right under this Policy to bring legal action against **us** or to make **us** a party to any legal proceeding to determine the liability of the **insured**.
- C. If **we** retain salvage, **we** have no duty to preserve or otherwise retain the salvage for any purpose, including as evidence for a legal proceeding absent any specific and formal written request to do so.
- D. Any lawsuit against **us** for benefits under any part of this Policy, or any lawsuit filed against **us** by an **insured** following an **accident**, must be commenced within the time period set forth in the bodily injury statute of limitations in the law of the state where the **accident** occurred.

OUR RIGHT TO RECOVER PAYMENT

- A. If **we** make a payment under this Policy and the person to or for whom payment was made has a right to recover damages from another, **we** shall be

subrogated to that right to the extent of our payment. However, **our** right of recovery is subordinate to the **insured's** right to full recovery of damages. That person shall:

1. Do whatever is necessary to enable **us** to exercise **our** rights;
2. Do nothing after an **accident** or **loss** to prejudice **our** rights;
3. Deliver to **us** any legal papers relating to that recovery;
4. Take the necessary or appropriate action, through a representative designated by **us**, to recover payment as damages from the responsible person or organization. If there is a recovery, then **we** shall be reimbursed out of the recovery for expenses, costs and attorney fees incurred in connection with this recovery; and
5. Execute and deliver to **us** any legal instruments or papers necessary to secure the rights and obligations of the **insured** and **us** as established here.

However, **our** rights under this paragraph A. do not apply under Part D > COVERAGE FOR DAMAGE TO YOUR AUTO against any person using a **covered auto** with the **owner's** express or implied permission. **Our** rights under this paragraph A. also do not apply to damages an **insured** is legally entitled to recover from the **owner** or operator of an **uninsured motor vehicle** as defined in paragraph 2. of the definition of **uninsured motor vehicle** in PART C(I) and PART C(II).

- B. Except with respect to coverage under paragraph 2. of the definition of **uninsured motor vehicle** in PART C(I) and PART C(II), **we** shall be entitled to a recovery under paragraph A of this section only after the **insured** has been fully compensated for damages. However, **our** right to recover is secondary to the injured **insured's** right to be compensated fully for his injuries.
- C. If **we** make a payment under this Policy and the person to or for whom payment is made recovers damages from another, **we** shall be subrogated to that person's right to recover.
- D. If **we** pursue recovery from a liable party:
 1. **You** permit **us** to seek recovery of any deductible that may apply, but **we** have no duty to do so. **We** will notify **you** if **we** do not intend to collect the deductible.
 2. **We** reserve the right to compromise or settle the deductible and property damage claims against the responsible parties for less than the full amount. For those sums, **you** agree to be bound by:
 - a. A settlement agreement entered into by **us** and the liable party; or

b. The outcome of appraisal or arbitration.

3. If the total recovery is less than the total of **our** payment and the deductible, **we** will reduce reimbursement of the deductible to **you** based on the proportion that the actual recovery bears to the total of **our** payment and the deductible.
4. Any reimbursement to **you** by **us** will be reduced by a proportionate share of expenses and attorney fees incurred due to the recovery.
- E. If **we** make a payment to, or on behalf of, anyone insured under this Policy which is not covered by this Policy but is compelled by law then, to the extent allowed by law, **you** must reimburse **us** to the full extent of all **loss** or damages paid by **us** and **our** claims adjustment expenses.
- F. Once an **insured** has been fully compensated for his or her damages, if that **insured** recovers from another without **our** written consent, the **insured's** right to payment under PART B > MEDICAL PAYMENTS COVERAGE and/or PART D > DAMAGE TO YOUR AUTO will no longer exist.

POLICY PERIOD AND TERRITORY

- A. This Policy applies only to **accidents** or **losses** which occur:
 1. During the policy period as shown on the **Declarations Page**; and
 2. Within the policy territory.
- B. The policy territory is:
 1. The United States of America, its territories or possessions; or
 2. Canada.

This Policy also applies to covered **accidents** or covered **losses** while the **auto** insured under this Policy is being transported between their ports.

PREMIUM DUE ON POLICIES

An affiliate or business partner of **ours** may provide **you** with special offers that may be applied toward the premium to purchase a policy issued by **us**. **We** may provide **you** with special offers that may be applied toward the purchase of products offered by an affiliate or business partner of **ours**.

In addition, **our** affiliate or business partner may:

1. Provide **you** with special offers toward the purchase of a product or service provided through or by **our** affiliate or business partner;
2. Make a contribution on **your** behalf to an educational or charitable fund under a program sponsored through or by **our** affiliate or business partner; or
3. Make a contribution toward any educational or charitable fund of **your** choice.

POLICY TERMINATION**A. Cancellation**

1. This Policy may be cancelled during the policy period as follows:
 - a. **You** may cancel by:
 - i. Returning this Policy to **us**; or
 - ii. Giving **us**, or **our** authorized representative, advance written notice of the date cancellation is to take effect. The effective date of the cancellation shall be either the date **we** receive such notice or the date specified in the notice, whichever is later. **We** may, at **our** option, waive the requirement that the notice state a future date for cancellation and cancel the Policy as of the effective date shown in the notice.
 - b. **We** may cancel this Policy by **mailing** a notice of cancellation to the **named insured** at the address last known by **us**:
 - i. At least ten (10) days notice if cancellation is for nonpayment of premium; or
 - ii. At least thirty (30) days notice in all other cases.
 - c. If the premium was not paid because a check, draft or other remittance was not honored upon presentment, cancellation shall be effective as of the premium due date. **We** are not liable after the premium due date for any claim, injury, damage or loss which would otherwise be covered if the check, draft or other remittance had been honored. The cancellation shall remain effective unless, within ten (10) days of the date the notice of cancellation was mailed, **you** or **your** legal representative redeems the dishonored check, draft or other remittance by presenting to **us** a cashier's check or money order for the full amount of the returned check, draft or other remittance. If the dishonored check, draft or other remittance is redeemed within the ten (10) day period stated above, the coverage will be reinstated as of the premium due date.
2. When this Policy has been in effect for less than sixty (60) days, **we** may cancel this Policy for any lawful reason. Notice of Cancellation will be provided as required by state law.
3. After this Policy is in effect for sixty (60) days, or if this is a renewal or continuation policy, **we** will cancel only for one or more of the following reasons:
 - a. For nonpayment of premium;

- b. If **your** driver's license or that of:
 - i. Any driver who **resides** with **you**; or
 - ii. Any driver who customarily uses a **covered auto**;

has been suspended or revoked. This must have occurred:

 - i. During the policy period if this is not a renewal or continuation policy; or
 - ii. If this is a renewal or continuation policy, during the policy period or the 180 days immediately preceding this policy's effective date.
- c. In the event of fraud or material misrepresentation with the intent to deceive in presentation of a claim;
- d. In the event of fraud or material misrepresentation with the intent to deceive in the procurement or renewal of this policy; or
- e. Any other reason allowed by law.

B. Nonrenewal

If **we** decide not to renew or continue this Policy, **we** will **mail** notice to the **named insured** at the address last known by **us**. Notice will be **mailed** at least twenty (20) days before the end of the policy period. Subject to this notice requirement, if the policy period is:

1. Less than one year, **we** will have the right not to renew or continue this Policy at the end of the policy period.
2. 1 year or longer, **we** will have the right not to renew or continue this Policy at each anniversary of its original effective date.

C. Automatic Termination

1. If **we** offer to renew or continue **your** Policy and **you** or **your** representative do not accept, this Policy will automatically terminate at the end of the current policy period. Failure to pay the required renewal or continuation premium when due shall mean that **you** have not accepted **our** offer.
2. If other insurance is obtained on a **covered auto**, any similar insurance provided by this Policy will terminate as to that **auto** on the effective date of the other insurance.
3. If a **covered auto** is sold or transferred to someone other than **you** or a **family member**, insurance provided by this Policy will terminate as to that **auto** on the effective date of the sale or transfer.
4. Nothing in this **POLICY TERMINATION** section shall waive **our** rights to void this Policy, if permitted by law.

5. If the Policy is cancelled under this provision, cancellation notice will be **mailed to you**.

D. Other Termination Provisions

1. If the law in effect at the time this Policy is issued, renewed or continued:
 - a. Requires a longer notice period;
 - b. Requires a special form of, or procedure for, giving notice; or
 - c. Modifies any of the stated termination reasons;

we will comply with those requirements.
2. If not prohibited by state law, **we** may deliver any notice in person instead of **mailing** it.
3. **Proof of mailing** of any notice shall be sufficient proof of notice.
4. If this Policy is cancelled, the premium refund, if any, will be computed on a pro rata basis. If **you** cancel the Policy, **we** will send **you** the refund within thirty (30) days after the effective date of cancellation. However, making or offering to make the refund is not a condition of cancellation.
5. Any notice stating the Policy has ended shall terminate all coverages under this Policy as of the effective date in the notice.

TRANSFER OF YOUR INTEREST IN THIS POLICY

Your rights and duties under this Policy may not be assigned without **our** written consent. However, upon the death of the **named insured**, coverage will be provided until the end of the policy period or cancellation date, whichever is earlier, for:

1. The **named insured's** surviving spouse or domestic partner, if such person **resides** in the **named insured's** household at the time of the **named insured's** death. Coverage applies to the spouse as if a named insured shown on the **Declarations Page**.
2. The legal representative of the deceased person while acting within the scope of the duties of a legal representative. This applies only with respect to the representative's legal responsibility to maintain or use a **covered auto**.

MISREPRESENTATION AND FRAUD

- A. This Policy was issued in reliance on the information provided on **your** written or verbal insurance Application. **We** reserve the right, at **our** sole discretion, to void from inception or rescind this Policy if **you** or a **family member**:
 1. Made, with the intent to deceive, any false statements or representations to **us** with respect to any material fact or circumstance; or

2. Concealed, omitted or misrepresented any material fact or circumstance or engaged in any fraudulent conduct;

in the Application for this insurance or when renewing this Policy, requesting reinstatement of this Policy or applying for any coverage under this Policy.

A fact or circumstance will be deemed material if **we** would not have:

1. Written this Policy;
2. Agreed to insure the risk assumed; or
3. Assumed the risk at the premium charged.

This includes, but is not limited to, failing to disclose in the verbal or written Application all persons **residing in your** household or **regular operators of a covered auto**.

- B. If **we** void this Policy, the Policy will be void from its inception, and **we** will not be liable for any claims or damages that would otherwise be covered.
- C. **We** may cancel this Policy and/or may not provide coverage under this Policy if **you**, a **family member** or anyone else seeking coverage under this Policy concealed or misrepresented any material fact or circumstance or engaged in fraudulent conduct in connection with the presentation or settlement of a claim with the intent to deceive. This includes, but is not limited to, misrepresentation concerning a **covered auto** or **your** interest in a **covered auto**.
- D. **We** may, at **our** sole discretion, void or rescind this Policy for fraud or misrepresentation even after the occurrence of an **accident** or **loss**. This means that **we** will not be liable for any claims or damages which would otherwise be covered.
- E. If **we** make a payment under this Policy for a **loss** or **accident** to **you** or to a person seeking coverage under this Policy which **we** later discover was obtained through fraud, concealment or misrepresentation by **you** or the person seeking coverage under this Policy, **we** reserve the right, at **our** sole discretion, to recover such payment made or incurred.
- F. If **we** certify this Policy as proof of financial responsibility, nothing in this provision shall affect coverage under PART A > LIABILITY TO OTHERS up to the minimum liability limits required by the Louisiana Motor Vehicle Safety Responsibility law for an **accident** that occurs before **we** notify the **named insured** that the Policy is void.

UNPAID PREMIUM AND FEES

When **we** make payment to **you** or the loss payee, as interests may appear, or to anyone on **your** behalf for any first party claim made by **you** under this Policy, **we** may deduct from the payment any premium or fees that are due and unpaid under the Policy.

TWO OR MORE POLICIES

If this Policy and any other policy issued to **you** by **us** or any other member of the National General Insurance group of companies apply to the same **accident** or **loss**, the total limit of **our** liability under all the policies shall not exceed the highest applicable limit of liability under any one policy.

TERMS OF POLICY CONFORM TO STATUTE

If any provision of this Policy fails to conform to the statutes of the state in which this Policy is written, the provision shall be deemed amended to conform to such statutes. All other provisions shall be given full force and effect. Any disputes as to the coverages provided or the provisions of this Policy shall be governed by the law of the state in which this Policy is written.

JOINT AND INDIVIDUAL INTERESTS

You may change or cancel this Policy; however, **your** action(s) shall be binding on all persons provided coverage under this Policy.

ELECTRONIC SIGNATURE

A. **You** and **we** agree that electronic signatures may be used and will satisfy any regulatory or other requirement for written signatures. When a law requires:

1. A signature on any form or document; or
2. A letter or document to be notarized, verified, acknowledged or made under oath;

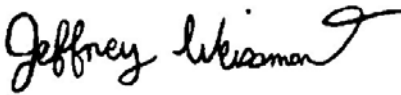
the electronic signatures will satisfy this requirement if the signature of the person authorized to perform the service of notarizing, verification, or acknowledgment is attached or logically associated with the signature or electronic signatures of record.

B. **You** and **we** agree that electronic signatures shall include, but are not limited to, any assent; acceptance; agreement; election; selection; and rejection sent via e-mail; internet; text message; or fax; or done as a recorded telephonic signature or assent, when done with the intent of the person to be bound, as if signed in writing.

In witness whereof, we, as officers of the Company, have caused this Personal Automobile Policy to be executed and attested. If required by state law, this Policy shall not be valid unless countersigned by **our** authorized representative.

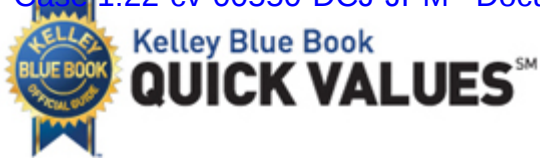
A handwritten signature in black ink, appearing to read "Barry S. Karfunkel". The signature is stylized with a large, sweeping flourish at the end.

Barry S. Karfunkel
President

A handwritten signature in black ink, appearing to read "Jeffrey Weissmann". The signature is written in a cursive style.

Jeffrey Weissmann
Secretary

EXHIBIT B



Report Date: 01/20/2021

2013 Dodge Avenger SE Sedan 4D

	Values	Valuation Ranges
MSRP When New	\$21,385	
Base Value	NA	
Mileage Adj	NA	
Options Adj	NA	
Typical Listing Price (CPO)	NA	
Fair Purchase Price (CPO)	NA	
Base Value	\$7,453	
Mileage Adj	-\$2,350	
Options Adj	\$0	
Typical Listing Price	\$5,103	
Base Value	\$6,973	
Mileage Adj	-\$2,350	
Options Adj	\$0	
Fair Purchase Price	\$4,623	
Private Party		
Base Value	\$6,648	
Mileage Adj	-\$2,350	
Options Adj	\$0	
Excellent	\$4,298	
Base Value	\$6,154	
Mileage Adj	-\$2,350	
Options Adj	\$0	
Very Good	\$3,804	
Base Value	\$5,600	
Mileage Adj	-\$2,350	
Options Adj	\$0	
Good	\$3,250	
Base Value	\$5,001	
Mileage Adj	-\$2,350	
Options Adj	\$0	
Fair	\$2,651	
Notes:		

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Report Date: 01/20/2021

2013 Dodge Avenger SE Sedan 4D

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Report Date: 01/20/2021

2013 Dodge Avenger SE Sedan 4D

Value as of: 01/08/2021
VIN: 1C3CDZAB6DN514499
Zip Code: 71360
Condition: Good
Mileage: 218,961
Color: Blue

Vehicle Details

Year: 2013	Engine: 4-Cyl, 2.4 Liter
make: Dodge	Trans: Automatic, 6-Spd w/AutoStick
Model: Avenger	Drivetrain: FWD
Trim: SE Sedan 4D	

Optional Equipment

Touring Suspension, Traction Control, Stability Control, ABS (4-Wheel), Alarm System, Keyless Entry, Air Conditioning, Power Windows, Power Door Locks, Cruise Control, Power Steering, Tilt & Telescoping Wheel, AM/FM Stereo, CD/MP3 (Single Disc), Bluetooth Wireless, UConnect, Dual Air Bags, Side Air Bags, F&R Head Curtain Air Bags, Steel Wheels

EXHIBIT C



PO Box 1623 • Winston-Salem, NC 27102-1623

February 09 2021

DANA BASS
208 ARMSTRONG STREET
PINEVILLE, LA 71360

RE: Claim Number: 210010562
Date of Loss: January 8, 2021
Named Insured: Charyl Bass

Dear Dana Bass,

At National General, we are committed to your complete satisfaction. We want to resolve your claim quickly and professionally. Please allow this letter to serve as confirmation of our agreement to settle the Collision claim for the total loss of your 2013 DODG AVENGER SE, VIN 1C3CDZAB6DN514499, as follows:

\$3411	Actual Cash Value
<u>\$500</u>	<u>Less Deductible</u>
\$2911	NET PAYMENT

The Net Payment represents the following: Pending vehicle arrival at copart with keys and storage review

\$2911 to be paid to Dana Bass.

Sign the title as the seller and mail title to copart:

COPART AUTO AUCTIONS (Yard 50)
P.O. BOX 500
GREENWELL SPRINGS LA 70739
Ref Lot: 33174081

To expedite handling we use this paperwork which allows us to process the title to the vehicle to facilitate the sale of the salvage after the settlement. Enclosed you will find a copy of the evaluation report. I am here to help with any questions you may have.

Please contact your agent or Customer Service in order to ensure that any necessary coverage changes for this vehicle are completed.

We appreciate your cooperation in this matter. If I can be of any further assistance, please do not hesitate to contact me. We welcome the opportunity to assist you.

Matt Kendeigh

Total Loss Specialist II

On behalf of Imperial Fire & Casualty Insurance Company

PO BOX 1623 Winston Salem, NC 27102-1623

Direct (216) 266-0690 • Toll Free (800) 468-3466 • Fax (800) 924-0273

Enclosures

Dana Bass
Page 2

If you are emailing me a claim-specific communication, please send it to CLAIMS@NGIC.COM with the claim number in the subject line. Thank you.