FLORIDA UNINSURED MOTORISTS  
COVERAGE – STACKED

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For a covered "auto" licensed or principally garaged in, or "auto dealer operations" conducted in, Florida, 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 compensatory damages from the owner or driver of an "uninsured motor vehicle". The damages must result from "bodily injury" sustained by the "insured" 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. below applies:

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

b. A tentative settlement has been made between an "insured" and the insurer of the "underinsured 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.

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

d. Anyone else "occupying" an "auto" the Named Insured does not own who is an "insured" for Covered Autos Liability under this Coverage Form, but only at times when that person is an "insured" for Covered Autos Liability under this Coverage Form.

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. Exclusions

This insurance does not apply to:

1. Any claim settled or judgment reached without our consent, unless our right to recover payment has not been prejudiced by such settlement or judgment. However, this exclusion does not apply to a settlement made with the insurer of a vehicle described in Paragraph b. of the definition of an "uninsured motor vehicle".

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

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

4. "Bodily injury" sustained by any "insured" with respect to damages for pain, suffering, mental anguish or inconvenience unless the "bodily injury" consists in whole or in part of:

a. Significant and permanent loss of an important bodily function;

b. Permanent injury within a reasonable degree of medical probability, other than scarring or disfigurement;

c. Significant and permanent scarring or disfigurement; or

d. Death.

5. Punitive or exemplary damages.

6. "Bodily injury" 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.

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 Insurance for Uninsured Motorists Coverage shown in the Declarations or Schedule. If there is more than one covered "auto", and "bodily injury" is sustained by an individual Named Insured or any "family member" while "occupying" a covered "auto", our Limit of Insurance for any one "accident" is the sum of the limits shown in the Declarations or Schedule for this coverage as applicable to each covered "auto". Subject to the maximum Limit of Insurance for all damages:

a. The most we will pay for "bodily injury" sustained in an "accident" by an "insured", other than the individual Named Insured or any "family member", is that "insured's" pro rata share of the limit shown in the Declarations or Schedule for this coverage, that applies to the vehicle that "insured" was "occupying" at the time of the "accident".

b. An individual Named Insured or any "family member" who sustains "bodily injury" in that "accident" will also be entitled to a pro rata share of the limit described in Paragraph a. above, only after the limit shown for this coverage in the Declarations or Schedule applicable to each vehicle, other than the covered "auto" the "insureds" were "occupying" at the time of the "accident", has been exhausted.

A person's pro rata share of the limit described in Paragraph **a.** shall be the proportion that that person's remaining unpaid damages bears to the sum of:

(1) The total remaining unpaid damages sustained by all "insureds" other than an individual Named Insured or any "family member"; and

(2) The remaining unpaid damages sustained by an individual Named Insured and/or any "family member" after the "bodily injury" limit for each person shown in the Schedule or Declarations applicable to any covered "auto", which was not involved in the "accident", has been exhausted.

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2. If "bodily injury" is sustained by an individual Named Insured or any "family member" while not "occupying" any "auto" or while "occupying" a vehicle not owned by such Named Insured or any "family member", the most we will pay for all damages resulting from the "accident" is the sum of the limits shown for this coverage applicable to each covered "auto".

3. If "bodily injury" is sustained by an "insured" other than an individual Named Insured or any "family member", in an "accident" in which neither such Named Insured nor any "family member" sustained "bodily injury", the most we will pay for all damages resulting from that "accident" will be the limit shown in the Declarations or Schedule for this coverage that applies to the vehicle that "insured" was "occupying" at the time of the "accident".

4. No one will be entitled to receive duplicate payments for the same elements of "loss" under this Coverage Form and any Liability Coverage Form, No-Fault Coverage Endorsement, Medical Payments Coverage Endorsement, or Uninsured Motorists Coverage Endorsement attached to this Coverage Part.

5. 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.

6. We will not pay for any element of "loss" if a person is entitled to receive payment for the same element of "loss" under any workers' compensation, disability benefits or similar law.

E. Changes In Conditions

The Conditions are changed for Uninsured Motorists Coverage – Stacked 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 coverage.

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 is changed by adding the following:

a. Promptly notify the police if a hit-and-run driver is involved; and

b. Promptly send us copies of the legal papers if a "suit" is brought.

c. A person seeking Uninsured Motorists Coverage must also promptly notify us in writing by certified or registered mail of a tentative settlement between the "insured" and the insurer of the vehicle described in Paragraph b. of the definition of an "uninsured motor vehicle" and allow us 30 days to advance payment to that "insured" in an amount equal to the tentative settlement to preserve our rights against the insurer, owner or operator of such vehicle described in Paragraph b. of an "uninsured motor 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 Uninsured Motorists Coverage 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 an "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. Two Or More Coverage Forms Or Policies Issued By Us does not apply to Uninsured Motorists Coverage – Stacked. However, no one will be entitled to receive duplicate payments for the same elements of "loss".

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5. The following conditions are added:

a. Arbitration

(1) If we and an "insured" do not agree:

(a) Whether that person is legally entitled to recover damages under this endorsement; or

(b) As to the amount of damages that are recoverable by that person;

then the matter may be mediated, in accordance with the Mediation Provision contained in General Conditions, if the damages resulting from "bodily injury" are for $10,000 or less, or arbitrated. However, disputes concerning coverage under this endorsement may not be arbitrated. Both parties must agree to arbitration. In this event, 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.

(2) Each party will pay the expenses it incurs and bear the expenses of the third arbitrator equally.

(3) 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.

b. Florida Arbitration Act

If we and an "insured" agree to arbitration, the **Florida Arbitration Act** will not apply.

c. Mediation

(1) In any claim filed by an "insured" with us for:

(a) "Bodily injury" in an amount of $10,000 or less, arising out of the ownership, operation, use or maintenance of a covered "auto";

(b) "Property damage" in any amount, arising out of the ownership, operation, maintenance or use of a covered "auto"; or

(c) "Loss" to a covered "auto" or its equipment, in any amount.

Either party may make a written demand for mediation of the claim prior to the institution of litigation.

(2) A written request for mediation must be filed with the Florida Department of Financial Services on an approved form, which may be obtained from the Florida Department of Financial Services.

(3) The request must state:

(a) Why mediation is being requested.

(b) The issues in dispute, which are to be mediated.

(4) The Florida Department of Financial Services will randomly select mediators. Each party may reject one mediator, either before or after the opposing side has rejected a mediator. The mediator will notify the parties of the date, time and place for the mediation conference. The mediation conference will be held within 45 days of the request for mediation. The conference will be held by telephone if feasible. Participants in the mediation conference must have the authority to make a binding decision, and must mediate in good faith. Each party will bear the expenses of the mediation equally, unless the mediator determines that one party has not mediated in good faith.

(5) Only one mediation may be requested for each claim unless all parties agree to further mediation. A party demanding mediation shall not be entitled to demand or request mediation after a suit is filed relating to the same facts already mediated.

(6) The mediation shall be conducted as an informal process and formal rules of evidence and procedures need not be observed.

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. "Uninsured motor vehicle" means a land motor vehicle or "trailer":

a. For which no liability bond or policy applies at the time of the "accident";

b. That is an "underinsured motor vehicle". An "underinsured motor vehicle" is a land motor vehicle or "trailer" for which a "bodily injury" liability bond or policy applies at the time of an "accident" but the amount paid under that bond or policy to an "insured" is not enough to pay the full amount the "insured" is legally entitled to recover as damages caused by the "accident";

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c. For which an insuring or bonding company denies coverage or is or becomes insolvent; or

d. For which neither the driver nor owner can be identified. The land motor vehicle or "trailer" must:

(1) Hit an individual Named Insured or any "family member", a covered "auto" or a vehicle such Named Insured or any "family member" are "occupying"; or

(2) Cause an "accident" resulting in "bodily injury" to an individual Named Insured or any "family member" without hitting that Named Insured, any "family member", covered "auto" or a vehicle such Named Insured or any "family member" are "occupying".

If there is no physical contact with the land motor vehicle or "trailer", the facts of the "accident" must be proved. We will accept only competent evidence other than the testimony of a person making claims under this or any similar coverage.

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

a. Owned by a governmental unit or agency;

b. Designed for use mainly off public roads while not on public roads; or

c. Owned by or furnished or available for the regular use of the Named Insured, or if the Named Insured is an individual, any "family member" unless it is a covered "auto" to which the Coverage Form's Liability Coverage applies and liability coverage is excluded for any person or organization other than the Named Insured, or if the Named Insured is an individual, any "family member".