ALBERTA STANDARD

# Garage Automobile Policy

S.P.F. No. 4

**This form is approved by Alberta's Superintendent of Insurance effective January 1, 2027**

**PLEASE READ THIS CAREFULLY**

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## INSURING AGREEMENTS

In consideration of the payment of the premium specified and of the statements contained in the application and **subject to the limits, terms, conditions, provisions, definitions and exclusions herein stated** and subject always to the condition that the Insurer shall be liable only under the section(s) or subsection(s) of the following Insuring Agreements A, A.1, B, C and E for which a premium is set out in the Policy or in the Certificate of Automobile Insurance and no other

## SECTION A – THIRD PARTY LIABILITY

The Insurer agrees

**Owned Automobiles** (a) to indemnify the Insured and, in the same manner and to the same extent as if named herein as the Insured, every other person who with the consent of the Insured personally drives any Owned Automobile or operates any part thereof, against the liability imposed by law upon the Insured or upon such other person for loss or damage arising from the ownership, use or operation of any such Owned Automobile; and

**Non-owned Automobiles**(b) to indemnify the Insured against the liability imposed by law upon the Insured for loss or damage arising from the use or operation of any Customer's Automobile or Non-owned Automobile or part thereof;

AND RESULTING FROM BODILY INJURY TO OR DEATH OF ANY PERSON OR DAMAGE TO THE PROPERTY OF OTHERS NOT IN THE CARE, CUSTODY OR CONTROL OF THE INSURED.

### BODILY INJURY TO OR DEATH OF ANY PERSON OR DAMAGE TO PROPERTY

The Insurer shall not be liable under this section:

(a) for any liability imposed on any person insured by this section
  (1) by any worker's compensation law or plan; or
  (2) for bodily injury to or the death of any partner, officer or employee of such person while engaged in the business of such person; or

(b) for loss or damage to property carried in or upon an automobile owned or driven by any person insured by this section, or to any property owned or rented by, or in the care, custody or control of any person insured by this section; or

(c) for loss or damage to any Customer's Automobile; or

(d) for any amount in excess of the limit(s) stated in Section A of Item 5 of the Policy or in the Certificate of Automobile Insurance and expenditures provided for in the Additional Agreements of this Section; subject always to the provisions of the section of the *Automobile Insurance Act* relating to the nuclear energy hazard; or

(e) for any liability arising from contamination of property carried in the automobile; or

(f) for any claim for non-pecuniary damages against a person referred to in section 80(1)(a) of the *Automobile Insurance Act* in respect of liability imposed on the person by law; or

(g) for any legal expenses or disbursements or any other costs in respect of an action or proceeding related to non-pecuniary damages commenced against a person under section 80(1)(a) of the *Automobile Insurance Act*.

*See also General Provisions, Definitions, Exclusions and Statutory Conditions of this Policy*

## ADDITIONAL AGREEMENTS OF INSURER

Where indemnity is provided by this Section the Insurer shall:

(1) upon receipt of notice of loss or damage caused to persons or property, make such investigations, conduct such negotiations with the claimant, and effect such settlement of any resulting claims, as are deemed expedient by the Insurer; and

(2) defend in the name and on behalf of any person insured by this Policy and at the cost of the Insurer any civil action that is at any time brought against such person on account of loss or damage to persons or property. For greater certainty, the Insurer has no obligation under this additional agreement to defend a civil action commenced against a person referred to in section 80(1)(a) of the *Automobile Insurance Act*; and

(3) pay all costs taxed against any person insured by this Policy in any civil action, or part(s) of a civil action, where the insured is entitled to be defended by the Insurer and any interest accruing after entry of judgment upon that part of the judgment which is within the limit(s) of the Insurer's liability; and

(4) be liable up to the minimum limit(s) prescribed for that province or territory of Canada in which the accident occurred, if that limit(s) is higher than the limit(s) stated in Section A of Item 5 of the Policy or in the Certificate of Automobile Insurance; and

(5) not set up any defence to a claim that might not be set up if the Policy were a motor vehicle liability policy issued in the province or territory of Canada in which the accident occurred.

## AGREEMENTS OF INSURED

Where indemnity is provided by this section, every person insured by this Policy:

(1) by the acceptance of this Policy, constitutes and appoints the Insurer as the insured person's irrevocable attorney to appear and defend in any province or territory of Canada in which action is brought against the insured person arising out of the ownership, use or operation of the automobile;

(2) shall reimburse the Insurer, upon demand, in the amount which the Insurer has paid by reason of the provisions of any statute relating to automobile insurance and which the Insurer would not otherwise be liable to pay under this Policy.

# SECTION A.1 – DIRECT COMPENSATION FOR PROPERTY DAMAGE

Where the Direct compensation for property damage section of the *Automobile Insurance Act* applies, the Insurer agrees to indemnify the Insured under this Section A.1 as though the Insured were a third party for loss of or damage to the automobile, its equipment, and its contents if not carried for reward, and for loss of use of the automobile, equipment and contents in accordance with the *Automobile Insurance Act* and regulations made under the *Automobile Insurance Act*, provided it is not being used for an Excluded Use or is not an Excluded Automobile under the General Provisions, Definitions and Exclusions of this Policy, if such automobile

(a) is an Owned Automobile, or

(b) is a Non-owned Automobile or a Customer's Automobile, provided that the automobile

 (i) is in the Insured's care, custody or control; and

 (ii) is not insured under another motor vehicle liability policy.

## DEFINITIONS AND INTERPRETATION

For the purpose of this section, with respect to a claim for loss of or damage to the automobile and its equipment, the Insured is the owner of the automobile, and with respect to a claim for loss of or damage to contents, the Insured is the owner of the contents.

The Insurer will pay that portion of the total loss or damage that is equal to the percentage to which the Insured or driver was not at fault for the accident, less any applicable Direct Compensation for Property Damage deductible.

## DEDUCTIBLE CLAUSE

Each occurrence causing loss or damage covered under this section shall give rise to a separate claim in respect of which the Insurer's liability shall be limited to the amount of loss or damage in excess of the Direct Compensation for Property Damage deductible, if any, stated in Section A.1 of Item 5 of the Policy or in the Certificate of Automobile Insurance multiplied by the percentage to which the driver of the automobile was determined **not** at fault for the accident under the regulations. The Insured is not permitted to sue anyone (for instance an at-fault motorist) to recover this deductible. If there is loss of or damage to both the automobile and its contents, the deductible will first be applied to the automobile loss or damage. If there is any remaining deductible, the remainder will be applied to the contents loss or damage. The deductible applies separately to each automobile that is insured.

## EXCLUSIONS

**The Insurer shall not be liable under this section**

(a) for any amount in excess of coverages referenced in the *Automobile Insurance Act* relating to nuclear energy hazards; or

(b) for any claim arising from contamination of property carried in the automobile.

## ADDITIONAL AGREEMENT OF INSURER

Where the Owned Automobile, Non-owned Automobile, or Customer's Automobile sustains damage arising directly or indirectly from the use or operation in British Columbia of one or more other automobiles, the Insurer agrees to indemnify the Insured under this Section A.1 in accordance with British Columbia's Basic Vehicle Damage Coverage provisions. Any deductible amount stated in Section A.1 of Item 4 of the Policy or in the Certificate of Automobile Insurance is also applicable to a claim under this additional agreement in the same way it would be applicable to a claim made under Direct Compensation for Property Damage coverage.

*See also General Provisions, Definitions, Exclusions and Statutory Conditions of this Policy*.

# SECTION B – ACCIDENT BENEFITS

## SUBSECTION 1 – CARE-FIRST BENEFITS

The Insurer agrees to pay compensation **in accordance with the *Automobile Insurance Act* and applicable regulations**, to or in respect of any person insured by this Policy who sustains bodily injury or death as a result of an accident, regardless of who is at fault for the accident.

The coverages described in this Subsection 1 – Care-First Benefits are subject to the *Automobile Insurance Act* and applicable regulations, and instruments having the force of law made under the *Automobile Insurance Act*.

For additional information about the coverages and expectations under this Subsection 1, including information regarding available treatments for bodily injury and compensation see the Consumer Guide. Take note that the Consumer Guide is not legally enforceable and does not create any rights or obligations beyond those set out in the *Automobile Insurance Act,* the applicable regulations, and any instruments having the force of law made under the *Automobile Insurance Act.* In the event of any conflicts with this form or the Consumer Guide, the *Automobile Insurance Act* and applicable regulations, and any such instruments will prevail.

## Division 1 – WHO IS COVERED

Subject to the *Automobile Insurance Act* and applicable regulations, this Policy covers

(a) the named insured, any person specified in the policy as a driver of an Owned Automobile, Non-owned Automobile, or Customer's Automobile and, if the named insured is an individual, a dependant of the named insured, or of the named insured's spouse or adult interdependent partner;

(b) for accidents occurring in Alberta, a person who is injured or killed in an automobile accident involving an Owned Automobile, Non-owned Automobile, or Customer's Automobile and is not a named insured, a dependant of a named insured, or of a named insured's spouse or adult interdependent partner, or a person specified as a driver of the described automobile under any other motor vehicle liability policy, and is not covered under the policy of an automobile in which they were an occupant or which struck them; and

(c) for accidents occurring outside Alberta, a person who is an occupant of an Owned Automobile, Non-owned Automobile, or Customer's Automobile or, while a pedestrian, is struck by an Owned Automobile, Non-owned Automobile, or Customer's Automobile, and who is a resident of Alberta or was a resident of Alberta at any time during the 60 days immediately prior to the accident.

## Division 2 – HEALTH CARE AND RELATED EXPENSES

Subject to Part 2, Division 2 of the *Automobile Insurance Act* and the Benefit, Treatment and Care Regulation, the Insurer shall pay or reimburse reasonable and necessary expenses incurred by the insured or other claimant because of the insured's bodily injury.

## Division 3 – INCOME REPLACEMENT AND OTHER MONETARY BENEFITS

Subject to Part 2, Division 3 of the *Automobile Insurance Act* and the Income Replacement and Monetary Benefits Regulation, the Insurer shall pay income replacement and other monetary benefits. The income replacement benefit coverage is secondary to any similar available benefits.

## Division 4 – PERMANENT IMPAIRMENT BENEFIT

Subject to Part 2, Division 4 of the *Automobile Insurance Act* and the Permanent Impairment Regulation, if an insured sustains permanent impairment, the Insurer shall pay a permanent impairment benefit.

## Division 5 – DEATH BENEFITS AND RELATED EXPENSES

Subject to Part 2, Division 5 of the *Automobile Insurance Act* and the Income Replacement and Monetary Benefits Regulation, the Insurer shall pay or reimburse eligible persons:

(a) death benefits;

(b) reasonable and necessary expenses related to the funeral and interment of a deceased; and

(c) reasonable and necessary expenses related to grief counselling in respect of the deceased's death.

## SPECIAL PROVISIONS, DEFINITIONS, AND EXCLUSIONS OF SUBSECTION 1 – CARE-FIRST BENEFITS

**(1) "Prescribed claim form"** defined – In this subsection, the words "prescribed claim form" mean a form prescribed under the *Automobile Insurance Act*.

**(1.1)** The Insurer shall pay reasonable expenses incurred by or on behalf of the insured person in completing the medical report portion of a prescribed claim form.

**(2) Insurer to advise and assist claimants** – The Insurer shall endeavour to ensure a claimant is informed about the compensation available under this subsection, reasonably assist a claimant with making a claim for compensation, and shall endeavour to ensure that a claimant receives the compensation to which the claimant is entitled.

**(3) Applying for benefits** – A claim for compensation under this subsection must be made in accordance with the regulations. Additionally, the claimant must provide any information and authorization reasonably requested by the insurer.

**(4) Medical assessments and reports** – The claimant must submit to a medical assessment when and as often as the Insurer reasonably requires while the claim is pending. The claimant, or their representative, may on request, receive a copy of the medical assessor's report from the Insurer.

(4.1) The Insurer shall pay reasonable expenses incurred by or on behalf of the claimant in submitting to a medical assessment under provision (4);

(4.2) On receipt of a medical assessor's report, the Insurer

(a) must accept the medical assessor's findings respecting the diagnosis and prognosis of the insured's bodily injury, and

(b) shall, based on the medical assessor's recommendations, make a determination about entitlement to compensation.

**(5) Change in circumstances** – A claimant must notify an insurer promptly of any change in the claimant's circumstances that affects, or might affect, either or both of the following:

(a) the claimant's entitlement to compensation under this subsection;

(b) the amount of compensation payable to the claimant under this subsection.

**(6) Benefit limits and amounts** – Benefit limits and amounts are as established by the Minister of Finance.

**(7) Interest where benefit not paid** – Where an insurer fails to pay compensation in the prescribed time, the insurer must pay interest on the overdue amount of compensation payable at the prescribed rate.

**(8) Review of decision** – A claimant may, within 60 calendar days after receiving notice of a decision from an insurer, in respect of a claim under this subsection, submit an application in writing to the Insurer for a review of the decision. The Insurer, on receipt of such application must review the decision and issue a review decision within 10 business days of receipt of the application.

**(9) Exclusions** – This exclusion list is not comprehensive and is subject to the *Automobile Insurance Act* and applicable regulations and instruments having the force of law made under the *Automobile Insurance Act;*

**(9.1) Non-qualifying bodily injury or death** – Subject to section 3 of the *Automobile Insurance Act* and section 2 of the Exclusions and Tort Bar Exceptions Regulation, the Insurer shall not be liable under Subsection 1 of Section B in respect of bodily injury or death

(a) sustained as a result of an accident caused, while an automobile is not in motion, by, or by the use of, a device mounted on or attached to the automobile that can be operated independently from the automobile;

(b) sustained as a result of an accident caused by an automobile being used or operated in a contest, show or race, or in advanced or performance driver training, if the use, operation or training is held or conducted in compliance with the *Traffic Safety Act* or with substantially similar law in another jurisdiction where the accident occurred on a track or other location that is temporarily or permanently closed to all other automobile traffic and includes an element of race or speed test;

(c) sustained by an occupant of an automobile in the following circumstances:

(i) only one automobile was involved in the accident, the automobile was not an insured motor vehicle within the meaning of the *Traffic Safety Act* or substantially similar law in another jurisdiction where the accident occurred, and the automobile was being used or operated in such a manner or place that it was not required under the *Traffic Safety Act*, or under a substantially similar law in another jurisdiction where the accident occurred, to be an insured motor vehicle; or

(ii) more than one automobile was involved in the accident and each automobile was an automobile referred to in exclusion clause (c)(i);

For greater certainty, clauses (c)(i) and (c)(ii) do not apply to a person who was not an occupant of an automobile described in those clauses;

(d) sustained by an occupant of a public transit automobile as a result of an accident, if the public transit automobile did not collide with another automobile or any other object or person; or

(e) caused directly by sickness or disease that is unrelated to bodily injury or death sustained as a result of an accident;

**(9.2)** **No entitlement to compensation** – Subject to sections 5(9), 5(10) and 78 of the *Automobile Insurance Act* and section 3 of the Exclusions and Tort Bar Exceptions Regulation, the Insurer shall not be liable under Subsection 1 of Section B to a person in respect of their own or another's bodily injury or death sustained as a result of an accident if the person

(a) was a voluntary occupant of the automobile involved in the accident at the time of the accident, and knew or ought reasonably to have known that the automobile

(i) was not an insured motor vehicle within the meaning of the *Traffic Safety Act* or under a substantially similar law in another jurisdiction where the accident occurred, and the automobile was being used or operated in such a manner or place that it was required under the *Traffic Safety Act*, or under a substantially similar law in another jurisdiction where the accident occurred, to be an insured motor vehicle; or

(ii) was being used or operated for an illicit or prohibited trade or transport;

A minor is presumed, in the absence of evidence to the contrary, to not meet the criteria described in this clause;

(b) is a resident of British Columbia, Manitoba, Quebec, or Saskatchewan;

(c) is entitled to compensation under the *Workers' Compensation Act* or a similar law of another jurisdiction in respect of the accident;

**(9.3)** **Compensation reduced, suspended, terminated or denied** – Subject to section 47 of the *Automobile Insurance Act,* the Exclusions and Tort Bar Exceptions Regulation, and the Benefits, Treatment and Care Regulation, the Insurer may reduce, suspend, terminate or deny compensation payable to or on behalf of an insured or claimant in respect of the insured's bodily injury or death sustained as a result of an accident, if

(a) the insured or other claimant wilfully caused the accident or directed, authorized or allowed another person to wilfully cause the accident;

(b) the insured or other claimant wilfully caused the insured's bodily injury or death or directed, authorized or allowed another person to wilfully cause the insured's bodily injury or death;

(c) the insured or other claimant was using or operating an automobile involved in the accident, caused the accident, and is, in respect of their use or operation of the automobile at the time of the accident

(i) charged with or found guilty of a prescribed driving-related offence under the *Criminal Code* (Canada) or in respect of one of those offences under the *Youth Criminal Justice Act* (Canada) or the *National*

*Defence Act* (Canada) or of an offence under a substantially similar provision of the law of a jurisdiction of the United States of America; or

(ii) charged with or found guilty of a prescribed driving-related offence under the *Traffic Safety Act* or of an offence under a substantially similar provision of the law of another jurisdiction in Canada or a jurisdiction of the United States of America;

(iii) issued a notice of administrative penalty under a prescribed driving-related section of the *Traffic Safety Act* or a substantially similar provision of the law of another jurisdiction in Canada or a jurisdiction of the United States of America;

(d) the insured or other claimant was an occupant of an automobile involved in the accident, regardless of who caused the accident, and is, in respect of the automobile, charged with or found guilty of a prescribed automobile theft-related offence under the *Criminal Code* (Canada) or in respect of one of those offences under the *Youth Criminal Justice Act* (Canada) or the *National Defence Act* (Canada) or of an offence under a substantially similar provision of the law of a jurisdiction of the United States of America;

For these clauses (9.3)(c) and (d), prescribed offences are set out in the Exclusions and Tort Bar Exceptions Regulation. If the insured or other claimant has their charges withdrawn, is not found guilty, the finding of guilt is successfully appealed, or the notice of administrative penalty is cancelled, the relevant reduction, suspension, termination or denial must be cancelled, full compensation must resume, and the Insurer must make payment to the insured or other claimant retroactive to the initial date of the relevant reduction, suspension, termination or denial;

(e) the insured or other claimant in respect of the insured's bodily injury or death sustained as a result of an accident

(i) knowingly provides or directs, authorizes or allows another person to knowingly provide, false or inaccurate information to the Insurer that is material to the compensation being claimed, but only in respect of the type of compensation to which the false or inaccurate information relates;

(ii) prevents or obstructs the Insurer from exercising the Insurer's right of subrogation or recovery;

(iii) without reasonable excuse,

A. fails to attend treatment visits in accordance with the program of care or a care-and-treatment request, as applicable, and participate in the treatment provided;

B. fails to follow the advice and recommendations of a health care practitioner who is providing a health care service under a program of care or a care-and-treatment request;

C. fails to attend and undergo a medical assessment when required by the Insurer;

D. obstructs a medical assessor from conducting a medical assessment;

E. fails to provide any information, or any authorization necessary for the Insurer to obtain information, reasonably requested by the Insurer;

F. fails to notify the Insurer promptly of a change in circumstances that might affect entitlement to compensation or the amount of compensation payable; or

(f) while the insured is remanded in custody or is serving a sentence of imprisonment; but only with respect to an income replacement benefit or loss-of-studies benefit.

**(10)Appeal of insurer decision** – In accordance with the Alberta Automobile Care-First Tribunal Regulation, a notice of appeal must be served on the Alberta Automobile Care-First Tribunal within 60 days from the date the insured or other claimant received notice of the decision from the Insurer.

*See Also General Provisions, Definitions, Exclusions and Statutory Conditions of this Policy.*

## SUBSECTION 2 – UNINSURED MOTORIST COVER

The insurer agrees to pay all sums which every insured person shall be legally entitled to recover as damages for bodily injury and all sums which any other person shall be legally entitled to recover as damages because of the death of any insured person, from the owner or driver of an uninsured or unidentified automobile as defined herein.

**(1) The Insurer shall not be liable under this subsection,**

(a) to any person who has a right of recovery under an unsatisfied judgment or similar fund or plan in effect in any jurisdiction of Canada or the United States of America;

(b) to any person who, without the written consent of the Insurer, makes directly or through the person's representative any settlement with or prosecutes to judgment any action against any person or organization which may be legally liable therefor;

(c) for any amount in excess of the minimum limit(s) for automobile bodily injury liability insurance applicable in the jurisdiction in which the accident occurs regardless of the number of persons so injured or killed, but in no event shall such limit(s) exceed the minimum limit(s) applicable in the jurisdiction stated in Item 1 of the Policy or in the Certificate of Automobile Insurance.

(d) to any person who has a claim under section 80(1) of the *Automobile Insurance Act* against another person described in sections 80(1)(a) of the *Automobile Insurance Act*.

(e) for any amounts any person is entitled to under Subsection 1 of Section B of this or another policy.

**(2) Uninsured automobile defined**

An "uninsured automobile" under this section means an automobile with respect to which neither the owner nor driver thereof has applicable and collectible bodily injury liability insurance for its ownership, use or operation, but shall not include an automobile owned by or registered in the name of

(a) the named insured or by any person residing in the same dwelling premises therewith; or

(b) the governments of Canada or the United States of America or any political sub-division thereof or any agency or corporation owned or controlled by any of them; or

(c) any person who is an authorized self-insurer within the meaning of a financial or safety responsibility law; or

(d) any person who has filed a bond or otherwise given proof of financial responsibility with respect to that person's liability for the ownership, use or operation of automobiles.

**(3) Unidentified automobile defined**

An "unidentified" automobile under this subsection means an automobile which causes bodily injury or death to an insured person arising out of physical contact of such automobile with the automobile of which the insured person is an occupant at the time of the accident, provided

(a) the identity of either the owner or driver of such automobile cannot be ascertained, and

(b) the insured person or someone on the insured person's behalf has reported the accident within 24 hours to a police, peace or judicial officer or to an administrator of motor vehicle laws and shall have filed with the Insurer within 30 days thereafter a statement under oath that the insured person or the insured person's legal representative has a cause or causes of action arising out of such accident for damages against a person or persons whose identity cannot be ascertained and setting forth the facts in support thereof; and

(c) at the request of the Insurer, the insured person or the insured person's legal representative makes available for inspection the automobile of which the insured person was an occupant at the time of the accident.

**(4) Limitation of liability**

(a) If claim is made under this subsection and claim is also made against any person who is an insured under Section A – Third Party Liability of this Policy, any payment under this subsection shall be applied in reduction of any amount which the insured person may be entitled to recover from any person who is insured under Section A;

(b) Any payment made under Section A or under Subsection 1 of Section B of this Policy or another policy to an insured person hereunder shall be applied in reduction of any amount which such person may be entitled to recover under this subsection.

**(5) Determination of legal liability and amount of damages**

The determination as to whether the insured person shall be legally entitled to recover damages and if so entitled, the amount thereof, shall be made by agreement between the insured person and the Insurer.

If any difference arises between the insured person and the Insurer as to whether the insured person is legally entitled to recover damages and, if so entitled, as to the amount thereof these questions shall be submitted to arbitration of some person to be chosen by both parties, or if they cannot agree on one person, then by two persons, one to be chosen by the insured person and the other by the Insurer and a third person to be appointed by the persons so chosen. The submission shall be subject to the provisions of *The Arbitration Act* and the award shall be binding upon the parties.

**(6) Notice of legal action**

If, before the Insurer makes payment of loss hereunder, the insured person or the insured person's representative shall institute any legal action for bodily injury or death against any other person owning or operating an automobile involved in the accident, a copy of the writ of summons or other process served in connection with such legal action shall be forwarded immediately to the Insurer.

## SECTION C – LOSS OF OR DAMAGE TO OWNED AUTOMOBILE

The Insurer agrees to indemnify the Insured against direct and accidental loss of or damage to any Owned Automobile, including its equipment while attached thereto and forming part thereof:

### SUBSECTION 1 – COLLISION OR UPSET

caused by collision with another object or by upset;

The words "another object" as used in this subsection 1 include (a) a vehicle to which the automobile is attached and (b) the surface of the ground and any object therein or thereon;

### SUBSECTION 2 – COMPREHENSIVE

from any peril other than by collision with another object or by upset;

The words "another object" as used in this subsection 2 have the same meaning as in Subsection 1 of Section C, but do not include a live animal. Loss or damage caused by an object, including another automobile, striking the automobile when the automobile is not in use or operation, missiles, falling or flying objects, fire, theft, explosion, earthquake, windstorm, hail, rising water, malicious mischief, riot or civil commotion shall be deemed loss or damage caused by perils for which insurance is provided under this subsection 2;

### SUBSECTION 3 – SPECIFIED PERILS

caused by fire, lightning, theft or attempt thereat, windstorm, earthquake, hail, explosion, riot or civil commotion, falling or forced landing of aircraft or of parts thereof, rising water, or the stranding, sinking, burning, derailment or collision of any conveyance in or upon which the automobile is being transported on land or water;

### SUBSECTION 4 – SPECIFIED PERILS EXCLUDING THEFT

caused by fire, lightning, windstorm, earthquake, hail, explosion, riot or civil commotion, falling or forced landing of aircraft or of parts thereof, rising water, or the stranding, sinking, burning, derailment or collision of any conveyance in or upon which the automobile is being transported on land or water.

### DEDUCTIBLE CLAUSE

The Insurer's liability shall be limited to the amount of loss or damage in excess of the sum payable by the Insured stated in the applicable subsection of Section C of Item 5 of the Policy or in the Certificate of Automobile Insurance. The deductible clause shall apply to loss or damage to each automobile except with respect to automobiles insured under subsections 2, 3 and 4 of Section C where the deductible clause shall apply to each occurrence.

Where an occurrence causing loss or damage is covered under any subsection of Section C and Section A.1, the deductible under Section C will be the deductible stated in the applicable subsection of Section C of Item 5 of the Policy or in the Certificate of Automobile Insurance multiplied by the percentage to which the driver of the automobile was determined at-fault for the accident under the regulations.

### LIMITS OF LIABILITY APPLICABLE TO SUBSECTIONS 2, 3, 4

(a) Subject to Clauses (b) and (c) below, the Insurer shall not be liable in respect of any one occurrence for:

(i) any amount in excess of the limits of liability stated in subsections 2, 3 and 4 of Section C of Item 5 of the Policy or in the Certificate of Automobile Insurance at each specified location;

(ii) any amount at a newly acquired location in excess of the lowest limit of liability stated for any specified location;

(iii) loss or damage to more than four Owned Automobiles at any location not used by the Insured in the business specified in Item 3 of the Policy or in the Certificate of Automobile Insurance.

(b) Where the premium is computed on a MONTHLY AVERAGE BASIS, if at the time of loss the Insured has failed to file the written statement referred to in Clause 3 (b) of the General Provisions, Definitions and Exclusions, the Insurer's liability shall be limited to the amounts included in the last report filed; furthermore, if the delinquent report is the first report required to be filed, the Insurer shall be liable for not more than 75% of the applicable limit of liability stated in Item 5 of the Policy or in the Certificate of Automobile Insurance. In the event of loss, the Insurer's liability at each location shall be limited to the proportion of the loss that the amounts reported to the Insurer on the last report filed prior to the loss bears to the actual cash value of all automobiles at the location on the date for which the report is made.

(c) Where the premium is computed on a COINSURANCE BASIS, the Insured shall maintain insurance under this Policy on the automobiles hereby insured at each specific location to the extent of at least 80% of the actual cash value thereof, and that, failing so to do, the Insured shall be a co-insurer to the extent of an amount sufficient to make the aggregate insurance equal to 80% of the actual cash value of such automobiles at the time of loss or damage and, in that capacity, shall bear the Insured's proportion of any loss or damage that may occur. If the total loss or damage is confined to one automobile only, this co-insurance clause shall not apply.

## EXCLUSIONS

**The Insurer shall not be liable,**

(1) under any subsection of Section C for loss or damage:

(a) to tires or consisting of or caused by mechanical fracture or breakdown of any part of the automobile or by rusting, corrosion, wear and tear, freezing, or explosion within the combustion chamber, unless the loss or damage is coincident with other loss or damage covered by such subsection or is caused by fire, theft or malicious mischief covered by such subsection;

(b) caused by the conversion, embezzlement, theft or secretion by any person in lawful possession of the automobile under a mortgage, conditional sale, lease or other similar written agreement;

(c) caused by the voluntary parting with title or ownership, whether or not induced to do so by any fraudulent scheme, trick, device or false pretense;

(d) caused directly or indirectly by contamination by radioactive material;

(e) to contents of automobiles or trailers;

(f) to electronic accessories or electronic equipment, including radios, tape players/decks, stereo players/decks, compact disc players, DVD players, DVD screens, speakers, two-way radios, CB radios, ham radios, VHF radios, televisions, facsimile machines, electronic navigation assistance, positioning and location finding devices and items of a similar nature, when such electronic accessories and electronic equipment are detached from the automobile;

(g) to telephones or computers;

(h) where the Insured drives or operates the automobile

(i) while under the influence of alcohol or drugs to such an extent as to be for the time being incapable of the proper control of the automobile;

(ii) while in a condition for which the Insured is convicted of an offence under section 320.14 of the *Criminal Code* (Canada), under or in connection with circumstances for which the Insured is convicted of an offence under section 320.15 of the *Criminal Code* (Canada), is convicted of an offence under section 130 of the *National Defence Act* (Canada) or contravenes section 88.1(1) of the *Traffic Safety Act* (Alberta);

(i) where the Insured permits, suffers, allows or connives at the use of the automobile by any person contrary to the provisions of (h); or

(j) to any automobile sold by the Insured and in the possession of a purchaser under any partial payment plan.

(2) for loss or damage to any automobile while being carried in or upon any automobile owned, hired or leased by the Insured which is designed for transportation of other automobiles, provided always that a tow truck shall not be deemed designed for such purpose;

(3) under Subsection 1, for loss or damage occurring after the theft of the automobile and before recovery by the Insured, except where the theft has been committed by a person or persons (i) residing in the same dwelling premises as the Insured, or (ii) employed by the Insured in connection with the business described in Item 3 of the Policy or in the Certificate of Automobile Insurance;

(4) under Subsections 2 and 3, for loss or damage caused by theft by a person or persons (i) residing in the same dwelling premises as the Insured, or (ii) employed by the Insured in connection with the business described in Item 3 of the Policy or in the Certificate of Automobile Insurance;

(5) under Subsections 2 and 3, for loss or damage by theft from any open lot or unroofed space owned, rented or controlled by the Insured except the theft of an entire automobile;

(6) under Subsection 4, for loss or damage occurring after theft of the automobile and before recovery of the automobile by the Insured.

*See also General Provisions, Definitions, Exclusions and Statutory Conditions of this Policy*

## ADDITIONAL AGREEMENTS OF INSURER

Where loss or damage arises from a peril for which a premium is specified under a subsection of this section, the Insurer further agrees:

(a) to pay general average, salvage and fire department charges and customs duties of Canada or of the United States of America for which the Insured is legally liable;

(b) to waive subrogation against every person who, with the Insured's consent, has care, custody or control of the automobile, provided always that this waiver shall not apply to any person

(1) having such care, custody or control in the course of the business of selling, repairing, maintaining, servicing, storing or parking automobiles other than an officer or employee of the Insured or

(2) who has

(i) committed a breach of any condition of this Policy or

(ii) driven or operated the automobile in the circumstances referred to in (i) or (ii) of paragraph (1) (h) of the Exclusions to Section C of this Policy.

## AGREEMENT OF INSURED

By the acceptance of this Policy, the Insured agrees that in the event of loss or damage for which indemnity is provided by this Policy, the Insured shall, if so requested by the Insurer, replace the property or make the necessary repairs at actual cost to the Insured.

## SECTION E – LEGAL LIABILITY FOR DAMAGE TO A CUSTOMER'S AUTOMOBILE WHILE IN THE CARE, CUSTODY OR CONTROL OF THE INSURED

The Insurer agrees to indemnify the Insured against the liability imposed by law upon the Insured for loss of or damage to a Customer's Automobile, including its equipment while attached thereto, including reimbursement of expenses incurred for taxicabs, public transportation or rental of a substitute automobile:

### SUBSECTION 1 – COLLISION OR UPSET

Caused by collision with another object or by upset.

#### EXCLUSIONS

The Insurer shall not be liable under this subsection 1:

(a) for any amount in excess of the limit stated in subsection 1 of Section E of Item 5 of the Policy or in the Certificate of Automobile Insurance and expenditures provided for in the Additional Agreements of this section; or

(b) for loss or damage:

- (i) to contents of automobiles or trailers;
- (ii) occurring after theft of the automobile and before recovery by the Insured; or
- (iii) caused directly or indirectly by contamination by radioactive material.

#### DEDUCTIBLE CLAUSE

Each occurrence causing loss or damage covered under this subsection shall give rise to a separate claim in respect of which the Insurer's liability shall be limited to the amount of loss or damage in excess of the sum payable by the Insured stated in subsection 1 of Section E of Item 5 of the Policy or in the Certificate of Automobile Insurance, but always subject to the limit shown for any one Customer's Automobile.

Where an occurrence causing loss or damage is covered under this subsection and Section A.1, the deductible under this subsection will be the deductible stated in subsection 1 of Section E of Item 5 of the Policy or in the Certificate of Automobile Insurance multiplied by the percentage to which the driver of the automobile was determined at-fault for the accident under the regulations.

### SUBSECTION 2 – SPECIFIED PERILS

Caused by fire, lightning, theft or attempt thereat, malicious mischief, windstorm, hail, explosion, riot or civil commotion, rising water or the stranding, sinking, burning, derailment, collision or upset of any railway car or watercraft in or upon which the automobile is being transported.

#### LIMIT OF LIABILITY APPLICABLE TO SUBSECTION 2

The Insurer shall not be liable in respect of any one occurrence for:

(i) any amount in excess of the limits of liability stated in subsection 2 of Section E of Item 5 of the Policy or in the Certificate of Automobile Insurance at each specified location and expenditures provided for in the Additional Agreements of this Section;

(ii) any amount at a newly acquired location in excess of the lowest limit of liability stated for any specified location;

(iii) loss of or damage to more than four automobiles at any location not used by the Insured in the business specified in Item 3 of the Policy or in the Certificate of Automobile Insurance.

**EXCLUSIONS**

The Insurer shall not be liable under this Subsection 2 for loss or damage:

(a) from the explosion of tires or from explosion within the combustion chamber of the engine of the automobile, unless the loss or damage is coincident with other loss or damage covered by this subsection;

(b) caused directly or indirectly by contamination by radioactive material;

(c) by theft from any open lot or unroofed space owned, rented or controlled by the Insured, except the theft of an entire automobile; or

(d) to the contents of automobiles or trailers.

**COINSURANCE CLAUSE**

If at the time the loss occurs there are in or on the premises at the location where the loss occurs a greater number of customers' automobiles than the "Maximum Number of Customers' Automobiles" stated for such location in Section E of Item 5 of the Policy or in the Certificate of Automobile Insurance, the Insurer shall not be liable for a greater proportion of the amount for which it otherwise would be liable than the "Maximum Number of Customers' Automobiles" stated for such location bears to the total number of customers' automobiles in or on the premises at the location at the time the loss occurs.

### ADDITIONAL AGREEMENTS OF INSURER

Where indemnity is provided by this section the Insurer shall:

(1) upon receipt of notice of loss or damage, make such investigations, conduct such negotiations with the claimant, and effect such settlement of any resulting claims, as are deemed expedient by the Insurer;

(2) defend in the name and on behalf of any person insured by this Policy and at the cost of the Insurer any civil action that is at any time brought against such person on account of loss or damage; and

(3) pay all costs taxed against any person insured by this Policy in any civil action defended by the Insurer and any interest accruing after entry of judgment upon that part of the judgment which is within the limit(s) of the Insurer's liability.

## GENERAL PROVISIONS, DEFINITIONS AND EXCLUSIONS

**1. TERRITORY**

This Policy applies only to automobiles while being operated, used, stored or parked within Canada, the United States of America or upon a vessel plying between ports of those countries.

**2. CONSENT OF INSURED**

No person is entitled to indemnity or payment under this Policy who is an occupant of any automobile being used without the owner's consent. An exception applies only where coverage is specifically provided under Subsection 1 – Care-First Benefits of Section B in accordance with the *Automobile Insurance Act* and applicable regulations, and instruments having the force of law made under the *Automobile Insurance Act*.

**3. ADJUSTABLE PREMIUM COMPUTATION**

(a) The advance premiums may be computed according to the terms shown on the Premium Computation Statement for the Policy period, if attached.

(b) The advance premiums referred to in (a) above are subject to adjustment at the end of the Policy period when the Insured shall deliver to the Insurer a written statement of the current information necessary to adjust the premium shown in the Premium Computation Statement, if attached. If the adjusted premium so computed exceeds the applicable advance premium stated in Item 5 of the Policy or in the Certificate of Automobile Insurance, the Insured shall pay the difference. If such premium is less, the Insurer shall return to the Insured the unearned premium subject to the Minimum Retained Premium stated in Item 5.

(c) With respect only to subsections 2, 3 and 4 of Section C, if the premium is computed on a MONTHLY AVERAGE BASIS:

(i) the advance premiums shall be 75% of the annual premium computed on the limits of liability and the rates applying at each location;

(ii) the advance premiums referred to in (i) above are subject to adjustment at the end of the Policy period. The earned premium shall be computed as follows:

1. the Insured shall report to the Insurer, in writing, not later than 30 days after the last day of each month the actual cash value of all Owned Automobiles held for sale at each location on the last business day of each month. The value of all Owned Automobiles not held for sale must be included in the values reported for the principal location in the municipality(ies) or district(s) in which the Insured carries on business; and
2. an average of the total values reported at each location shall be made and if the premium on such average values exceeds the applicable advance premium stated in Item 5 of the Policy or in the Certificate of Automobile Insurance the Insured shall pay an additional premium for such excess. If such premium is less, the Insurer shall return to the Insured the unearned premium. In the event of any report not being made within the period stipulated then, for the purpose of adjustment of premium only, the limit of liability at each location shall be taken as the value at risk.

**4. AUDIT**

The Insurer, through any authorized representative, and at all reasonable times, shall have access to the Insured's books and records for the purpose of determining any fact relating to this insurance.

**5. TWO OR MORE AUTOMOBILES**

A motor vehicle and one or more trailers or semi-trailers attached thereto shall be held to be one automobile with respect to the limits of liability under Sections A - Third Party Liability and B - Accident Benefits and as separate automobiles with respect to the limit(s) of liability, including deductible provisions, under Sections A.1 – Direct Compensation for Property Damage, C – Loss of or Damage to Insured Automobile and E – Legal Liability For Damage to a Customer's Automobile While in the Care, Custody or Control of the Insured.

**6. ADDITIONAL INSUREDS**

The Insurer agrees to indemnify in the same manner and to the same extent as if named herein as the Insured:

(a) **BUSINESS USE** with respect to Sections A, B and E of this Policy, every other person who, with the consent of the owner thereof, drives in connection with the business described in Item 3 of the Policy or in the Certificate of Automobile Insurance any automobile other than

(i) an automobile owned by or registered in the name of such additional insured person, or

(ii) an automobile whose operation or use is excluded in the General Provisions, Definitions, Exclusions or Statutory Conditions of this Policy;

(b) **DRIVING OTHER AUTOMOBILES** with respect to Sections A, A.1 and B of this Policy, every active partner or full time employee of the Insured for whose regular and frequent use an automobile is provided by the Insured and the spouse/adult interdependent partner of such person and the spouse/adult interdependent partner of the Insured, who with the consent of the owner thereof drives for pleasure purposes any private passenger vehicle as defined in the Automobile Insurance Premiums Regulation;

(i) neither such partner or employee or the partner or employee's spouse/adult interdependent partner or the spouse/adult interdependent partner of the Insured is the owner of a private passenger vehicle as defined in the Automobile Insurance Premiums Regulation;

(ii) such other automobile is not owned, hired or leased or regularly or frequently used by the Insured or such employee or partner of the Insured or by any persons residing in the same dwelling premises as any of the aforementioned persons;

(iii) the operation or use of such other automobile is not excluded in the General Provisions, Definitions, Exclusions or Statutory Conditions of this Policy;

(iv) Section A.1 – Direct Compensation for Property Damage coverage applies only when such other automobile is in the care, custody or control of a person referred to in this subsection and is not insured under another motor vehicle liability policy.

**7. DIRECT COMPENSATION FOR PROPERTY DAMAGE**

The Insurer agrees to provide coverage under Section A.1 to a person whose automobile is in the care, custody or control of the Insured, provided that the automobile is not;

(i) insured under another motor vehicle liability policy, or

(ii) being used for an Excluded Use or is not an Excluded Automobile under the General Provisions, Definitions and Exclusions of this Policy.

**8. OTHER INSURANCE**

Insurance under Sections A and Subsection 2 of Section B of this Policy is, in respect of a Customer's Automobile, first loss insurance and coverage under any other valid motor vehicle liability policy in respect of that automobile is excess insurance only.

**9. AUTOMOBILE DEFINITIONS Under** Sections A - Third Party Liability, A.1 - Direct Compensation for Property Damage, B - Accident Benefits and C - Loss of or Damage to Insured Automobile

(a) Owned Automobile - the words "Owned Automobile" mean an automobile owned by the Insured and used for pleasure or in connection with the business stated in Item 3 of the Policy or in the Certificate of Automobile Insurance and an automobile sold in such business by the Insured but not delivered to the purchaser thereof, except an automobile the ownership, operation or use of which is excluded in the General Provisions, Definitions, Exclusions or Statutory Conditions of this Policy;

**Under Sections A - Third Party Liability, B - Accident Benefits and E – Legal Liability for Damage to a Customer's Automobile While in the Care, Custody or Control of the Insured**

(b) Customer's Automobile - the words "Customer's Automobile" mean an automobile owned by another while such automobile is being towed or pushed by an automobile driven by the Insured or an employee or partner or while in the care, custody or control of the Insured in the business stated in Item 3 of the Policy or in the Certificate of Automobile Insurance but do not include an automobile:

(i) owned or hired by any person insured by this Policy or by any person residing in the same dwelling premises as such insured; or

(ii) sold by the Insured but not delivered to the purchaser thereof;

**Under Sections A - Third Party Liability and B - Accident Benefits**

(c) Non-owned Automobile – the words "Non-owned Automobile" mean an automobile not owned by the Insured and, not being a Customer's Automobile, used for pleasure or in connection with the business stated in Item 3 of the Policy or in the Certificate of Automobile Insurance.

**10. OCCUPANT DEFINED**

In this Policy the word "occupant" means a person driving, being carried in or on, entering into, or getting onto or alighting from an automobile.

**11. NEWLY ACQUIRED LOCATION DEFINED**

The words "newly acquired location" mean any new location acquired by the Insured in the business specified in Item 3 of the Policy or in the Certificate of Automobile Insurance and notified to the Insurer within fourteen days following the date of such acquisition.

**12. EXCLUDED USES**

Unless coverage is expressly given by an endorsement of this Policy, the Insurer shall not be liable under this Policy while:

(a) the automobile is rented or leased to another, provided that the following shall not be deemed to be renting or leasing of an automobile to another:

(i) the use by an employee of the employee's automobile on the business of the employee's employer and for which the employee is being paid;

(ii) the use of an Owned Automobile by a customer pending return of the Customer's Automobile which has been left with the Insured for repairs or servicing; or

(iii) the use of an Owned Automobile by a customer for a period not exceeding 30 days, pending future delivery of an automobile for which a purchase order or a lease agreement has been placed with the Insured by such customer;

and further provided that this exclusion shall not apply while an Owned Automobile, rented or leased to another, is in the care, custody or control of the Insured for the purpose of maintenance or repair, and in such case this Policy shall be first loss insurance;

(b) the automobile is used to carry explosives, or to carry radioactive material for research, education, development or industrial purposes, or for purposes incidental thereto;

(c) the automobile is used as a taxicab, public omnibus, livery, jitney or sightseeing conveyance or for carrying passengers for compensation or hire; provided that the following uses shall not be deemed to be carrying passengers for compensation or hire:

(i) the use by the Insured of the automobile for the carriage of another person in return for the former's carriage in the automobile of the latter;

(ii) the occasional and infrequent use by the Insured of the automobile for the carriage of another person who shares the cost of the trip;

(iii) the use by the Insured of the automobile for the carriage of a temporary or permanent domestic servant of the Insured or the Insured's spouse/adult interdependent partner;

(iv) the use by the Insured of the automobile for the carriage of clients or customers or prospective clients or customers; or

(v) the occasional and infrequent use by the Insured of the automobile for the transportation of children to or from school or school activities conducted within the education program; or

(d) the automobile is being used

(i) for the carrying of goods or materials for compensation;

(ii) for public road construction, repair or maintenance; or

(iii) as farm or contractor's equipment on behalf of others for compensation.

**This part 12 EXCLUDED USES** does not apply to coverage provided under Subsection 1 – Care-First Benefits of Section B, which is provided in accordance with the *Automobile Insurance Act*, the applicable regulations, and any instruments having the force of law made under the *Automobile Insurance Act*.

**13. EXCLUDED AUTOMOBILES**

The Insurer shall not be liable under this Policy for loss, damage, injury or death arising from the ownership, use or operation of any automobile;

(a) owned by the Insured in connection with or used for the purpose of any business conducted by or any employment or occupation for wages or profit engaged in by the Insured other than as stated in Item 3 of the Policy or in the Certificate of Automobile Insurance;

(b) owned by the Insured which is designed or modified for racing purposes;

(c) provided by the Insured to any person for regular or frequent use, except an active partner or a full time employee of the business stated in Item 3 of the Policy or in the Certificate of Automobile Insurance, and provided that this exclusion does not apply while such person is using the automobile in the business stated in Item 3 of the Policy or in the Certificate of Automobile Insurance;

(d) owned or hired by the Insured, and

(i) designed for the bulk transportation of petroleum products or other materials while being used for such purposes; or

(ii) designed for the transportation of other automobiles, but a tow truck shall not be deemed designed for such purpose.

**14. PERSONNEL OF OTHER GARAGES EXCLUDED**

No person who is engaged in the business of selling, repairing, maintaining, storing, servicing or parking automobiles shall be entitled to indemnity or payment under this Policy for any loss, damage, injury or death sustained while engaged in the use or operation of or while working upon the automobile as defined in this Policy, in the course of such business, or while so engaged, an occupant of such automobile, unless the person is the Insured, an employee or partner.

**15. WAR RISK EXCLUDED**

The Insurer shall not be liable under Sections A.1, B, C or E of this Policy for any loss, damage, injury or death caused directly or indirectly by bombardment, invasion, civil war, insurrection, rebellion, revolution, military or usurped power, or by operation of armed forces while engaged in hostilities, whether war be declared or not.

**16. LIMITATION OF ACTIONS**

Every action or proceeding against an insurer for the recovery of insurance money payable under the contract is absolutely barred unless commenced within the time set out in the *Automobile Insurance Act*.

# STATUTORY CONDITIONS

In these Statutory Conditions, unless the context otherwise requires, "insured" means a person insured by the contract whether named in the contract or not.

(i) Statutory Condition 3 does not apply when the contract does not insure against liability for loss or damage to persons and property;

(ii) Statutory Condition 4 does not apply when the contract does not insure against loss of or damage to the automobile;

(iii) Statutory Conditions 1, 2, 3, 4, 5, 6, and 7 do not apply to Subsection 1 – Care-First Benefits of Section B.

**Material Change in Risk**

1. (1) The named insured must promptly notify the insurer or its agent in writing, of any change in the risk material to the contract and within the insured's knowledge.

(2) Without restricting the generality of subparagraph (1) of this condition, "change in the risk material to the contract" includes

(a) any change in the insurable interest of the named insured in the automobile by sale, assignment or otherwise, except through change of title by succession, death or proceedings under the *Bankruptcy and Insolvency Act* (Canada); and

(b) in respect to insurance against loss of or damage to the automobile,

(i) any mortgage, lien or encumbrance affecting the automobile after the application for the contract, and

(ii) any other insurance of the same interest, whether valid or not, covering loss or damage insured by the contract or any portion of the contract.

**Prohibited Use by Insured**

2. (1) The insured must not drive or operate the automobile

(a) unless the insured is for the time being either authorized by law or qualified to drive or operate the automobile,

(b) while the insured's licence to drive or operate an automobile is suspended or while the insured's right to obtain a licence is suspended or while the insured is prohibited under order of any court from driving or operating an automobile,

(c) while the insured is under the age of 16 years or under any other age prescribed by the law of the province in which the insured resides at the time the contract is made as being the minimum age at which a licence or permit to drive an automobile may be issued to the insured,

(d) for any illicit or prohibited trade or transportation, or

(e) in a race or speed test.

**Prohibited Use by Others**

(2) The insured must not permit or allow the use of the automobile

(a) by any person

(i) unless that person is for the time being either authorized by law or qualified to drive or operate the automobile, or

(ii) while that person is under the age of 16 years or under any other age prescribed by the law of the province in which the person resides at the time the contract is made as being the minimum age at which a licence or permit to drive an automobile may be issued to the person,

(b) by any person who is a member of the household of the insured while the person's licence to drive or operate an automobile is suspended or while the person's right to obtain a licence is suspended or while the person is prohibited under order of any court from driving or operating an automobile,

(c) for any illicit or prohibited trade or transportation, or

(d) in a race or speed test.

**Requirements Where Bodily Injury or Death or Loss or Damage to Property**

3. (1) The insured must

(a) promptly give written notice, to the insurer with all available particulars, of any accident involving bodily injury or death or loss or damage to property and of any claim made on account of the accident,

(b) verify by statutory declaration, if required by the insurer, that the claim arose out of the use or operation of the automobile and that the person operating or responsible for the operation of the automobile at the time of the accident is a person insured under the contract, and

(c) forward immediately to the insurer every letter, document, advice or statement of claim received by the insured from or on behalf of the claimant.

(2) The insured must not

(a) voluntarily assume any liability or settle any claim except at the insured's own cost, or

(b) interfere in any negotiations for settlement or in any legal proceeding.

(3) The insured must, whenever requested by the insurer, aid in securing information and evidence and the attendance of any witness, and must co-operate with the insurer, except in a pecuniary way, in the defence of any action or proceeding or in the prosecution of any appeal.

**Requirements Where Loss or Damage to the Automobile**

4. (1) When loss of or damage to the automobile occurs, the insured must, if the loss or damage is covered by the contract,

(a) promptly give written notice of the loss or damage to the insurer with fullest information obtainable at the time,

(b) at the expense of the insurer, and as far as reasonably possible, protect the automobile from further loss or damage, and

(c) deliver to the insurer within 90 days after the date of the loss or damage a statutory declaration stating, to the best of the insured's knowledge and belief, the place, time, cause and amount of the loss or damage, the interest of the insured and of all others in the automobile, the encumbrances on the automobile, all other insurance, whether valid or not, covering the automobile and that the loss or damage did not occur through any wilful act or neglect, procurement, means or connivance of the insured.

(2) Any further loss or damage accruing to the automobile directly or indirectly from a failure to protect it as required under subparagraph (1) of this condition is not recoverable under the contract.

(3) No repairs, other than those that are immediately necessary for the protection of the automobile from further loss or damage, shall be undertaken and no physical evidence of the loss or damage may be removed

(a) without the written consent of the insurer, or

(b) until the insurer has had a reasonable opportunity to make the inspection for which provision is made in Statutory Condition 5.

**Examination of Insured**

(4) The insured must submit to examination under oath and must produce for examination at any reasonable place and time designated by the insurer or its representative all documents in the insured's possession or control that relate to the matters in question, and the insured must permit extracts and copies of the documents to be made.

**Insurer Liable for Cash Value of Automobile**

(5) The insurer is not liable for more than the actual cash value of the automobile at the time any loss or damage occurs, and the loss or damage must be ascertained or estimated according to that actual cash value with proper deductions for depreciation, however caused, and must not exceed the amount that it would cost to repair or replace the automobile, or any part of the automobile, with material of similar kind and quality, but if any part of the automobile is obsolete and out of stock the liability of the insurer in respect of the automobile is limited to the value of that part at the time of loss or damage, not exceeding the maker's latest list price.

**Repair or Replacement**

(6) Except where a dispute resolution process has been initiated, the insurer, instead of making payment, may, within a reasonable time, repair, rebuild or replace the property damaged or lost with other of similar kind and quality if, within 7 days after the receipt of the proof of loss, it gives written notice of its intention to do so.

**No Abandonment, Salvage**

(7) There must be no abandonment of the automobile to the insurer without the insurer's consent.

(8) If the insurer exercises the option to replace the automobile or pays the actual cash value of the automobile, the salvage, if any, vests in the insurer.

**In Case of Disagreement**

(9) In the event of disagreement as to the nature and extent of the repairs and replacements required, or as to their adequacy, if effected, or as to the amount of the loss or damage, those questions must be determined by a dispute resolution process as provided under section 519 of the *Insurance Act* before there can be recovery under the contract, whether the right to recover under the contract is disputed or not, and independently of all other questions.

(10) There is no right to a dispute resolution process until

(a) a specific demand for it is made in writing, and

(b) the proof of loss has been delivered.

**Inspection of Automobile**

5. The insured must permit the insurer at all reasonable times to inspect the automobile and its equipment.

**Time and Manner of Payment of Insurance Money**

6. (1) The insurer must pay the insurance money for which it is liable under the contract within 60 days after the

insurer has received the proof of loss or, where a dispute resolution process is conducted under Statutory Condition 4(9), within 15 days after the decision is rendered.

**When Action May Be Brought**

(2) The insured may not bring an action to recover the amount of a claim under the contract unless the requirements of Statutory Conditions 3 and 4 are complied with or until the amount of the loss has been ascertained as provided for under Statutory Conditions 3 and 4 or by a judgment against the insured after trial of the issue, or by agreement between the parties with the written consent of the insurer.

**Who May Give Notice and Proofs of Claim**

7. Notice of claim may be given and proofs of claim may be made by the agent of the named insured in the case of absence or inability of the insured to give the notice or make the proof, such absence or inability being satisfactorily accounted for or, in the like case or if the insured refuses to do so, by a person to whom any part of the insurance money is payable.

**Termination**

8. (1) The contract may be terminated

   (a) by the insurer giving to the insured 15 days' notice of termination by recorded mail or 5 days' written notice of termination personally delivered, or

   (b) by the insured at any time on request.

   (2) If the contract is terminated by the insurer,

   (a) the insurer must refund the excess of premium actually paid by the insured over the prorated premium for the expired term, but in no event, shall the prorated premium for the expired time be less than any minimum retained premium specified, and

   (b) the refund must accompany the notice unless the premium is subject to adjustment or determination as to the amount, in which case the refund must be made as soon as practicable.

   (3) If the contract is terminated by the insured, the insurer must refund as soon as practicable the excess of premium actually paid by the insured over the short rate premium for the expired time, but in no event may the short rate premium for the expired time be deemed to be less than any minimum retained premium specified.

   (4) The 15-day period referred to in subparagraph 1(a) of this condition begins on the day the recorded mail or notification of it is delivered to the insured's postal address.

**Notice**

9. (1) Any written notice to the insurer may be delivered at, or sent by recorded mail to, the chief agency or head office of the insurer in the province.

   (2) Written notice may be given to the named insured by letter personally delivered to the insured or by recorded mail addressed to the insured at the insured's latest postal address as notified to the insurer.

   (3) In this condition, "recorded" means recorded in or outside Canada.