

FORMS – IMPLEMENTATION

JANUARY 13, 2022

COMMERCIAL AUTOMOBILE

LI-CA-2022-010

**NEW MEXICO REVISED COMMERCIAL AUTO UNINSURED
MOTORISTS COVERAGE ENDORSEMENTS TO BE
IMPLEMENTED**

KEY MESSAGE

Commercial Auto filing CA-2021-OUM1 has been acknowledged by the New Mexico Office of Superintendent of Insurance (OSI).

BACKGROUND

In circular [LI-CA-2021-349](#), we had announced, in part, that based on our initial review of New Mexico Office of Superintendent of Insurance (OSI) Bulletin 2021-024, we anticipated revising the New Mexico Commercial Auto Uninsured Motorists Coverage endorsements to incorporate the required exclusion as stated in *Crutcher*.

ISO ACTION

In response to Bulletin 2021-024, we had:

- Revised CA 21 15, New Mexico – Uninsured Motorists Coverage – Stacked and CA 31 29, New Mexico Uninsured Motorists Coverage – Nonstacked.
- Filed these revisions with the New Mexico OSI under ISO Filing Designation Number CA-2021-OUM1.

Refer to the attached explanatory material for complete details about this filing.

INSURANCE DEPARTMENT ACTION

The New Mexico OSI has acknowledged filing CA-2021-OUM1.

EFFECTIVE DATE

The ISO revision is subject to the following rule of application:

These changes are applicable to all policies written on or after June 1, 2022.

COMPANY ACTION

If you have authorized us to file on your behalf and decide:

- To use our revision and effective date, you are not required to file anything with the Insurance Department.
- To use our revision with a different effective date, to use our revision with modification, or to not use our revision, you must make an appropriate submission with the Insurance Department.

For guidance on submission requirements, consult the ISO State Filing Handbook.

In all correspondence with the Insurance Department on this revision, you should refer to ISO Filing Designation Number [CA-2021-OUM1](#), not this circular number. Communications with the regulator concerning a filing affecting multiple lines of business (i.e., CL, PL, AL filing designation) should specify the line(s) of business that you are addressing.

RATING SOFTWARE IMPACT

New attribute being introduced with this revision:

- New edition dates of existing form numbers are being introduced.
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POLICYHOLDER NOTIFICATION

If you decide to implement this revision, you should check all applicable laws for the state(s) to which this revision applies, to determine whether or not a specific policyholder notice requirement may apply. Please note that circular [LI-CL-2021-004](#) contains the ISO Guide To Renewals With Changed Conditions For Commercial Lines, which is available only as a guide to assist participating companies in complying with various conditional renewal statutes or regulations, for the major commercial lines of insurance serviced by ISO. The information in the Guide does not necessarily reflect all requirements or exceptions that may apply, and it is not intended as a substitute for your review of all applicable statutes and regulations concerning policyholder notification.

REVISION DISTRIBUTION

We will issue a Notice to Portfolioholders with an edition date of 6-22 (or the earliest possible subsequent date), along with any new and/or revised forms.

REFERENCE(S)

- [LI-CA-2021-349](#) (11/17/2021) New Mexico Office Of Superintendent Of Insurance Bulletin 2021-024 Regarding Required Disclosure And Exclusion Related To Uninsured Motorist/Underinsured Motorist (UM/UIM) Coverage Under Review
 - [LI-CL-2021-004](#) (02/17/2021) Revised Lead Time Requirements Listing
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ATTACHMENT(S)

- Filing [CA-2021-OUM1](#)
- Final copies of [CA 21 15 06 22](#) and [CA 31 29 06 22](#)

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New Mexico Commercial Auto Uninsured Motorists Coverage Endorsements Revised

About This Filing

This filing is being made in response to Bulletin 2021-024 which was issued by the New Mexico Office of Superintendent of Insurance (OSI) in accordance with the New Mexico Supreme Court's decision in *Crutcher v. Liberty Mutual Insurance Company*, 2021 WL 4520651 (N.M. Oct. 4, 2021).

Revised Forms

We are revising the following forms:

- ◆ CA 21 15 10 13, New Mexico Uninsured Motorists Coverage - Stacked
- ◆ CA 31 29 10 13, New Mexico Uninsured Motorists Coverage - Nonstacked

We have used a format of ~~striking-through~~ deletions, underlining additions and inserting a revision bar in the left margin to indicate changes from the above-referenced editions to the 06 22 editions. Concurrent with implementation, the 06 22 editions will supersede the prior editions.

Background

The New Mexico OSI issued Bulletin 2021-024 on November 9, 2021 in response to the New Mexico Supreme Court's decision in *Crutcher v. Liberty Mutual Insurance Company*, 2021 WL 4520651 (N.M. Oct. 4, 2021). The Court concluded in relevant part, as follows:

"For the foregoing reasons, we conclude that UM/UIM coverage at the minimum level is permitted because the law not only allows, but requires, it to be sold as was done so here. However, such coverage is illusory because it is misleading to the average policyholder. **As such, we will now require every insurer to adequately disclose the limitations of minimum limits UM/UIM policies in the form of an exclusion in its insurance policy.** If the insurer provides adequate disclosure, it may lawfully charge a premium for such coverage." *Crutcher*, 2021 WL 4520651, at *8. (Emphasis added).

Bulletin 2021-024 "serves as notice that the New Mexico Superintendent of Insurance (OSI) is requiring all automobile insurers covering risks located in New

Mexico to adopt, on an immediate basis, a Disclosure and an Exclusion for use in **every** automobile policy, whether such policy is now in existence or is to be issued in the future, as set forth in this Bulletin.

Explanation of Changes

In response to Bulletin 2021-24, we have revised CA 21 15, New Mexico Uninsured Motorists Coverage - Stacked and CA 31 29, New Mexico Uninsured Motorists Coverage - Nonstacked to incorporate the following exclusion:

"Property damage" or "bodily injury" sustained by the "insured" and caused by an "accident" with a motor vehicle or "trailer" for which the sum of all liability bonds or policies at the time of the "accident" provides at least the amounts required by the applicable law where a covered "auto" is principally garaged, but their limits are equal to, or greater than the sum of the limits of this coverage applicable to the "insured".

In drafting the above exclusionary language, we took into consideration:

- ◆ The definition of an "underinsured motor vehicle" presently found in CA 21 15 and CA 31 29.
- ◆ Inter-policy stacking for Uninsured Motorists Coverage applies in New Mexico under both endorsements CA 21 15 and CA 31 29.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NEW MEXICO – UNINSURED MOTORISTS COVERAGE – STACKED

For a covered "auto" licensed or principally garaged in, or "auto dealer operations" conducted in, New Mexico, this endorsement modifies insurance provided under the following:

- AUTO DEALERS COVERAGE FORM
- BUSINESS AUTO COVERAGE FORM
- MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured:
Endorsement Effective Date:

SCHEDULE

Limit Of Insurance: \$	Each "Accident"
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Coverage

1. We will pay all sums the "insured" is legally entitled to recover as damages from the owner or driver of an "uninsured motor vehicle" because of:
 - a. "Bodily injury" sustained by an "insured" and caused by an "accident"; or
 - b. "Property damage" caused by an "accident".

The owner's or driver's liability for these damages must result from the ownership, maintenance or use of the "uninsured motor vehicle".

2. With respect to damages resulting from an "accident" with a vehicle described in Paragraph **b.** of the definition of "uninsured motor vehicle", we will pay under this coverage only if Paragraph **a.** or **b.** applies:
 - a. The limit of any applicable liability bonds or policies has been exhausted by payment of judgments or settlements; or
 - b. A tentative settlement has been made between an "insured" and the insurer of a vehicle described in Paragraph **b.** of the definition of "uninsured motor vehicle", and we:
 - (1) Have been given prompt written notice of such tentative settlement; and

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(2) Advance payment to the "insured" in an amount equal to the tentative settlement within 30 days after receipt of notification.

3. Any judgment for damages arising out of a "suit" brought without our written consent is not binding on us.

B. Who Is An Insured

The following are "insureds" for Uninsured Motorists Coverage:

If the Named Insured is designated in the Declarations as:

1. An individual, then the following are "insureds":

a. Any Class 1 "insured", meaning the individual Named Insured and any "family members".

b. Any Class 2 "insured", meaning:

(1) Anyone other than a Class 1 "insured" "occupying" a covered "auto" or a temporary substitute for a covered "auto". The covered "auto" must be out of service because of its breakdown, repair, servicing, "loss" or destruction.

(2) Anyone for damages he or she is entitled to recover because of "bodily injury" sustained by another "insured".

2. A partnership, limited liability company, corporation or any other form of organization, then the following are "insureds":

Any Class 2 "insured", meaning:

a. Anyone "occupying" a covered "auto" or a temporary substitute for a covered "auto". The covered "auto" must be out of service because of its breakdown, repair, servicing, "loss" or destruction. This includes the Named Insured's partners (if the Named Insured is a partnership), or members (if the Named Insured is a limited liability company), "employees", directors or shareholders;

b. Anyone for damages he or she is entitled to recover because of "bodily injury" sustained by another "insured";

c. The Named Insured for "property damage" only.

C. Exclusions

This insurance does not apply to any of the following:

1. Any claim settled without our consent, if the settlement prejudices our right to recover payment. However, this exclusion does not apply to a settlement made with the insurer of a vehicle described in Paragraph b. of the definition of "uninsured motor vehicle", in accordance with the procedure described in Paragraph A.2.b.

2. The direct or indirect benefit of any insurer or self-insurer under any workers' compensation, disability benefits or similar law.

3. The direct or indirect benefit of any insurer of property.

4. The first \$250 of the amount of "property damage" to the property of each "insured" as the result of any one "accident".

5. Anyone using a vehicle without a reasonable belief that the person is entitled to do so.

6. "Property damage" for which the "insured" has been or is entitled to be compensated by other property or physical damage insurance.

7. "Bodily injury" or "property damage" arising directly or indirectly out of:

a. War, including undeclared or civil war;

b. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

c. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

8. "Property damage" or "bodily injury" sustained by the "insured" and caused by an "accident" with a motor vehicle or "trailer" for which the sum of all liability bonds or policies at the time of the "accident" provides at least the amounts required by the applicable law where a covered "auto" is principally garaged, but their limits are equal to, or greater than the sum of the limits of this coverage applicable to the "insured".

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D. Limit Of Insurance

The Limit of Insurance available to a Class 1 "insured" may differ from the Limit of Insurance available to a Class 2 "insured". Read carefully the following paragraphs and the descriptions of Class 1 "insured" and Class 2 "insured" in the Who Is An Insured provision to determine the applicable Limit of Insurance.

1. Regardless of the number of covered "autos", "insureds", premiums paid, claims made or vehicles involved in the "accident", the most we will pay for all damages resulting from any one "accident" is the limit of Uninsured Motorists Coverage shown in the Schedule or Declarations. If there is more than one covered "auto", and "bodily injury" or "property damage" is sustained by a Class 1 "insured", our Limit of Insurance for any one "accident" is the sum of the limits applicable to each covered "auto". Subject to this maximum limit of liability for all damages:

- a. The most we will pay for all damages sustained in such "accident" by a Class 2 "insured" is that "insured's" pro rata share of the limit shown in the Schedule or Declarations for this coverage at the time of the "accident".
- b. Any Class 1 "insured" who sustains "bodily injury" or "property damage" in such "accident" will also be entitled to a pro rata share of the limit described in Paragraph a. above.

A person's pro rata share shall be the proportion that person's damages bears to the sum of:

- (1) The total damages sustained by all Class 2 "insureds"; and
 - (2) That portion of the damages sustained by any Class 1 "insured" which remains after the limits for this coverage applicable to any covered "auto" which was not involved in the "accident" have been exhausted.
2. If the "bodily injury" or "property damage" is sustained by any Class 2 "insured" in an "accident" in which no Class 1 "insured" sustained "bodily injury" or "property damage", the Limit Of Insurance shown in the Schedule or Declarations for this coverage, at the time of the "accident", is our maximum limit of liability for all damages resulting from any such "accident".

3. No one will be entitled to receive duplicate payments for the same elements of "loss" under this Coverage and any Liability Coverage form or Medical Payments Coverage endorsement attached to this Coverage Part.

We will not make a duplicate payment under this coverage for any element of "loss" for which payment has been made by or for anyone who is legally responsible.

4. With respect to damages resulting from an "accident" involving an underinsured motor vehicle, as described in Paragraph b. of the "uninsured motor vehicle" definition, the Limit of Insurance shall be reduced by all sums paid by or for anyone who is legally responsible, including all sums paid under this Coverage Form's Covered Autos Liability Coverage.

5. We will not pay for a "loss" which is paid or payable under Physical Damage Coverage.

E. Changes In Conditions

The **Conditions** are changed for Uninsured Motorists Coverage as follows:

1. **Other Insurance** in the Auto Dealers and Business Auto Coverage Forms and **Other Insurance – Primary And Excess Insurance Provisions** in the Motor Carrier Coverage Form are changed by addition of the following:

- a. The reference to "other collectible insurance" applies only to other collectible uninsured motorists insurance.
- b. Any insurance we provide with respect to a vehicle owned by the Named Insured or, if the Named Insured is an individual, any "family member", that is not a covered "auto" for Uninsured Motorists Coverage under this Coverage Form, shall be excess over any other collectible uninsured motorists insurance providing coverage on a primary basis.

2. **Duties In The Event Of Accident, Claim, Suit Or Loss** in the Business Auto and Motor Carrier Coverage Forms and **Duties In The Event Of Accident, Claim, Offense, Suit, Loss Or Acts, Errors Or Omissions** in the Auto Dealers Coverage Form are changed by adding the following:

- a. Promptly notify the police if a hit-and-run driver is involved;
- b. Promptly send us copies of the legal papers if a "suit" is brought; and

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- c. A person seeking coverage from an insurer, owner or operator of a vehicle described in Paragraph **b.** of the definition of "uninsured motor vehicle" must also notify us in writing of a tentative settlement between the "insured" and the insurer and allow us to advance payment to that "insured" in an amount equal to the tentative settlement within 30 days after receipt of notification to preserve our rights against the insurer, owner or operator of such vehicle.

3. Transfer Of Rights Of Recovery Against Others To Us is changed by adding the following:

If we make any payment and the "insured" recovers from another party, the "insured" shall hold the proceeds in trust for us and pay us back the amount we have paid.

Our rights do not apply under this provision with respect to damages caused by an "accident" with a vehicle described in Paragraph **b.** of the definition of "uninsured motor vehicle" if we:

- a. Have been given prompt written notice of a tentative settlement between an "insured" and the insurer of a vehicle described in Paragraph **b.** of the definition of "uninsured motor vehicle"; and
- b. Fail to advance payment to the "insured" in an amount equal to the tentative settlement within 30 days after receipt of notification.

If we advance payment to the "insured" in an amount equal to the tentative settlement within 30 days after receipt of notification:

- a. That payment will be separate from any amount the "insured" is entitled to recover under the provisions of Uninsured Motorists Coverage; and
- b. We also have a right to recover the advance payment.

4. The following condition is added:

Arbitration

- a. If we and an "insured" disagree whether the "insured" is legally entitled to recover damages from the owner or driver of an "uninsured motor vehicle" or do not agree as to the amount of damages that are recoverable by that "insured", then the matter may be arbitrated. However, disputes concerning whether there is coverage under this endorsement may not be arbitrated. Both parties must agree to arbitration. If so agreed, each party will select an arbitrator. The two arbitrators will select a third. If they cannot agree within 30 days, either may request that selection be made by a judge of a court having jurisdiction. Each party will pay the expenses it incurs and bear the expenses of the third arbitrator equally, unless the arbitration costs are awarded to the prevailing party by the arbitrators.
- b. Unless both parties agree otherwise, arbitration will take place in the county in which the "insured" lives. Local rules of law as to arbitration procedure and evidence will apply. A decision agreed to by two of the arbitrators will be binding.

5. Two Or More Coverage Forms Or Policies Issued By Us does not apply.

F. Additional Definitions

As used in this endorsement:

- 1. "Family member" means a person related to an individual Named Insured by blood, marriage or adoption who is a resident of such Named Insured's household, including a ward or foster child.
- 2. "Occupying" means in, upon, getting in, on, out or off.

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- 3. "Property damage" means injury or destruction of:
 - a. A covered "auto";
 - b. Property owned by:
 - (1) The Named Insured; or
 - (2) Any "family member", if the Named Insured is an individual; or
 - c. Property contained in a covered "auto" and owned by anyone else "occupying" the covered "auto".
- 4. "Uninsured motor vehicle" means a land motor vehicle or "trailer":
 - a. For which no liability bond or policy at the time of an "accident" provides at least the amounts required by the applicable law where a covered "auto" is principally garaged;
 - b. That is an underinsured motor vehicle. An underinsured motor vehicle is a motor vehicle or "trailer" for which the sum of all liability bonds or policies at the time of an "accident" provides at least the amounts required by the applicable law where a covered "auto" is principally garaged, but their limits are less than the sum of the limits of this coverage applicable to the "insured";

- c. For which an insuring or bonding company denies coverage or is or becomes insolvent; or
- d. That is a hit-and-run vehicle and neither the driver nor owner can be identified.

The vehicle must either:

 - (1) Hit an "insured", a covered "auto" or a vehicle an "insured" is "occupying"; or
 - (2) Cause "bodily injury" or "property damage" with no physical contact with an "insured", a covered "auto" or a vehicle the "insured" is "occupying" at the time of an "accident".

However, "uninsured motor vehicle" does not include any vehicle:

- a. Owned or operated by a self-insurer under any applicable motor vehicle law, except a self-insurer who is or becomes insolvent and cannot provide the amounts required by that motor vehicle law; or
- b. Designed for use mainly off public roads while not on public roads.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NEW MEXICO UNINSURED MOTORISTS COVERAGE – NONSTACKED

For a covered "auto" licensed or principally garaged in, or "auto dealer operations" conducted in, New Mexico, this endorsement modifies insurance provided under the following:

- AUTO DEALERS COVERAGE FORM
- BUSINESS AUTO COVERAGE FORM
- MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured:
Endorsement Effective Date:

SCHEDULE

Limit Of Insurance: \$	Each "Accident"
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Coverage

1. We will pay all sums the "insured" is legally entitled to recover as damages from the owner or driver of an "uninsured motor vehicle" because of:

- a. "Bodily injury" sustained by an "insured" and caused by an "accident"; or
- b. "Property damage" caused by an "accident".

The owner's or driver's liability for these damages must result from the ownership, maintenance or use of the "uninsured motor vehicle".

2. With respect to damages resulting from an "accident" with a vehicle described in Paragraph **b.** of the definition of "uninsured motor vehicle", we will pay under this coverage only if Paragraph **a.** or **b.** applies:

- a. The limit of any applicable liability bonds or policies has been exhausted by payment of judgments or settlements; or

b. A tentative settlement has been made between an "insured" and the insurer of a vehicle described in Paragraph **b.** of the definition of "uninsured motor vehicle", and we:

- (1) Have been given prompt written notice of such tentative settlement; and
- (2) Advance payment to the "insured" in an amount equal to the tentative settlement within 30 days after receipt of notification.

3. Any judgment for damages arising out of a "suit" brought without our written consent is not binding on us.

B. Who Is An Insured

If the Named Insured is designated in the Declarations as:

- 1. An individual, then the following are "insureds":
 - a. The Named Insured and any "family members".

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- b. Anyone else "occupying" a covered "auto" or a temporary substitute for a covered "auto". The covered "auto" must be out of service because of its breakdown, repair, servicing, "loss" or destruction.
 - c. Anyone for damages he or she is entitled to recover because of "bodily injury" sustained by another "insured".
2. A partnership, limited liability company, corporation or any other form of organization, then the following are "insureds":
- a. Anyone "occupying" a covered "auto" or a temporary substitute for a covered "auto". The covered "auto" must be out of service because of its breakdown, repair, servicing, "loss" or destruction.
 - b. Anyone for damages he or she is entitled to recover because of "bodily injury" sustained by another "insured".
 - c. The Named Insured for "property damage" only.

C. Exclusions

This insurance does not apply to any of the following:

- 1. Any claim settled without our consent, if the settlement prejudices our right to recover payment. However, this exclusion does not apply to a settlement made with the insurer of a vehicle described in Paragraph **b.** of the definition of "uninsured motor vehicle", in accordance with the procedure described in Paragraph **A.2.b.**
- 2. The direct or indirect benefit of any insurer or self-insurer under any workers' compensation, disability benefits or similar law.
- 3. The direct or indirect benefit of any insurer of property.
- 4. The first \$250 of the amount of "property damage" to the property of each "insured" as the result of any one "accident".
- 5. Anyone using a vehicle without a reasonable belief that the person is entitled to do so.
- 6. "Property damage" for which the "insured" has been or is entitled to be compensated by other property or physical damage insurance.
- 7. "Bodily injury" or "property damage" arising directly or indirectly out of:
 - a. War, including undeclared or civil war;
 - b. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

- c. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

8. "Property damage" or "bodily injury" sustained by the "insured" and caused by an "accident" with a motor vehicle or "trailer" for which the sum of all liability bonds or policies at the time of the "accident" provides at least the amounts required by the applicable law where a covered "auto" is principally garaged, but their limits are equal to, or greater than the sum of the limits of this coverage applicable to the "insured".

D. Limit Of Insurance

- 1. Regardless of the number of covered "autos", "insureds", premiums paid, claims made or vehicles involved in the "accident", the most we will pay for all damages resulting from any one "accident" is the limit of Uninsured Motorists Coverage shown in the Schedule or Declarations.
- 2. No one will be entitled to receive duplicate payments for the same elements of "loss" under this Coverage and any Liability Coverage form or Medical Payments Coverage endorsement attached to this Coverage Part.
We will not make a duplicate payment under this coverage for any element of "loss" for which payment has been made by or for anyone who is legally responsible.
- 3. With respect to damages resulting from an "accident" involving an underinsured motor vehicle, as described in Paragraph **b.** of the "uninsured motor vehicle" definition, the Limit of Insurance shall be reduced by all sums paid by or for anyone who is legally responsible, including all sums paid under this Coverage Form's Covered Autos Liability Coverage.
- 4. We will not pay for a "loss" which is paid or payable under Physical Damage Coverage.

E. Changes In Conditions

The **Conditions** are changed for Uninsured Motorists Coverage as follows:

- 1. **Other Insurance** in the Auto Dealers and Business Auto Coverage Forms and **Other Insurance – Primary And Excess Insurance Provisions** in the Motor Carrier Coverage Form are changed by addition of the following:
 - a. The reference to "other collectible insurance" applies only to other collectible uninsured motorists insurance.

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- b. Any insurance we provide with respect to a vehicle owned by the Named Insured or, if the Named Insured is an individual, any "family member" that is not a covered "auto" for Uninsured Motorists Coverage under this Coverage Form, shall be excess over any other collectible uninsured motorists insurance providing coverage on a primary basis.

2. Duties In The Event Of Accident, Claim, Suit Or Loss in the Business Auto and Motor Carrier Coverage Forms and **Duties In The Event Of Accident, Claim, Offense, Suit, Loss Or Acts, Errors Or Omissions** in the Auto Dealers Coverage Form are changed by adding the following:

- a. Promptly notify the police if a hit-and-run driver is involved;
- b. Promptly send us copies of the legal papers if a "suit" is brought; and
- c. A person seeking coverage from an insurer, owner or operator of a vehicle described in Paragraph **b.** of the definition of "uninsured motor vehicle" must also notify us in writing of a tentative settlement between the "insured" and the insurer and allow us to advance payment to that "insured" in an amount equal to the tentative settlement within 30 days after receipt of notification to preserve our rights against the insurer, owner or operator of such vehicle.

3. Transfer Of Rights Of Recovery Against Others To Us is changed by adding the following:

If we make any payment and the "insured" recovers from another party, the "insured" shall hold the proceeds in trust for us and pay us back the amount we have paid.

Our rights do not apply under this provision with respect to damages caused by an "accident" with a vehicle described in Paragraph **b.** of the definition of "uninsured motor vehicle" if we:

- a. Have been given prompt written notice of a tentative settlement between an "insured" and the insurer of a vehicle described in Paragraph **b.** of the definition of "uninsured motor vehicle"; and
- b. Fail to advance payment to the "insured" in an amount equal to the tentative settlement within 30 days after receipt of notification.

If we advance payment to the "insured" in an amount equal to the tentative settlement within 30 days after receipt of notification:

- a. That payment will be separate from any amount the "insured" is entitled to recover under the provisions of Uninsured Motorists Coverage; and
- b. We also have a right to recover the advance payment.

4. The following condition is added:

Arbitration

- a. If we and an "insured" disagree whether the "insured" is legally entitled to recover damages from the owner or driver of an "uninsured motor vehicle" or do not agree as to the amount of damages that are recoverable by that "insured", then the matter may be arbitrated. However, disputes concerning whether there is coverage under this endorsement may not be arbitrated. Both parties must agree to arbitration. If so agreed, each party will select an arbitrator. The two arbitrators will select a third. If they cannot agree within 30 days, either may request that selection be made by a judge of a court having jurisdiction. Each party will pay the expenses it incurs and bear the expenses of the third arbitrator equally, unless the arbitration costs are awarded to the prevailing party by the arbitrators.
- b. Unless both parties agree otherwise, arbitration will take place in the county in which the "insured" lives. Local rules of law as to arbitration procedure and evidence will apply. A decision agreed to by two of the arbitrators will be binding.

5. Two Or More Coverage Forms Or Policies Issued By Us does not apply.

F. Additional Definitions

As used in this endorsement:

- 1. "Family member" means a person related to an individual Named Insured by blood, marriage or adoption who is a resident of such Named Insured's household, including a ward or foster child.
- 2. "Occupying" means in, upon, getting in, on, out or off.

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- 3. "Property damage" means injury or destruction of:
 - a. A covered "auto";
 - b. Property owned by:
 - (1) The Named Insured; or
 - (2) Any "family member", if the Named Insured is an individual; or
 - c. Property contained in a covered "auto" and owned by anyone else "occupying" the covered "auto".
- 4. "Uninsured motor vehicle" means a land motor vehicle or "trailer":
 - a. For which no liability bond or policy at the time of an "accident" provides at least the amounts required by the applicable law where a covered "auto" is principally garaged;
 - b. That is an underinsured motor vehicle. An underinsured motor vehicle is a motor vehicle or "trailer" for which the sum of all liability bonds or policies at the time of an "accident" provides at least the amounts required by the applicable law where a covered "auto" is principally garaged, but their limits are less than the sum of the limits of this coverage applicable to the "insured";

- c. For which an insuring or bonding company denies coverage or is or becomes insolvent; or
- d. That is a hit-and-run vehicle and neither the driver nor owner can be identified.

The vehicle must either:

 - (1) Hit an "insured", a covered "auto" or a vehicle an "insured" is "occupying"; or
 - (2) Cause "bodily injury" or "property damage" with no physical contact with an "insured", a covered "auto" or a vehicle the "insured" is "occupying" at the time of an "accident".

However, "uninsured motor vehicle" does not include any vehicle:

- a. Owned or operated by a self-insurer under any applicable motor vehicle law, except a self-insurer who is or becomes insolvent and cannot provide the amounts required by that motor vehicle law; or
- b. Designed for use mainly off public roads while not on public roads.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NEW MEXICO – UNINSURED MOTORISTS COVERAGE – STACKED

For a covered "auto" licensed or principally garaged in, or "auto dealer operations" conducted in, New Mexico, this endorsement modifies insurance provided under the following:

- AUTO DEALERS COVERAGE FORM
- BUSINESS AUTO COVERAGE FORM
- MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured:
Endorsement Effective Date:

SCHEDULE

Limit Of Insurance: \$	Each "Accident"
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Coverage

1. We will pay all sums the "insured" is legally entitled to recover as damages from the owner or driver of an "uninsured motor vehicle" because of:
 - a. "Bodily injury" sustained by an "insured" and caused by an "accident"; or
 - b. "Property damage" caused by an "accident".

The owner's or driver's liability for these damages must result from the ownership, maintenance or use of the "uninsured motor vehicle".

2. With respect to damages resulting from an "accident" with a vehicle described in Paragraph **b.** of the definition of "uninsured motor vehicle", we will pay under this coverage only if Paragraph **a.** or **b.** applies:
 - a. The limit of any applicable liability bonds or policies has been exhausted by payment of judgments or settlements; or
 - b. A tentative settlement has been made between an "insured" and the insurer of a vehicle described in Paragraph **b.** of the definition of "uninsured motor vehicle", and we:
 - (1) Have been given prompt written notice of such tentative settlement; and

(2) Advance payment to the "insured" in an amount equal to the tentative settlement within 30 days after receipt of notification.

3. Any judgment for damages arising out of a "suit" brought without our written consent is not binding on us.

B. Who Is An Insured

The following are "insureds" for Uninsured Motorists Coverage:

If the Named Insured is designated in the Declarations as:

1. An individual, then the following are "insureds":

a. Any Class 1 "insured", meaning the individual Named Insured and any "family members".

b. Any Class 2 "insured", meaning:

(1) Anyone other than a Class 1 "insured" "occupying" a covered "auto" or a temporary substitute for a covered "auto". The covered "auto" must be out of service because of its breakdown, repair, servicing, "loss" or destruction.

(2) Anyone for damages he or she is entitled to recover because of "bodily injury" sustained by another "insured".

2. A partnership, limited liability company, corporation or any other form of organization, then the following are "insureds":

Any Class 2 "insured", meaning:

a. Anyone "occupying" a covered "auto" or a temporary substitute for a covered "auto". The covered "auto" must be out of service because of its breakdown, repair, servicing, "loss" or destruction. This includes the Named Insured's partners (if the Named Insured is a partnership), or members (if the Named Insured is a limited liability company), "employees", directors or shareholders;

b. Anyone for damages he or she is entitled to recover because of "bodily injury" sustained by another "insured";

c. The Named Insured for "property damage" only.

C. Exclusions

This insurance does not apply to any of the following:

1. Any claim settled without our consent, if the settlement prejudices our right to recover payment. However, this exclusion does not apply to a settlement made with the insurer of a vehicle described in Paragraph **b.** of the definition of "uninsured motor vehicle", in accordance with the procedure described in Paragraph **A.2.b.**

2. The direct or indirect benefit of any insurer or self-insurer under any workers' compensation, disability benefits or similar law.

3. The direct or indirect benefit of any insurer of property.

4. The first \$250 of the amount of "property damage" to the property of each "insured" as the result of any one "accident".

5. Anyone using a vehicle without a reasonable belief that the person is entitled to do so.

6. "Property damage" for which the "insured" has been or is entitled to be compensated by other property or physical damage insurance.

7. "Bodily injury" or "property damage" arising directly or indirectly out of:

a. War, including undeclared or civil war;

b. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

c. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

8. "Property damage" or "bodily injury" sustained by the "insured" and caused by an "accident" with a motor vehicle or "trailer" for which the sum of all liability bonds or policies at the time of the "accident" provides at least the amounts required by the applicable law where a covered "auto" is principally garaged, but their limits are equal to, or greater than the sum of the limits of this coverage applicable to the "insured".

D. Limit Of Insurance

The Limit of Insurance available to a Class 1 "insured" may differ from the Limit of Insurance available to a Class 2 "insured". Read carefully the following paragraphs and the descriptions of Class 1 "insured" and Class 2 "insured" in the Who Is An Insured provision to determine the applicable Limit of Insurance.

1. Regardless of the number of covered "autos", "insureds", premiums paid, claims made or vehicles involved in the "accident", the most we will pay for all damages resulting from any one "accident" is the limit of Uninsured Motorists Coverage shown in the Schedule or Declarations. If there is more than one covered "auto", and "bodily injury" or "property damage" is sustained by a Class 1 "insured", our Limit of Insurance for any one "accident" is the sum of the limits applicable to each covered "auto". Subject to this maximum limit of liability for all damages:

- a. The most we will pay for all damages sustained in such "accident" by a Class 2 "insured" is that "insured's" pro rata share of the limit shown in the Schedule or Declarations for this coverage at the time of the "accident".
- b. Any Class 1 "insured" who sustains "bodily injury" or "property damage" in such "accident" will also be entitled to a pro rata share of the limit described in Paragraph a. above.

A person's pro rata share shall be the proportion that person's damages bears to the sum of:

- (1) The total damages sustained by all Class 2 "insureds"; and
- (2) That portion of the damages sustained by any Class 1 "insured" which remains after the limits for this coverage applicable to any covered "auto" which was not involved in the "accident" have been exhausted.

2. If the "bodily injury" or "property damage" is sustained by any Class 2 "insured" in an "accident" in which no Class 1 "insured" sustained "bodily injury" or "property damage", the Limit Of Insurance shown in the Schedule or Declarations for this coverage, at the time of the "accident", is our maximum limit of liability for all damages resulting from any such "accident".

3. No one will be entitled to receive duplicate payments for the same elements of "loss" under this Coverage and any Liability Coverage form or Medical Payments Coverage endorsement attached to this Coverage Part.

We will not make a duplicate payment under this coverage for any element of "loss" for which payment has been made by or for anyone who is legally responsible.

4. With respect to damages resulting from an "accident" involving an underinsured motor vehicle, as described in Paragraph b. of the "uninsured motor vehicle" definition, the Limit of Insurance shall be reduced by all sums paid by or for anyone who is legally responsible, including all sums paid under this Coverage Form's Covered Autos Liability Coverage.

5. We will not pay for a "loss" which is paid or payable under Physical Damage Coverage.

E. Changes In Conditions

The **Conditions** are changed for Uninsured Motorists Coverage as follows:

1. **Other Insurance** in the Auto Dealers and Business Auto Coverage Forms and **Other Insurance – Primary And Excess Insurance Provisions** in the Motor Carrier Coverage Form are changed by addition of the following:

- a. The reference to "other collectible insurance" applies only to other collectible uninsured motorists insurance.
- b. Any insurance we provide with respect to a vehicle owned by the Named Insured or, if the Named Insured is an individual, any "family member", that is not a covered "auto" for Uninsured Motorists Coverage under this Coverage Form, shall be excess over any other collectible uninsured motorists insurance providing coverage on a primary basis.

2. **Duties In The Event Of Accident, Claim, Suit Or Loss** in the Business Auto and Motor Carrier Coverage Forms and **Duties In The Event Of Accident, Claim, Offense, Suit, Loss Or Acts, Errors Or Omissions** in the Auto Dealers Coverage Form are changed by adding the following:

- a. Promptly notify the police if a hit-and-run driver is involved;
- b. Promptly send us copies of the legal papers if a "suit" is brought; and

- c. A person seeking coverage from an insurer, owner or operator of a vehicle described in Paragraph **b.** of the definition of "uninsured motor vehicle" must also notify us in writing of a tentative settlement between the "insured" and the insurer and allow us to advance payment to that "insured" in an amount equal to the tentative settlement within 30 days after receipt of notification to preserve our rights against the insurer, owner or operator of such vehicle.

3. Transfer Of Rights Of Recovery Against Others To Us is changed by adding the following:

If we make any payment and the "insured" recovers from another party, the "insured" shall hold the proceeds in trust for us and pay us back the amount we have paid.

Our rights do not apply under this provision with respect to damages caused by an "accident" with a vehicle described in Paragraph **b.** of the definition of "uninsured motor vehicle" if we:

- a. Have been given prompt written notice of a tentative settlement between an "insured" and the insurer of a vehicle described in Paragraph **b.** of the definition of "uninsured motor vehicle"; and
- b. Fail to advance payment to the "insured" in an amount equal to the tentative settlement within 30 days after receipt of notification.

If we advance payment to the "insured" in an amount equal to the tentative settlement within 30 days after receipt of notification:

- a. That payment will be separate from any amount the "insured" is entitled to recover under the provisions of Uninsured Motorists Coverage; and
- b. We also have a right to recover the advance payment.

4. The following condition is added:

Arbitration

- a. If we and an "insured" disagree whether the "insured" is legally entitled to recover damages from the owner or driver of an "uninsured motor vehicle" or do not agree as to the amount of damages that are recoverable by that "insured", then the matter may be arbitrated. However, disputes concerning whether there is coverage under this endorsement may not be arbitrated. Both parties must agree to arbitration. If so agreed, each party will select an arbitrator. The two arbitrators will select a third. If they cannot agree within 30 days, either may request that selection be made by a judge of a court having jurisdiction. Each party will pay the expenses it incurs and bear the expenses of the third arbitrator equally, unless the arbitration costs are awarded to the prevailing party by the arbitrators.
- b. Unless both parties agree otherwise, arbitration will take place in the county in which the "insured" lives. Local rules of law as to arbitration procedure and evidence will apply. A decision agreed to by two of the arbitrators will be binding.

5. Two Or More Coverage Forms Or Policies Issued By Us does not apply.

F. Additional Definitions

As used in this endorsement:

- 1. "Family member" means a person related to an individual Named Insured by blood, marriage or adoption who is a resident of such Named Insured's household, including a ward or foster child.
- 2. "Occupying" means in, upon, getting in, on, out or off.

3. "Property damage" means injury or destruction of:
- a. A covered "auto";
 - b. Property owned by:
 - (1) The Named Insured; or
 - (2) Any "family member", if the Named Insured is an individual; or
 - c. Property contained in a covered "auto" and owned by anyone else "occupying" the covered "auto".
4. "Uninsured motor vehicle" means a land motor vehicle or "trailer":
- a. For which no liability bond or policy at the time of an "accident" provides at least the amounts required by the applicable law where a covered "auto" is principally garaged;
 - b. That is an underinsured motor vehicle. An underinsured motor vehicle is a motor vehicle or "trailer" for which the sum of all liability bonds or policies at the time of an "accident" provides at least the amounts required by the applicable law where a covered "auto" is principally garaged, but their limits are less than the sum of the limits of this coverage applicable to the "insured";

- c. For which an insuring or bonding company denies coverage or is or becomes insolvent; or
- d. That is a hit-and-run vehicle and neither the driver nor owner can be identified.
The vehicle must either:
 - (1) Hit an "insured", a covered "auto" or a vehicle an "insured" is "occupying"; or
 - (2) Cause "bodily injury" or "property damage" with no physical contact with an "insured", a covered "auto" or a vehicle the "insured" is "occupying" at the time of an "accident".

However, "uninsured motor vehicle" does not include any vehicle:

- a. Owned or operated by a self-insurer under any applicable motor vehicle law, except a self-insurer who is or becomes insolvent and cannot provide the amounts required by that motor vehicle law; or
- b. Designed for use mainly off public roads while not on public roads.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NEW MEXICO UNINSURED MOTORISTS COVERAGE – NONSTACKED

For a covered "auto" licensed or principally garaged in, or "auto dealer operations" conducted in, New Mexico, this endorsement modifies insurance provided under the following:

- AUTO DEALERS COVERAGE FORM
- BUSINESS AUTO COVERAGE FORM
- MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured:
Endorsement Effective Date:

SCHEDULE

Limit Of Insurance: \$	Each "Accident"
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Coverage

1. We will pay all sums the "insured" is legally entitled to recover as damages from the owner or driver of an "uninsured motor vehicle" because of:
 - a. "Bodily injury" sustained by an "insured" and caused by an "accident"; or
 - b. "Property damage" caused by an "accident".

The owner's or driver's liability for these damages must result from the ownership, maintenance or use of the "uninsured motor vehicle".

2. With respect to damages resulting from an "accident" with a vehicle described in Paragraph **b.** of the definition of "uninsured motor vehicle", we will pay under this coverage only if Paragraph **a.** or **b.** applies:
 - a. The limit of any applicable liability bonds or policies has been exhausted by payment of judgments or settlements; or

- b. A tentative settlement has been made between an "insured" and the insurer of a vehicle described in Paragraph **b.** of the definition of "uninsured motor vehicle", and we:
 - (1) Have been given prompt written notice of such tentative settlement; and
 - (2) Advance payment to the "insured" in an amount equal to the tentative settlement within 30 days after receipt of notification.

3. Any judgment for damages arising out of a "suit" brought without our written consent is not binding on us.

B. Who Is An Insured

If the Named Insured is designated in the Declarations as:

1. An individual, then the following are "insureds":
 - a. The Named Insured and any "family members".

- b. Anyone else "occupying" a covered "auto" or a temporary substitute for a covered "auto". The covered "auto" must be out of service because of its breakdown, repair, servicing, "loss" or destruction.
 - c. Anyone for damages he or she is entitled to recover because of "bodily injury" sustained by another "insured".
2. A partnership, limited liability company, corporation or any other form of organization, then the following are "insureds":
- a. Anyone "occupying" a covered "auto" or a temporary substitute for a covered "auto". The covered "auto" must be out of service because of its breakdown, repair, servicing, "loss" or destruction.
 - b. Anyone for damages he or she is entitled to recover because of "bodily injury" sustained by another "insured".
 - c. The Named Insured for "property damage" only.

C. Exclusions

This insurance does not apply to any of the following:

1. Any claim settled without our consent, if the settlement prejudices our right to recover payment. However, this exclusion does not apply to a settlement made with the insurer of a vehicle described in Paragraph **b.** of the definition of "uninsured motor vehicle", in accordance with the procedure described in Paragraph **A.2.b.**
2. The direct or indirect benefit of any insurer or self-insurer under any workers' compensation, disability benefits or similar law.
3. The direct or indirect benefit of any insurer of property.
4. The first \$250 of the amount of "property damage" to the property of each "insured" as the result of any one "accident".
5. Anyone using a vehicle without a reasonable belief that the person is entitled to do so.
6. "Property damage" for which the "insured" has been or is entitled to be compensated by other property or physical damage insurance.
7. "Bodily injury" or "property damage" arising directly or indirectly out of:
 - a. War, including undeclared or civil war;
 - b. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

- c. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

8. "Property damage" or "bodily injury" sustained by the "insured" and caused by an "accident" with a motor vehicle or "trailer" for which the sum of all liability bonds or policies at the time of the "accident" provides at least the amounts required by the applicable law where a covered "auto" is principally garaged, but their limits are equal to, or greater than the sum of the limits of this coverage applicable to the "insured".

D. Limit Of Insurance

1. Regardless of the number of covered "autos", "insureds", premiums paid, claims made or vehicles involved in the "accident", the most we will pay for all damages resulting from any one "accident" is the limit of Uninsured Motorists Coverage shown in the Schedule or Declarations.
2. No one will be entitled to receive duplicate payments for the same elements of "loss" under this Coverage and any Liability Coverage form or Medical Payments Coverage endorsement attached to this Coverage Part.
We will not make a duplicate payment under this coverage for any element of "loss" for which payment has been made by or for anyone who is legally responsible.
3. With respect to damages resulting from an "accident" involving an underinsured motor vehicle, as described in Paragraph **b.** of the "uninsured motor vehicle" definition, the Limit of Insurance shall be reduced by all sums paid by or for anyone who is legally responsible, including all sums paid under this Coverage Form's Covered Autos Liability Coverage.
4. We will not pay for a "loss" which is paid or payable under Physical Damage Coverage.

E. Changes In Conditions

The **Conditions** are changed for Uninsured Motorists Coverage as follows:

1. **Other Insurance** in the Auto Dealers and Business Auto Coverage Forms and **Other Insurance – Primary And Excess Insurance Provisions** in the Motor Carrier Coverage Form are changed by addition of the following:
 - a. The reference to "other collectible insurance" applies only to other collectible uninsured motorists insurance.

- b. Any insurance we provide with respect to a vehicle owned by the Named Insured or, if the Named Insured is an individual, any "family member" that is not a covered "auto" for Uninsured Motorists Coverage under this Coverage Form, shall be excess over any other collectible uninsured motorists insurance providing coverage on a primary basis.

2. Duties In The Event Of Accident, Claim, Suit Or Loss in the Business Auto and Motor Carrier Coverage Forms and **Duties In The Event Of Accident, Claim, Offense, Suit, Loss Or Acts, Errors Or Omissions** in the Auto Dealers Coverage Form are changed by adding the following:

- a. Promptly notify the police if a hit-and-run driver is involved;
- b. Promptly send us copies of the legal papers if a "suit" is brought; and
- c. A person seeking coverage from an insurer, owner or operator of a vehicle described in Paragraph **b.** of the definition of "uninsured motor vehicle" must also notify us in writing of a tentative settlement between the "insured" and the insurer and allow us to advance payment to that "insured" in an amount equal to the tentative settlement within 30 days after receipt of notification to preserve our rights against the insurer, owner or operator of such vehicle.

3. Transfer Of Rights Of Recovery Against Others To Us is changed by adding the following:

If we make any payment and the "insured" recovers from another party, the "insured" shall hold the proceeds in trust for us and pay us back the amount we have paid.

Our rights do not apply under this provision with respect to damages caused by an "accident" with a vehicle described in Paragraph **b.** of the definition of "uninsured motor vehicle" if we:

- a. Have been given prompt written notice of a tentative settlement between an "insured" and the insurer of a vehicle described in Paragraph **b.** of the definition of "uninsured motor vehicle"; and
- b. Fail to advance payment to the "insured" in an amount equal to the tentative settlement within 30 days after receipt of notification.

If we advance payment to the "insured" in an amount equal to the tentative settlement within 30 days after receipt of notification:

- a. That payment will be separate from any amount the "insured" is entitled to recover under the provisions of Uninsured Motorists Coverage; and
- b. We also have a right to recover the advance payment.

4. The following condition is added:

Arbitration

- a. If we and an "insured" disagree whether the "insured" is legally entitled to recover damages from the owner or driver of an "uninsured motor vehicle" or do not agree as to the amount of damages that are recoverable by that "insured", then the matter may be arbitrated. However, disputes concerning whether there is coverage under this endorsement may not be arbitrated. Both parties must agree to arbitration. If so agreed, each party will select an arbitrator. The two arbitrators will select a third. If they cannot agree within 30 days, either may request that selection be made by a judge of a court having jurisdiction. Each party will pay the expenses it incurs and bear the expenses of the third arbitrator equally, unless the arbitration costs are awarded to the prevailing party by the arbitrators.
- b. Unless both parties agree otherwise, arbitration will take place in the county in which the "insured" lives. Local rules of law as to arbitration procedure and evidence will apply. A decision agreed to by two of the arbitrators will be binding.

5. Two Or More Coverage Forms Or Policies Issued By Us does not apply.

F. Additional Definitions

As used in this endorsement:

- 1. "Family member" means a person related to an individual Named Insured by blood, marriage or adoption who is a resident of such Named Insured's household, including a ward or foster child.
- 2. "Occupying" means in, upon, getting in, on, out or off.

3. "Property damage" means injury or destruction of:
 - a. A covered "auto";
 - b. Property owned by:
 - (1) The Named Insured; or
 - (2) Any "family member", if the Named Insured is an individual; or
 - c. Property contained in a covered "auto" and owned by anyone else "occupying" the covered "auto".
4. "Uninsured motor vehicle" means a land motor vehicle or "trailer":
 - a. For which no liability bond or policy at the time of an "accident" provides at least the amounts required by the applicable law where a covered "auto" is principally garaged;
 - b. That is an underinsured motor vehicle. An underinsured motor vehicle is a motor vehicle or "trailer" for which the sum of all liability bonds or policies at the time of an "accident" provides at least the amounts required by the applicable law where a covered "auto" is principally garaged, but their limits are less than the sum of the limits of this coverage applicable to the "insured";

- c. For which an insuring or bonding company denies coverage or is or becomes insolvent; or
- d. That is a hit-and-run vehicle and neither the driver nor owner can be identified.
The vehicle must either:
 - (1) Hit an "insured", a covered "auto" or a vehicle an "insured" is "occupying"; or
 - (2) Cause "bodily injury" or "property damage" with no physical contact with an "insured", a covered "auto" or a vehicle the "insured" is "occupying" at the time of an "accident".

However, "uninsured motor vehicle" does not include any vehicle:

- a. Owned or operated by a self-insurer under any applicable motor vehicle law, except a self-insurer who is or becomes insolvent and cannot provide the amounts required by that motor vehicle law; or
- b. Designed for use mainly off public roads while not on public roads.