

MANITOBA EXTENSION AUTOMOBILE INSURANCE POLICY

Where (a) an applicant for a contract gives false particulars of the described automobile to be insured to the prejudice of the Insurer, or knowingly misrepresents or fails to disclose in the application any fact required to be stated therein; or (b) the Insured contravenes a term of the contract or commits a fraud; or (c) the Insured wilfully makes a false statement in respect of a claim under the contract, a claim by the Insured is invalid and the right of the Insured to recover indemnity is forfeited.

INSURING AGREEMENTS

In consideration of the payment of the premium specified and of the statements contained in the application for this insurance and subject to Statutory Conditions contained herein and the applicable terms, conditions, provisions, definitions and exclusions specified in the Automobile Insurance Coverage Regulation under The Manitoba Public Insurance Corporation Act, as from time to time amended, the Insurer agrees to indemnify the Insured against those perils for which a limit or an amount and premium is specified in this contract but only for those vehicle(s) registered in accordance with the Highway Traffic Act (Manitoba) under the license number(s) stated on the Coverage Summary page.

PERILS INSURED AND COVERAGE

A. THIRD PARTY LIABILITY:

Legal liability for bodily injury or death to any person or damage to property. The limit stated, shall be reduced by the amount of insurance provided under the Manitoba Public Insurance Corporation Act and the regulations thereunder.

B. FAMILY PROTECTION COVER:

Coverage shall be provided under the SEF 44, Family Protection Endorsement, attached to and forming part of this contract. The limit stated for this coverage shall be reduced by the amount of insurance provided under the Underinsured Motorist Coverage provided under the Manitoba Public Insurance Corporation Act and the regulations thereunder.

C. LOSS OR DAMAGE TO VEHICLE:

Coverage shall be for any amount not provided under the Manitoba Public Insurance Corporation Act subject to the deductibles noted on the Coverage Summary page for Collision and Comprehensive Perils and subject to the following provision.

Coverage shall not apply to that portion of any loss or damage which exceeds the limit of liability stated in Part III of the Automobile Insurance Coverage Regulation of the Manitoba Public Insurance Corporation Act applicable to a vehicle in respect of which "declared excess value" may be purchased under the aforesaid Regulation, unless an amount for "declared value" is shown in this policy. If an amount for "declared value" is shown, the Insurer shall not be liable under Section C for any amount which, together with the amount payable under the Manitoba Public Insurance Corporation Act, is in excess of the actual cash value of the insured vehicle at the time the loss or damage occurs or the amount stated for "declared value", whichever is the lesser.

Provided that described vehicle is of the private passenger/farm truck type and is insured under Section C – Loss or Damage to Vehicle, we will pay up to \$400 for the cost of replacing your keys to the described vehicle or rekeying its locks, if your keys are stolen. We will not pay for changing the ignition or lock tumblers if we can replace the key. No deductible applies to this agreement, except that if the amount of the loss is greater than \$400, the policy deductible will apply to the amount by which the loss exceeds \$400.

STATUTORY CONDITIONS

In these statutory conditions, unless the context otherwise requires, the word "Insured" means a person insured by this contract whether named or not.

Material Change in Risk

1.(1) The Insured named in this contract shall promptly notify the Insurer or its local agent in writing of any change in the risk material to the contract and within his knowledge.

Definitions

1.(2) Without restricting the generality of the foregoing, the words "change in the risk material to the contract" include:

- (a) any change in the insurable interest of the Insured named in this contract in the automobile by sale, assignment or otherwise, except through change of title by succession, death or proceedings under the *Bankruptcy Act* (Canada); and in respect of insurance against loss of or damage to the automobile;
- (b) any mortgage, lien or encumbrance affecting the automobile after the application for this contract;
- (c) any other insurance of the same interest, whether valid or not, covering loss or damage insured by this contract or any portion thereof.

Prohibited Use by Insured

2.(1) The Insured shall not drive or operate the automobile

- (a) unless he is for the time being either authorized by law or qualified to drive or operate the automobile; or
- (b) while his licence to drive or operate an automobile is suspended or while his right to obtain a licence is suspended or while he is prohibited under order of any court from driving or operating an automobile; or
- (c) while he is under the age of sixteen years or under such other age as is prescribed by the law of the province in which he resides at the time this contract is made as being the minimum age at which a licence or permit to drive an automobile may be issued to him; or
- (d) for any illicit or prohibited trade or transportation; or
- (e) in any race or speed test.

Prohibited Use by Others

2.(2) The Insured shall not permit, suffer, allow or connive at 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 sixteen years or under such other age as is prescribed by the law of the province in which he resides at the time this contract is made as being the minimum age at which a licence or permit to drive an automobile may be issued; or
- (b) by any person who is a member of the household of the Insured while his licence to drive or operate an automobile is suspended or while his right to obtain a licence is suspended or while he is prohibited under order of any court from driving or operating an automobile; or
- (c) for any illicit or prohibited trade or transportation; or
- (d) in any race or speed test.

Requirements Where Loss or Damage to Persons or Property

- 3.(1) The Insured shall,
- (a) promptly give to the Insurer written notice, with all available particulars, of any accident involving loss or damage to persons or 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 this contract; and
 - (c) forward immediately to the Insurer every letter, document, advice or writ received by him from or on behalf of the claimant.

Prohibited Acts of the Insured

- 3.(2) The Insured shall not
- (a) voluntarily assume any liability or settle any claim except at his own cost; or
 - (b) interfere in any negotiations for settlement or in any legal proceeding.

Obligation of Insured

- 3.(3) The Insured shall, whenever requested by the Insurer, aid in securing information and evidence and the attendance of any witness and shall 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 Automobile

- 4.(1) Where loss of or damage to the automobile occurs, the Insured shall, if the loss or damage is covered by this contract,
- (a) promptly give notice thereon in writing to the Insurer with the 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 ninety days after the date of the loss or damage a statutory declaration stating, to the best of his knowledge and belief, the place, time, cause and amount of the loss or damage, the interest of the Insured and of all others therein, the encumbrances thereon, 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.

Further Loss

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

Repair

- 4.(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 shall be removed,
- (a) without the written consent of the Insurer; or
 - (b) until the Insurer has had a reasonable time to make the examination for which provision is made in statutory condition 5.

Examination of Insured

- 4.(4) The Insured shall submit to examination under oath, and shall produce for examination at such reasonable place and time as is designated by the Insurer or its representative all documents in his possession or control that relate to the matters in question, and he shall permit extracts and copies thereof to be made.

Insurer Liable for Cash Value of Automobile

- 4.(5) The Insurer shall not be liable for more than the actual cash value of the automobile at the time any loss or damage occurs, and the loss or damage shall be ascertained or estimated according to that actual cash value with proper deduction for depreciation, however caused, and shall not exceed the amount that it would cost to repair or replace the automobile, or any part thereof, with material of like kind and quality, but, if any part of the automobile is obsolete and out of stock, the liability of the Insurer in respect thereof shall be 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

- 4.(6) Except where an appraisal has been made, the Insurer, instead of making payment, may, within a reasonable time, repair, rebuild or replace the property damaged or lost with other of like kind and quality if, within seven days after the receipt of the proof of loss, it gives written notice of its intention to do so.

No Abandonment; Salvage

- 4.(7) There shall be no abandonment of the automobile to the Insurer without the Insurer's consent. If the Insurer exercises the option to replace the automobile or pays the actual cash value of the automobile, the salvage, if any, shall vest in the Insurer.

In Case of Disagreement

- 4.(8) 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 payable in respect of any loss or damage, those questions shall be determined by appraisal as provided under *The Insurance Act* before there can be recovery under this contract, whether the right to recover on the contract is disputed or not, and independently of all other question. There shall be no right to an appraisal until a specific demand therefor is made in writing and until after proof of loss has been delivered.

Inspection of Automobile

5. The Insured shall 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 shall pay the insurance money for which it is liable under this contract within sixty days after the proof of loss has been received by it or, where an appraisal is made under subcondition 8 of statutory condition 4, within fifteen days after the award is rendered by the appraisers.

When Action May be Brought

- 6.(2) The Insured shall not bring an action to recover the amount of a claim under this contract unless the requirements of statutory conditions 3 and 4 are complied with or until the amount of the loss has been ascertained as therein provided 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.

Limitation of Actions

- 6.(3) Every action or proceeding under the contract against the Insurer in respect of a claim for indemnification for liability of the Insured for loss or damage to property of another person or for personal injury to or death of another person shall be commenced within two years after the liability of the Insured is established by a court of competent jurisdiction and not afterwards. Every other action or proceeding against the Insurer under the contract, in respect of loss or damage to the automobile shall be commenced within two years from the time the loss or damage was sustained and not afterwards.

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 Insured named in this contract in 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) This contract may be terminated,
- by the Insurer giving to the Insured fifteen days' notice of termination by registered mail or five days' written notice of termination personally delivered;
 - by the Insured at any time on request.

Refund

- 8.(2) Where this contract is terminated by the Insurer,
- the Insurer shall refund the excess of premium actually paid by the Insured over the *pro rata* premium for the expired time, but in no event shall the *pro rata* premium for the expired time be deemed to be less than any minimum retained premium specified; and
 - the refund shall accompany the notice unless the premium is subject to adjustment or determination as to the amount, in which case the refund shall be made as soon as practicable.

Excess Premium

- 8.(3) Where this contract is terminated by the Insured, the Insurer shall 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 shall the short rate premium for the expired time be deemed to be less than any minimum retained premium specified.

Mode of Payment

- 8.(4) The refund may be made by money, postal or express company money order or cheque payable at par.

Time

- 8.(5) The fifteen days mentioned in clause (a) of subcondition (1) of this condition commences to run on the day following the receipt of the registered letter at the post office to which it is addressed.

Notice

9. Any written notice to the Insurer may be delivered at, or sent by registered mail to, the chief agency or head office of the Insurer in the Province. Written notice may be given to the Insured named in this contract by letter personally delivered to him or by registered mail addressed to him at his latest post office address as notified to the Insurer. In this condition, the expression "registered" means registered in or outside Canada.

ENDORSEMENTS

The endorsements following apply only if they are shown on the Coverage Summary page forming part of this policy. If more than one automobile is insured under this policy, the endorsement shall apply only to the vehicle for which the Endorsement is designated in the policy. If the Endorsement is designated with respect to more than one vehicle in the schedule of vehicles forming a part of this policy, then the coverages provided shall be construed as if provided by separate policies of insurance with respect to each vehicle to which the Endorsement is applicable.

Except as otherwise provided in the endorsement, all limits, terms, conditions, provisions, definitions and exclusions of the policy shall have full force and effect.

S.E.F. No. 5 - PERMISSION TO RENT OR LEASE ENDORSEMENT (SPECIFIED LESSEE)

This endorsement shall be effective only with respect to an automobile leased to the Lessee by the Lessor.

Permission is given to the Lessor for the automobile to be rented or leased to the Lessee.

The Insurer agrees to indemnify, in the same manner and to the same extent as if named herein as the Insured, the Lessee and every other person who with the Lessee's consent personally drives the automobile. The amount of insurance provided by the policy including this endorsement shall not exceed the limit and amounts specified in the Coverage Summary page forming part of this policy.

It is hereby understood and agreed that:

- Exclusion (d) of Section A of the policy to which the endorsement is attached is amended to read as follows:
 - for loss of or damage to property carried in or upon the automobile or to any property owned or rented by, or in the care, custody or control of the Lessee or any other person who personally drives the automobile; or
- with respect to part (b) of paragraph 5 of the General Provisions, Definitions and Exclusions of this policy ("Automobile Defined") the words "ownership of which is acquired by the Insured" shall mean leased by the Lessee from the Lessor.
- with respect to paragraph 5 of the General Provisions, Definitions and Exclusions of this policy the word "Insured" shall mean the Lessee specified herein.
- with respect to part (b) of paragraph (1) ("Insured Person" Defined) of the Special Provisions, Definitions and Exclusions of Section B of this policy, the word "Insured" shall mean the Lessee specified herein.

The application, Extension Automobile Policy is varied to provide that:

- where the Lessee as applicant (i) gives false particulars of the described automobile(s) to be insured to the prejudice of the Insurer or (ii) knowingly misrepresents or fails to disclose in the application any fact required to be stated therein, a claim by the Lessee is invalid and the right of the Lessee to recover indemnity is forfeited.
 - where either the Lessee or the Lessor contravenes a term of the contract or commits a fraud or wilfully makes a false statement in respect of a claim under the policy, a claim by such party is invalid and the right to recover indemnity is forfeited.

S.E.F. No. 13S - GLASS DELETED

In consideration of the premium charged, it is understood and agreed that the Insurer shall not be liable under Section C for loss or damage to glass caused by an object thrown up by or falling from another vehicle, unless such loss or damage is co-incident with other loss or damage to the automobile covered under Section C.

S.E.F. 19A - VALUED AUTOMOBILE ENDORSEMENT

It is understood and agreed that under Section C of this policy the Insurer agrees that the described automobile is valued at and insured for the value shown on the Coverage Summary page forming part of this policy subject to any applicable deductible clause.

Where the loss involving the described automobile specified in Clause 1 is a partial loss only, the Insurer's liability is limited to the cost of repair but such cost shall not exceed the value shown on the Coverage Summary page forming part of this policy.

The Insurer's liability under this endorsement for loss or damage to the described automobile shall be reduced by the amount payable therefor under The Manitoba Public Insurance Corporation Act had this policy not been issued.

S.E.F. No. 20 - LOSS OF USE ENDORSEMENT

In consideration of the premium charged and in the event that loss or damage to the automobile for which coverage is provided under Section C shown on the Coverage Summary page, we agree to reimburse you for reasonable expenses you incur for the rental of a substitute automobile, including taxicabs and public means of transportation, made necessary by the loss of use of your automobile. We will reimburse you for such expenses commencing:

- a) at the time the loss or damage occurs if your automobile cannot be operated under its own power;
 - b) in the case of theft of the entire automobile, immediately after you have reported the theft to the police and to us; or
 - c) in all other cases, when your automobile is taken for repair of the damage;
- and ending, regardless of the policy expiry date, the day after either of the following first takes place:

- a) your automobile has been repaired or replaced;
- b) an offer has been made under the "licence insurance" to settle your claim for the loss or damage, whether or not you accept the offer.

The most we will pay for such expenses is the daily limit shown for this endorsement on the Coverage Summary page up to a maximum 30 day limit.

S.E.F. No. 27 - LEGAL LIABILITY FOR DAMAGE TO NON-OWNED AUTOMOBILES ENDORSEMENT

In consideration of the premium charged, the Insurer agrees to indemnify the Insured or his or her spouse against the liability imposed by law upon the Insured or assumed by him under any contract or agreement for loss or damage arising from the care, custody or control of any automobile, including its equipment, not owned by or licensed in the name of the Insured or by any person or persons residing in the same dwelling premises as the Insured, and resulting from loss of or damage thereto caused by such of the perils described herein for which a premium is specified and no other.

The applicable deductible shall be the same as shown under Section C - Loss or Damage to Insured's Vehicle.

Provided always that:

- (1) The perils for which indemnity for loss or damage to such automobile is provided in this endorsement shall be the same perils as are stated in the similar subsections of Section C of the policy to which this endorsement is attached;
- (2) The indemnity provided by this endorsement shall be applicable only as respects an automobile of the private passenger or station wagon type;
- (3) Not more than one such automobile shall be in the care, custody or control of the Insured or his or her spouse at any one time;
- (4) The Additional Agreements of Insurer under Section A of the policy to which this endorsement is attached shall, insofar as they are applicable to the subject matter of this endorsement, extend to the indemnity provided herein;
- (5) The Insurer shall not be liable under this endorsement for any amount in excess of \$100,000.00, or such other limit as may be designated on the Coverage Summary page, (exclusive of interest and costs) for any one occurrence;
- (6) Such automobile is being used with the consent of the owner or lessee thereof;
- (7) The Insurer shall not be liable under this endorsement for liability assumed by the Insured or his or her spouse under any contract or agreement exceeding thirty (30) consecutive days for any one specific automobile.

We further agree to waive subrogation against anyone driving a "rented automobile" with your permission, provided always that this waiver shall not apply to any person

- (1) having the care, custody or control of a "rented automobile" in the course of the business of selling, repairing, maintaining, servicing, storing or parking automobiles, or
- (2) who has committed a breach of any condition of this policy.

The definition of a "rented automobile", means an automobile of the "private passenger/farm truck type" which has been rented to you for a period not exceeding one year and for which you are contractually liable under a written agreement. This does not apply to an automobile that is:

- (1) owned, hired or leased by or registered in the name of your employer or the employer of anyone living in your home;
- (2) used in connection with the business of selling, repairing, maintaining, servicing, storing or parking automobiles; or
- (3) used to carry people or goods for any kind of payment.

It is further understood and agreed that:

The word "Insured" for the purposes of this endorsement shall be interpreted as being the named Insured and his or her spouse as well as their sons and daughters residing in the same dwelling premises as their parents, who are occasional or principal operators of the described automobile.

S.E.F. No. 30 - EXCLUDING OPERATION OF ATTACHED MACHINERY ENDORSEMENT

In consideration of the premium charged it is hereby understood and agreed that the Insurer shall not be liable under Section A and B of the Policy to which this endorsement is attached for loss or damage arising from the ownership, use or operation of machinery or apparatus, including its equipment, mounted on or attached to the automobile, while at the site of the use or operation of such machinery or apparatus, wherever applicable.

If more than one automobile is insured under this Policy, this endorsement shall apply only to the automobile(s) for which this endorsement is designated in the policy.

S.E.F. 44 - Family Protection Coverage

I. DEFINITIONS (words and terms defined here will appear in quotation marks throughout this Endorsement, except the word automobile).

As used in this Endorsement:

1. "automobile" means a motor-driven land vehicle for which motor vehicle liability insurance would be required by law in Manitoba. The words "the described automobile", "newly acquired automobile" and "temporary substitute automobile" as used in this Endorsement have the same meanings as defined in the General Definitions of this policy.
2. (a) "dependent relative" means a person who is principally dependent on you or your "spouse" for financial support and is:
 - (i) less than 18 years of age and living with you or in full time attendance at an educational institution away from your home; or
 - (ii) 18 years of age or older and in your care because of a physical or mental handicap; or
 - (iii) 18 years of age or older and in full time attendance at an educational institution; or
 - (iv) your parent or relative, or the parent or relative of your "spouse", who is living with you.

- (b) The following are included in the definition of "dependent relative", but only if the person injured or killed is not an "insured person" as defined in the "Family Protection Coverage" of any policy of insurance or does not own an automobile which is licenced in any jurisdiction of Canada where "Family Protection Coverage" is available:
 - (i) any relative of yours or your "spouse" who lives with you, and
 - (ii) any other relative of yours or your "spouse" while an "occupant" of "the described automobile", a "newly acquired automobile" or a "temporary substitute automobile".
- (c) If you are an "organization", the words "you" and "your" in this definition applies to your officer, employee or partner for whose regular use "the described automobile" is provided.

3. "eligible claimant" means:

- (a) the "insured person" sustaining bodily injury; and
- (b) any other person who, according to the law of the province, territory, or state where the accident occurs, has the right to bring an action against the "underinsured motorist" for damages because of bodily injury to or death of an "insured person".

4. "Family Protection Coverage" means the insurance provided by this Endorsement and any similar kind of coverage under any insurance plan or contract whether or not described as Family Protection Coverage, Family Security or Underinsured Motorist Coverage.

5. "insured person" means:

- (a) you and your "spouse", if your "spouse" is living with you, and any "dependent relative" of either, while
 - (i) an "occupant" of "the described automobile", a "newly acquired automobile" or a "temporary substitute automobile";
 - (ii) an "occupant" of any other automobile, but this does not include the person who owns the other automobile or leases it for more than 30 days, unless "Family Protection Coverage" is in force in respect of such other automobile, or
 - (iii) not an "occupant" of an automobile who is hit by an automobile.
- (b) If you are an "organization", "insured person" means your officer, employee or partner for whose regular use "the described automobile" is provided and his or her "spouse", if living with such officer, employee or partner, and any "dependent relative" of either while:
 - (i) an "occupant" of "the described automobile", a "newly acquired automobile" or a "temporary substitute automobile";
 - (ii) an occupant of an automobile other than an automobile referred to in (b)(i) above leased by you for more than 30 days or owned by you and provided "Family Protection Coverage" is in force or such other automobile, or
 - (iii) not an occupant of an automobile who is hit by an automobile.

If this policy has been endorsed to grant permission to rent or lease "the described automobile" for more than 30 days, the words "you" or "your" in this Endorsement will refer to the lessee named on the Coverage Summary page.

6. "Limit of Family Protection Coverage" means the limit shown for this Endorsement on the Coverage Summary page. If no limit is shown, then the Section A limit applicable to "the described automobile" to which this Endorsement applies is the "Limit of Family Protection Coverage." If a policy condition is breached and the Section A limit of this policy is reduced to the minimum limits of the jurisdiction where the accident took place, then the "Limit of Family Protection Coverage" will also be reduced to that same limit.

7. "limits of motor vehicle liability insurance" means the amount or amounts shown on a motor vehicle liability policy of insurance as the insurer's limit of liability with respect to liability claims, even if those limits have been reduced by the payment of claims or otherwise. However, if a policy condition is breached and the liability coverage under a motor vehicle liability policy is reduced to the statutory minimum limits of the jurisdiction where the accident took place, then those minimum limits will apply as the "limits of motor vehicle liability insurance." The words "limit of motor vehicle liability insurance" also means the value of all bonds, cash deposits or other financial guarantees which the law requires instead of motor vehicle liability insurance.

8. "spouse" means your legal husband or wife. It also means someone who has been living continuously with you as your husband or wife for a period of at least two years or, if a child was born of your union, a period of at least one year.

9. "underinsured motorist" means

- (a) the known owner or known driver of an automobile where the combined total "limits of motor vehicle liability insurance" for such owner and driver is less than the "Limit of Family Protection Coverage" and
- (b) the known owner or known driver of an "uninsured automobile"; provided that:
 - (i) where an "eligible claimant" is entitled to recover damages from an "underinsured motorist" and the owner or operator of any other automobile, then for the purpose of 1.9.(a) above and for the purpose of determining our maximum liability under clause III of this Endorsement ("Limit of Coverage Under This Endorsement") the "limits of motor vehicle liability insurance" shall be considered to be the total of all "limits of motor vehicle liability insurance" applicable to such "underinsured motorist" and such owner or operator of any other automobile; and
 - (ii) where an "eligible claimant" is entitled to recover damages from a known owner or known driver of an "uninsured automobile", then for the purpose of 1.9.(a) and 1.9.(b) above and for the purpose of determining our maximum liability under clause III of this Endorsement ("Limit of Coverage Under This Endorsement"), any uninsured motorist coverage or unsatisfied judgment fund available to the "eligible claimant" shall be considered to be motor vehicle liability insurance and the maximum amount payable under such coverage or fund shall be considered to be the "limits of motor vehicle liability insurance."

The term "underinsured motorist" does not include an owner or driver of an automobile whose identity cannot be established.

10. "uninsured automobile" means an automobile for which neither the owner nor driver has applicable and collectible bodily injury liability insurance for its ownership use or operation, but does not include an automobile owned by or registered in the name of:

- (a) the person or persons named as Insured on the Coverage Summary page or anyone living with such person or persons; or
- (b) the governments of Canada or the United States of America or any political subdivision thereof or any agency or corporation owned or controlled by any of them; or
- (c) any person or company who is an authorized self-insurer within the meaning of a financial or safety responsibility law; or
- (d) any person or company who has filed a bond, or otherwise given proof of financial responsibility, with respect to his liability for the ownership, use or operation of automobiles.

II. INSURING AGREEMENT

If a premium is shown for this Endorsement on the Coverage Summary page and you follow the conditions required by this policy, we agree to indemnify each "eligible claimant" for the amount that he or she is legally entitled to recover from an "underinsured motorist" as compensatory damages for bodily injury or death sustained by an "insured person" by accident arising out of the use or operation of an automobile.

III. LIMIT OF COVERAGE UNDER THIS ENDORSEMENT

1. Our maximum liability under this Endorsement for any one occurrence, regardless of the number of "eligible claimants" or the number of "insured persons" injured or killed or the number of automobiles insured under this policy or the number of claims which arise from the occurrence, shall be the amount by which the "Limit of Family Protection Coverage" exceeds the total of all "limits of motor vehicle liability insurance" of the "underinsured motorist" and all "limits of motor vehicle liability insurance" of any person jointly liable with the "underinsured motorist". If the total value of the claims of all eligible claimants" exceeds our maximum liability under this Endorsement, the payment to each "eligible claimant" will be reduced so that the total amount we pay does not exceed our maximum liability under this Endorsement.

2. Where the coverage under this Endorsement applies as excess, then our maximum liability will be the amount determined in III I. above, less the amounts available to "eligible claimants" under any first loss insurance referred to in clause VII. (Multiple Coverages).

IV. AMOUNT PAYABLE PER ELIGIBLE CLAIMANT

1. The amount payable under this Endorsement to any "eligible claimant" shall be arrived at by determining the amount of damages the "eligible claimant" is legally entitled to recover from the "underinsured motorist" and deducting from that amount the aggregate of the amounts referred to in paragraph 2 below, but in no event shall the total of all payments to "eligible claimants" exceed our maximum liability as set out in clause III. (Limit of Coverage Under This Endorsement).
2. The amount payable under this Endorsement to any "eligible claimant" is excess to any amount actually recovered by the "eligible claimant" from any source, other than money payable on death under a Life Insurance policy, and is excess to any amounts the "eligible claimant" is entitled to recover, whether such entitlement is pursued or not, from:
 - (a) the insurers of the "underinsured motorist" and from bonds, cash deposits or other financial guarantees of the "underinsured motorist";
 - (b) the insurers of any person jointly liable with the "underinsured motorist" for damages sustained by an "insured person";
 - (c) the Societe de L'Assurance Automobile du Quebec, the Ontario Motorist Protection Plan, the Personal Injury Protection Plan (Manitoba), the Personal Injury Protection Plan (Manitoba) or any similar plan;
 - (d) any unsatisfied judgment fund or similar plan which would have been payable had this Coverage not been in effect;
 - (e) the uninsured motorist coverage of a motor vehicle liability policy;
 - (f) any automobile accident benefits plan in the province, territory or state where the accident took place;
 - (g) any policy of insurance that provides disability, loss of income, medical expense or rehabilitation benefits;
 - (h) any policy of insurance, other than Life Insurance, that provides death benefits;
 - (i) any Workers' Compensation Act or similar law applicable to the injury or death which occurred;
 - (j) any medical, surgical, dental or hospitalization plan or law;
 - (k) any other "Family Protection Coverage" on a Motor Vehicle liability policy.
3. If there is more than one "eligible claimant" and the total of all the amounts payable to them exceeds our limit of liability as set out in clause III - Limit of Coverage Under This Endorsement, we may pay to each "eligible claimant" a pro rata proportion of the amount that would otherwise be paid to them. If an "eligible claimant" gives actual notice of a claim after payments have been made to other "eligible claimants", our maximum liability will be the amount determined in Clause III- Limit of Coverage Under This Endorsement, less the amounts paid to the prior "eligible claimants."

V. DETERMINATION OF THE AMOUNTS AN "ELIGIBLE CLAIMANT" IS LEGALLY ENTITLED TO RECOVER

1. An "eligible claimant" must bring an action to judgment against the alleged responsible parties. In determining the amount an "eligible claimant" is legally entitled to recover from the alleged "underinsured motorist" and all other alleged responsible parties, we will be bound by the court's decision on the question of liability in accordance with the law of the place where the accident occurred; but the question of the amount of the damages (quantum) shall be decided in accordance with the law of Manitoba, regardless of where the accident occurred. No findings of a court with respect to either liability or damages will be binding on us unless we are given a reasonable opportunity to participate in the proceedings as a party.
2. If, before court action or judgment, the "eligible claimant" receives a settlement offer from the alleged "underinsured motorist" or any other alleged responsible parties, the "eligible claimant" must notify us of such settlement offer and may, with our written consent, accept the offer.
3. Once the "eligible claimant" has obtained judgment against or concluded a settlement with the "underinsured motorist" or any other responsible parties, the decision as to whether the "eligible claimant" is entitled to payment under this Endorsement and, if entitled, the amount of such payment, shall be reached by agreement between the "eligible claimant" and us. If we cannot agree whether the "eligible claimant" is entitled to payment under this Endorsement or, if entitled, the amount of payment, these issues, or either one of them, shall be determined by arbitration of some person to be chosen by both the "eligible claimant" and us. If we cannot agree on one person, then the "eligible claimant" and us will each choose an arbitrator and the two arbitrators will choose a third person. The provisions of The Arbitration Act (Manitoba) shall apply to the arbitration. The decision resulting from the arbitration will be binding on the "eligible claimant" and on us.
4. In determining any amounts an "eligible claimant" is legally entitled to recover, no amount shall be included for:
 - (a) any pre-judgment interest accumulating prior to the time the "eligible claimant" gives us notice of the accident as required by this Endorsement; or
 - (b) any punitive, exemplary, aggravated or other non-compensatory damages caused by the conduct of the "underinsured motorist" or any other person jointly liable with the "underinsured motorist", or
 - (c) any costs.

VI. PROCEDURES WHEN CLAIMING

1. Before we become liable for any payment, the following must be done:
 - (a) the "eligible claimant" must give us notice, in writing, of any accident involving injury to or the death of an "insured person". This notice must give all available particulars about the accident and about any claim that has been made because of the accident;
 - (b) the "eligible claimant" and the "insured person" must, if we ask, tell us about any insurance, other than life insurance, that may provide coverage for the "eligible claimant";
 - (c) the "eligible claimant" and the "insured person" must submit to an examination under oath and produce for examination at a time and place we may reasonably select, all documents in their possession or control that relate to matters in question, and allow extracts and copies of such documents to be made.
2. Where an "eligible claimant" commences a legal action against any other person owning or operating an automobile involved in the accident, a copy of the Writ of Summons, Statement of Claim or other documents commencing action, must be delivered to us immediately in person or by registered mail.
3. Any suit against us for payment under this Endorsement must be started within 12 months from the date when the "eligible claimant" or his or her legal representative knew or should have known, that the amount (quantum) of the claims with respect to an "insured person" exceeded the statutory minimum limits for motor vehicle liability insurance in the province, territory or state in which the accident occurred. No action against us that is commenced within 2 years of the date of the accident shall be barred because of this provision.

VII. MULTIPLE COVERAGES

Where an "eligible claimant" is entitled to payment under "Family Protection Coverage" of more than one policy and:

1. the "insured person" is an "occupant" of an automobile, the "Family Protection Coverage" on the automobile in which the "insured person" is an "occupant" is first loss insurance and any other such insurance is excess;
2. the "insured person" is not an "occupant" of an automobile, the "Family Protection Coverage" of any one policy in the name of the "insured person" is first loss insurance and any other such insurance is excess.

First loss insurance must be used up before any excess insurance is taken into consideration.

All first loss "Family Protection Coverage" shall be apportioned on a pro rata basis. In no event shall the aggregate payment under all first loss coverages be more than the highest coverage limit of any one of the first loss coverages.

All applicable excess "Family Protection Coverage" shall also be apportioned on a pro rata basis, but in no event shall the aggregate payment under all such insurances be more than the highest limit of coverage (as defined in Clause III 2.) of any one of the excess coverages.

VIII. LIMITATION WHERE COVERAGE APPLIES

The insurance under this Endorsement applies only where an "eligible claimant" is not prevented by the law of the province, territory or state where the accident occurs from suing the owner and/or operator of an automobile for bodily injury or death arising from the ownership, use or operation of an automobile.

IX. SUBROGATION

When a claim is made under this Endorsement, we assume the rights of the "eligible claimant" who makes the claim and we may take any action in that person's name against the "underinsured motorist" and any of the sources referred to in Clause IV. 2.

X. ASSIGNMENT OF RIGHTS OF ACTION

Where a payment is made under this Endorsement, the person receiving the payment assigns all rights of action to us whether judgment is obtained or not, and agrees to co-operate with us, at our expense, in any actions we may take.

XI. MISCELLANEOUS PROVISIONS

If more than one automobile is insured under this policy, this Endorsement shall apply only to the automobile(s) for which a premium for this Endorsement is shown on the Coverage Summary page. If this Endorsement applies to more than one automobile, then the coverage provided will apply as if separate policies had been issued for each automobile, subject always to the provision of Clause VII - Multiple Coverages.

LOSS OF RENTAL INCOME

In consideration of the premium stated herein, the Insurer agrees, following an occurrence for which indemnity is provided under the S.E.F. No. 27 of the policy to which this endorsement is attached, to reimburse the Insured for loss of rental income incurred by the renter as a result of an accident involving the rental vehicle.

The total limit for this endorsement and the S.E.F. No. 20 endorsement is \$50.00 per day and not more than \$1,500.00 per automobile per occurrence or such other occurrence limit stated on the Coverage Summary page.

VALUE PLUS ENDORSEMENT

In consideration of the premium charged and in the event that loss or damage to the Insured vehicle by a peril insured by this policy should render the vehicle a total or constructive total loss, the Insurer agrees to pay the Insured the difference between the actual cash value of the vehicle at the time of the loss and the lesser of:

- (a) the purchase price inclusive of applicable taxes of the vehicle paid by the Insured, or
- (b) the manufacturer's list price inclusive of applicable taxes of the vehicle at the date of purchase by the Insured plus the cost to the Insured, as evidenced by a bill of sale, of dealer options forming part of the vehicle at the time of the loss.

The Insurer further agrees to increase the amount determined for (i) or (ii) above by a pro rata amount of 5% annual simple interest calculated from the effective date of this endorsement to the date of the occurrence which gives rise to a claim under this endorsement.

PROVIDED THAT:

- (a) the Insurer shall be the sole determiner as to whether a total loss or constructive total loss has occurred; and
 - (b) the vehicle was purchased by the Insured as a new vehicle or was originally owned and used as a demonstrator by an automobile dealership and purchased from the dealership by the Insured within 12 months of the date on which it was first put into service by the dealer as a demonstrator; and
 - (c) the Insured produces a bill of sale or facsimile thereof by which ownership of the vehicle was transferred to the Insured by the vehicle manufacturer or the manufacturer's agent or dealer; and
 - (d) the loss or damage occurs within 24 months of the date on which this endorsement first becomes effective;
- otherwise, the Insurer is relieved of all liability under this endorsement.

VALUE PLUS ENDORSEMENT
(SPECIFIED LESSEE)

In consideration of the premium charged, in the event that loss or damage to the leased automobile for which indemnity is provided under Section C of this policy results in the automobile being a total loss as determined by the Insurer, the Insurer agrees, with respect to the lessee only, to waive its right under Statutory Condition 4(5) by which its liability is limited to the actual cash value of the leased automobile at the time of loss or damage with proper deduction for depreciation.

PROVIDED THAT:

- (a) the SEF 5 Permission to Rent or Lease Endorsement is attached to the policy; and
- (b) the specified lessee is the first lessee of the automobile and the automobile was new at the time of delivery to the lessee; and
- (c) the loss or damage occurs within 24 months of the date on which the leased automobile was first delivered to the lessee or the first 80,000 kilometres, whichever comes first; and
- (d) this endorsement will not apply with respect to
 - (i) tires and batteries, or
 - (ii) betterment resulting from the necessary repair or replacement of parts having prior unrepaired damage; and
- (e) the Insurer shall be liable only for the amount of loss or damage in excess of the amount payable under the Manitoba Public Insurance Act (licence insurance) had this endorsement not been issued; and
- (f) the Insurer shall in no event be liable for more than the value of the automobile and its equipment as stated in the Leasing Agreement of the specified lessee excluding taxes or the manufacturer's suggested list price excluding taxes at the original date of purchase of the automobile and its equipment whichever is the lesser amount.

VEHICLE LAY-UP ENDORSEMENT

In consideration of the premium charged, it is agreed that Section C of this policy "Loss or Damage to Vehicle" is extended to apply to the vehicle last registered under the Manitoba License Plate Number shown in this policy while the vehicle is not registered in accordance with the Highway Traffic Act (Manitoba); or the vehicle described on the Coverage Summary page forming part of this policy.

PROVIDED THAT:

- (a) the Insured establishes that the vehicle was in continuous storage during the term of this policy while not so registered, and
 - (b) the vehicle is not being held for re-sale unless it is kept on the premises of the Insured's principal residence and the Insured is not engaged in the business of selling vehicles, repairing, maintaining, servicing, storing or parking; and
 - (c) the vehicle is not being used as a place of residence; and
 - (d) the vehicle is not being used as a place of business;
- otherwise, the Insurer is relieved of all liability under this endorsement.

The term "continuous storage" used in this endorsement shall include vehicles while being transported in or upon another vehicle or trailer. It shall also include vehicles while they are on display at organized public or club auto shows.

The Insurer's liability for loss or damage to a vehicle to which this endorsement applies shall be limited to the least of:

- (a) the actual cash value of the vehicle at the time of loss or damage; or
- (b) the limit of liability stated in Part III of the Automobile Insurance Coverage Regulation of the Manitoba Public Insurance Corporation Act, applicable to a vehicle in respect of which "declared excess value" may be purchased under the aforesaid regulation, unless an amount for "declared value" is shown in this policy.

RESTORATION ENDORSEMENT

PERMISSION

This endorsement grants permission for restoration to the described vehicle provided that the described vehicle and its parts are in a fully enclosed building at the Insured's principal dwelling premises location or at such other location as approved by the Insurer unless,

1. The described vehicle and/or its parts are temporarily removed to another location for restoration purposes for a period not to exceed 30 consecutive days at a time, or
2. The described vehicle and/or its parts are being transported in or upon another conveyance to another location for restoration purposes.

BASIS OF SETTLEMENT

Any loss or damage to the vehicle and/or its parts shall be settled on the basis of Actual Cash Value.

For the purpose of establishing Actual Cash Value the following conditions shall apply:

1. The cost of labour provided by the insured will not be considered to have a value.
2. Labour costs paid to others will be considered but must be substantiated with receipts for work performed.
3. The cost of replacement parts will be considered, providing the replacement part does not alter the vehicle from its original manufacturer's design and factory equipment.
4. The amount the Insurer will pay on fabricated parts shall not exceed five times the cost of the raw material necessary to have the part fabricated.
5. The valuation of the complete or nearly complete vehicle prior to the commencement of restoration will be based on the "parts car" value of the vehicle as designated in the Old Cars Price Guide condition code 6 unless documentation acceptable to the insurer supporting a higher value is provided. However, in no event shall we pay more than the "excellent" value of the vehicle as designated in the Old Cars Price Guide condition code 1.

This basis of cash settlement shall apply until such time as the restoration has been completed, the vehicle has been appraised, and the appraised value has been accepted by the Insurer.