

STATE OF MICHIGAN
IN THE SUPREME COURT

**Appeal from the Michigan Court of Appeals
The Hon. E. Thomas Fitzgerald, Presiding, the Hon. Michael J. Talbot,
and the Hon. Douglas B. Shapiro (dissenting)**

ESTATE OF MIRA E. ABAY, deceased, by
its Personal Representative, Maria C. Abay,

Plaintiff-Appellant,

v

DAIMLERCHRYSLER INSURANCE
COMPANY (n/k/a CHRYSLER
INSURANCE COMPANY),

Defendant, Counter Plaintiff,
Cross-Plaintiff & Third Party
Plaintiff-Appellee,

and

DAIMLERCHRYSLER CORPORATION
(n/k/a OLD CARCO LLC)

Defendant, Counter Plaintiffs,
Cross-Plaintiff & Third Party
Plaintiff,

and

JAMES E. TRENT and KELLY ROSE
BROOKS,

Defendants & Cross-Defendants,

and

AUTO CLUB GROUP INSURANCE
COMPANY, d/b/a AAA of Michigan, an
insurance company, and ALVIN JEROME
TAYLOR,

Third Party Defendants.

Supreme Court No. 139725

Court of Appeals No. 281157

Oakland County Circuit Court
No. 06-075016-CK

BRIEF AMICI CURIAE

ORAL ARGUMENT REQUESTED

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TABLE OF CONTENTS

INDEX OF AUTHORITIES i

STATEMENT OF INTEREST OF AMICI CURIAE v

STATEMENT OF JURISDICTIONAL BASIS vi

STATEMENT OF QUESTIONS PRESENTED vii

STATEMENT OF FACTS 1

ARGUMENT:

Standard of Review 4

I. NO-FAULT POLICIES ISSUED BY DAIMLERCHRYSLER INSURANCE COMPANY FOR VEHICLES LEASED THROUGH THE DAIMLERCHRYSLER VEHICLE LEASE PROGRAM VIOLATE THE MICHIGAN NO-FAULT ACT, MCL 500.3101, *et seq.* 5

II. THE REMEDY FOR SUCH VIOLATION IS TO REFORM THOSE POLICIES BY READING INTO THOSE POLICIES THE PROVISIONS OF THE MICHIGAN NO-FAULT ACT DISREGARDED BY THE POLICIES AS WRITTEN 23

III. IT IS DAIMLERCHRYSLER INSURANCE COMPANY, NOT *AMICI CURIAE*, WHO MUST LOOK TO THE LEGISLATURE FOR RELIEF FROM THE APPLICATION OF THE PLAIN LANGUAGE OF THE NO-FAULT ACT. 27

RELIEF REQUESTED 30

INDEX OF AUTHORITIES

	Page(s)
<u>Michigan Cases</u>	
<i>Abay v DaimlerChrysler Insurance Company</i> unpublished opinion <i>per curiam</i> of the Court of Appeals issued August 13, 2009 (Docket No. 283624)	<i>passim</i>
<i>American Alternative Insurance Company, Inc v York</i> 469 Mich 955; 670 NW2d 567 (2003)	10
<i>American Trust Company v Michigan Trust Company</i> 263 Mich 337; 248 NW 829 (1933)	20
<i>Archambo v Lawyers Title Insurance Corp</i> 466 Mich 402; 646 NW2d 170 (2002)	4
<i>Auto-Owners Insurance Company v Martin</i> 284 Mich App 427; 773 NW2d 29 (2009)	23
<i>Badon v General Motors Corporation</i> 188 Mich App 430; 470 NW2d 436 (1991)	20
<i>Ball v Chrysler Corporation</i> 225 Mich App 284; 570 NW2d 481 (1997)	17, 21
<i>Cameron v Auto Club Insurance Association</i> 476 Mich 55; 718 NW2d 784 (2006)	9,10
<i>Capitol Properties Group, LLC v 1247 Center Street, LLC</i> 283 Mich App 422; 770 NW2d 105 (2009)	9
<i>Casey v Auto-Owners Insurance Company</i> 273 Mich App 388; 729 NW2d 277 (2007)	23
<i>Citizens Insurance Company of America v Federated Mutual Insurance Company</i> 448 Mich 225; 531 NW2d 138 (1995)	20
<i>Clevenger v Allstate Insurance Company</i> 443 Mich 646; 505 NW2d 553 (1993)	9, 13

<i>Cohen v Auto Club Insurance Association</i> 463 Mich 525; 620 NW2d 840 (2001)	4
<i>Cruz v State Farm Mutual Automobile Insurance Company</i> 466 Mich 588; 648 NW2d 591 (2002)	11, 24
<i>Depyper v Safeco Insurance Company of America</i> 232 Mich App 433; 591 NW2d 344 (1999)	23
<i>Detroit International Bridge Company v Commodities Export Company</i> 279 Mich App 662; 760 NW2d 565 (2008)	9
<i>Farm Bureau Insurance Company v Allstate Insurance Company</i> 233 Mich App 38; 592 NW2d 395 (1999)	14, 21
<i>Farm Bureau Mutual Insurance Company of America v Nikkel</i> 460 Mich 558; 596 NW2d 915 (1999)	4, 10
<i>Farmers Insurance Exchange v Kurzmann</i> 257 Mich App 412; 688 NW2d 199 (2003)	14
<i>Frankenmuth Mutual Insurance Company v Titan Insurance Company</i> unpublished opinion <i>per curiam</i> of the Court of Appeals issued October 25, 2005 (Docket No. 262345)	15, 16
<i>Fromm v Meemic Insurance Company</i> 264 Mich App 302; 690 NW2d 528 (2004)	10
<i>Griffith v State Farm Mutual Automobile Insurance Company</i> 472 Mich 521; 697 NW2d 895 (2005)	4
<i>Hoover v Michigan Mutual Insurance Company</i> 281 Mich App 617; 761 NW2d 801 (2008)	4
<i>Husted v Auto-Owners Insurance Company</i> 459 Mich 500; 591 NW2d 642 (1999)	20
<i>Klida v Braman</i> 278 Mich App 60; 748 NW2d 244 (2008)	10
<i>Kuebler v Equitable Life Assurance Society of United States</i> 219 Mich App 1; 555 NW2d 496 (1996)	23

<i>Maids International, Inc v Saunders, Inc</i> 224 Mich App 508; 569 NW2d 857 (1997)	20
<i>Michelson v Volson</i> 254 Mich App 691; 658 NW2d 188 (2003)	20
<i>Michigan Township Participating Plan v Pavolich</i> 232 Mich App 378; 591 NW2d 325 (1999)	7
<i>Mino v Clio School District</i> 255 Mich App 60; 661 NW2d 586 (2003)	20
<i>Randolph v State Farm Fire & Casualty Company</i> 229 Mich App 102; 580 NW2d 903 (1998)	24
<i>Raska v Farm Bureau Mutual Insurance Company of Michigan</i> 412 Mich 355; 314 NW2d 440 (1982)	15, 17
<i>Rednour v Hastings Mutual Insurance Company</i> 468 Mich 241; 661 NW2d 562 (2003)	4
<i>Renny v Michigan Department of Transportation</i> 478 Mich 490; 734 NW2d 518 (2007)	4
<i>Roberts v Titan Insurance Company (On Reconsideration)</i> 282 Mich App 339; 764 NW2d 304 (2009)	16-17, 26
<i>Rohlman v Hawkeye-Security Insurance Company</i> 442 Mich 520; 502 NW2d 310 (1993)	10, 23, 24
<i>Rory v Continental Insurance Company</i> 473 Mich 457; 703 NW2d 23 (2005)	4, 10
<i>Shinholster v Annapolis Hospital</i> 471 Mich 540; 685 NW2d 275 (2004)	4
<i>State Farm Mutual Automobile Insurance Company v Enterprise Leasing Company</i> 452 Mich 25; 549 NW2d 345 (1996)	20
<i>State Farm Mutual Automobile Insurance Company v Sivey</i> 404 Mich 51; 272 NW2d 555 (1978)	14

Stine v Continental Casualty Company
419 Mich 89; 349 NW2d 127 (1994) 24

Stokes v Millen Roofing Company
466 Mich 660; 649 NW2d 371 (2002) 20

Universal Underwriters Insurance Company v Kneeland
464 Mich 491; 628 NW2d 491 (2001) 24, 25, 26

Other Cases

Homestead Supplies, Inc v Executive Life Insurance Company
81 Cal App 3d 978-988-989; 147 Cal Rptr 22 (1978) 23

Michigan Statutes

MCL 500.3101 11

MCL 500.3101, *et seq.* 4, 5, 22

MCL 500.3101(1) 5, 6, 25, 27

MCL 500.3101(2)(h) 5, 16, 18, 19

MCL 500.3101(2)(i) 5

MCL 500.3101(3) 6

MCL 500.3105(1) 6, 8, 22, 24, 27, 28

MCL 500.3114 11, 27

MCL 500.3114(1) 6, 13, 22, 25, 28

MCL 500.3114(3) 14

MCL 500.3114(4) 6, 7, 13, 22, 25, 28

Other Authorities

3 Corbin, *Contracts*, §546, pp.170-171 26

5 Couch, *Cyclopedia of Insurance Law* [2d ed], § 30:64, pp. 583-584 23

12A Couch, *Insurance*, 2d (rev ed.), §45:694, p. 331-332 23

STATEMENT OF INTEREST OF AMICI CURIAE

Amicus Curiae Allstate Insurance Company (“Allstate”) is one of Michigan’s major underwriters of no-fault automobile insurance. Allstate writes almost 6.5% of all automobile insurance policies purchased by Michigan residents. Thus, Allstate Insurance Company has an interest in the correct interpretation and application of any law affecting no-fault insurance, no-fault insurers, and no-fault insureds.

Amicus Curiae Auto Club Insurance Association (“ACIA”) is one of Michigan’s major underwriters of no-fault automobile insurance, writing approximately 16-18% of all of the automobile policies purchased by Michigan residents. ACIA has an even more obvious interest in the correct interpretation and application of any law affecting no-fault insurance, no-fault insurers, and no-fault insureds.

Allstate and ACIA are interested in this particular matter because they have encountered a number of claims involving DaimlerChrysler Insurance Company’s (“DCIC”) no-fault policy. DCIC, by issuing no-fault policies that are in violation of the Michigan No-Fault Act, places an excessive burden on other no-fault carriers in the state to fill the void in coverage left by the DCIC policy. DCIC has unlawfully constructed its policy in such a way that it is never required to pay PIP benefits if there is another no-fault policy in the claimant’s household. This unlawful shifting of DCIC’s primary responsibility to pay benefits to other no-fault insurers in the household, or to the Assigned Claims Facility in the case of an injured pedestrian with no other no-fault coverage in the household, creates an unreasonable hardship on the other no-fault insurers who did not anticipate this additional risk.

Amici Allstate and ACIA believe that the Court of Appeals’ majority opinion in this case reflects a clear misunderstanding and misinterpretation of Michigan law on this issue.

STATEMENT OF JURISDICTIONAL BASIS

Amici Curiae, Allstate Insurance Company (“Allstate”) and the Auto Club Insurance Association (“ACIA”), do not object to the Statement of Basis for Jurisdiction provided by Plaintiff-Appellant. On February 1, 2010, Allstate and ACIA filed their Motion for Leave to File Brief Amici Curiae in Support of Plaintiff-Appellant’s Application for Leave to Appeal. On March 24, 2010, in the same Order granting Plaintiff-Appellant’s Application, this Court granted Allstate and ACIA’s Motion for Leave to File Brief Amici Curiae.

STATEMENT OF QUESTIONS PRESENTED

- I. ARE THE TERMS OF DAIMLERCHRYSLER INSURANCE COMPANY'S POLICIES OF INSURANCE AMBIGUOUS SO AS TO CREATE AN ABSURD RESULT?

Amici Curiae Answer "Yes".

- II. DO NO-FAULT POLICIES ISSUED BY DAIMLERCHRYSLER INSURANCE COMPANY FOR VEHICLES LEASED THROUGH THE DAIMLERCHRYSLER COMPANY VEHICLE LEASE PROGRAM VIOLATE THE MICHIGAN NO-FAULT ACT?

Amici Curiae Answer "Yes".

- II. IS THE REMEDY FOR SUCH VIOLATION TO REFORM THOSE POLICIES BY READING INTO THOSE POLICIES THE PROVISIONS OF THE MICHIGAN NO-FAULT ACT DISREGARDED BY THE POLICIES AS WRITTEN?

Amici Curiae Answer "Yes".

STATEMENT OF FACTS

Amici Curiae, Allstate Insurance Company (“Allstate”) and the Auto Club Insurance Association (“ACIA”), rely upon the Statement of Facts contained in Plaintiff-Appellant’s Appeal Brief at 4-22. In addition, Amici Curiae bring the following facts to the attention of this Court.

DaimlerChrysler’s Vehicle Lease Program, also known as the Company Car Program, is a program where eligible employees and/or retirees, based on their Salary Band Level (pay scale) may lease a Chrysler vehicle for personal use directly from Chrysler, formerly known as DaimlerChrysler Corporation (“DCC”), usually at a reduced rate.¹ (1142a-1205a; 1218a). Employees/retirees who participate in the Vehicle Lease Program pay a monthly payment to Chrysler for the vehicle which is deducted from the employee’s paycheck or the retiree’s pension check. (1142a-1205a; 1208a; 1220a-1226a). Monthly premium payments for insurance of the vehicles that are part of the Lease Program are included in the monthly payments paid by the DCC employees. (902a-903a; 1220a-1221a). According to the terms of the Lease Program, the lessees are not allowed to procure their own no-fault insurance for the leased vehicles. (914a-915a; 1198a). According to the terms of the Lease Program, all insurance, including no-fault insurance, for the subject vehicles is to be issued by DaimlerChrysler Insurance Company (“DCIC”).² (914a-915a). DCC secures (secured)

¹For purposes of consistency with prior pleadings and court opinions, the entity now known as Chrysler, LLC (“Chrysler”) will be referred to in this brief as DaimlerChrysler Corporation or “DCC.”

²For purposes of consistency with prior pleadings and court opinions, the entity now known as Chrysler Insurance Company will be referred to in this brief as DaimlerChrysler Insurance Company or “DCIC.”

insurance for each of the vehicles through DCIC. (914a-915a; 1198a).

In the present case, DCC was not the title owner or registrant of the vehicles leased by DCC to Mr. Trent , rather, GELCO was. (Appellant’s Appeal Brief at 6; and 1229a-1231a). Gelco then immediately leased the vehicle to DCC, which leased the vehicle to Mr. Trent under the Company Car Program. (Appellant’s Appeal Brief at 6). However, in other cases involving vehicles leased under the DCC Vehicle Car Program and DCIC policy(ies), Chrysler f/k/a DaimlerChrysler Corporation remained on the title and registration for the vehicles leased.³ All such vehicles are still covered by the DCIC policy of insurance.

In addition to the relevant terms of the DCIC policy set forth in Plaintiff-Appellant’s Brief, Amici Curiae brings the following terms to the Court’s attention as being significant in the Court’s determination of whether the DCIC policy violates the Michigan No-Fault Act, MCL 500.3101 *et seq.* Endorsement No. 10 of the policy covers “Michigan Personal Injury Protection”. (479a) It provides, in pertinent part:

“We will pay personal injury protection benefits to or for an ‘insured’ who sustains ‘bodily injury’ caused by an accident and resulting from the ownership, maintenance or use of an ‘auto’ as an ‘auto’. These benefits are subject to the provisions of Chapter 31 of the Michigan Insurance Code.”

DCIC Policy, Endorsement 10 at 1, Part A, Coverage. (479a).

Part B of that same endorsement defines “Who is An Insured”. That Part provides:

“B. Who Is An Insured.

1. You or any ‘family member’.
2. Anyone else who sustains ‘bodily injury’:

³See *Robert Mason v Allstate Insurance Company v DaimlerChrysler Insurance Company, et al*, pending Court of Appeals No. 297891 (Oakland County Circuit Case No. 08-089794-NI).

- a. While “occupying” a covered “auto”, or
- b. As the result of an ‘accident’ involving any other ‘auto’ operated by you or a ‘family member’ if that ‘auto’ is a covered ‘auto’ under the policy’s Liability Coverage, or
- c. While not ‘occupying’ any ‘auto’ as a result of an ‘accident’ involving a covered ‘auto’.”

DCIC Policy, Endorsement 10 at 2, Part B. (480a).

The DCIC policy defines “you” under the policy:

“Throughout this policy, the words “you” and “your” refer to the Named Insured shown in the Declarations. The words “we”, “us” and “our” refer to the Company providing this insurance.”

(117a; 448a).

The Declaration Sheet for the policy that purportedly provides insurance coverage for private passenger, non-commercial vehicles under the Company Vehicle Lease Program/ Company Car Program defines “Named Insured” as “DaimlerChrysler Corporation and/or Chrysler Corporation and its U.S. subsidiaries”. (Declaration Sheet; 26a; 446a). Endorsement No. IL-A amends that definition. It defines “Named Insured” as:

“DaimlerChrysler Corporation, Chrysler Corporation, and its United States Subsidiaries, and its present and future subsidiaries, owned, controlled and managed companies and corporations, any associated or affiliated companies, now or hereafter constituted, or previously existing.”

(Endorsement No. IL-A; 1277a).

ARGUMENT

Standard of Review

The issue presented by this case and highlighted by this brief *amici curiae* is whether no-fault policies issued by DaimlerChrysler Insurance Company for vehicles leased through DaimlerChrysler Company Car Programs violate the Michigan No-Fault Act, MCL 500.3101, *et seq.* Issues concerning statutory construction, and interpretation and application of contracts of insurance are reviewed *de novo*. *Cohen v Auto Club Insurance Association*, 463 Mich 525, 528; 620 NW2d 840 (2001).

The goal of statutory construction is to give effect to the intent of the Legislature embodied in the passage of the statute in question. *Hoover v Michigan Mutual Insurance Company*, 281 Mich App 617, 622; 761 NW2d 801 (2008). The plain language of the statute is usually the most reliable indicator of legislative intent. *Shinholster v Annapolis Hospital*, 471 Mich 540, 549; 685 NW2d 275 (2004). “When the language of a statute is unambiguous, the Legislature’s intent is clear and judicial construction is neither necessary nor permitted.” *Renny v Michigan Department of Transportation*, 478 Mich 490, 495; 734 NW2d 518 (2007), quoting *Griffith v State Farm Mutual Automobile Ins. Co.*, 472 Mich 521, 526; 697 NW2d 895 (2005).

The construction or interpretation of insurance policies is governed by general principles of contractual interpretation. *E.g.*, *Rory v Continental Insurance Company*, 473 Mich 457, 461; 703 NW2d 23 (2005); *Farm Bureau Mutual Insurance Company of America v Nikkel*, 460 Mich 558, 566; 596 NW2d 915 (1999). Interpretation of a contract is reviewed *de novo*. *Rednour v Hastings Mutual Insurance Company*, 468 Mich 241, 243; 661 NW2d 562 (2003); *Archambo v Lawyers Title Insurance Corp*, 466 Mich 402, 408; 646 NW2d 170 (2002); *Cohen, supra*.

I. NO-FAULT POLICIES ISSUED BY DAIMLERCHRYSLER INSURANCE COMPANY FOR VEHICLES LEASED THROUGH THE DAIMLERCHRYSLER VEHICLE LEASE PROGRAM VIOLATE THE MICHIGAN NO-FAULT ACT, MCL 500.3101 *et seq.*

No-fault policies covering vehicles leased through the DaimlerChrysler Vehicle Lease Program, issued by DaimlerChrysler Insurance Company, violate the Michigan No-Fault Act, MCL 500.3101, *et seq.* No-Fault insurance coverage is mandatory for every vehicle registered in Michigan. MCL 500.3101(1) provides, in relevant part:

- “(1) The owner or registrant of a motor vehicle required to be registered in this state shall maintain security for payment of benefits under personal protection insurance, property protection insurance, and residual liability insurance.”

The terms “Owner” and “Registrant” are defined in MCL 500.3101(2):

“(h) “Owner” means any of the following:

- (i) A person renting a motor vehicle or having the use thereof, under a lease or otherwise, for a period that is greater than 30 days.
 - (ii) A person who holds the legal title to a vehicle, other than a person engaged in the business of leasing motor vehicles who is the lessor of a motor vehicle pursuant to a lease providing for the use of the motor vehicle by the lessee for a period that is greater than 30 days.
 - (iii) A person who has the immediate right of possession of a motor vehicle under an installment sale contract.
- (i) “Registrant” does not include a person engaged in the business of leasing motor vehicles who is the lessor of a motor vehicle pursuant to a lease providing for the use of the motor vehicle by the lessee for a period that is greater than 30 days.”

Accordingly, as a matter of law, since the vehicles under the Vehicle Lease Program/Company Car Program are leased to the employees/retirees for more than 30 days, the lessor, DaimlerChrysler is neither an “Owner” nor “Registrant” of the vehicles it leases.

MCL 500.3101(3) provides:

“(3) Security may be provided under a policy issued by an insurer duly authorized to transact business in this state which affords insurance for the payment of benefits described in subsection (1). **A policy of insurance represented or sold as providing security is considered to provide insurance for the payment of the benefits.**”

(Emphasis added).

This security is in the form of a valid Michigan no fault policy. In order to comply with MCL 500.3101(1) and (3), all Michigan no-fault policies must provide coverage in the form of personal protection benefits:

“Under personal protection insurance, an insurer is liable to pay benefits for accidental bodily injury **arising out of the ownership, operation, maintenance or use of a motor vehicle as a motor vehicle**, subject to the provisions of this chapter.”

MCL 500.3105(1) (emphasis added).

In addition, subsections (1) and (4) of §3114 of the No-Fault Act delineate to whom that type of insurance is available and, where applicable, the priority for the provision of personal protection insurance benefits:

“(1) Except as provided in subsections (2), (3), and (5), **a personal protection insurance policy described in section 3101(1) applies to accidental bodily injury to the person named in the policy, the person’s spouse, and a relative of either domiciled in the same household, if the injury arises from a motor vehicle accident.** A personal injury insurance policy described in section 3103(2) applies to accidental bodily injury to the person named in the policy, the

person's spouse, and a relative of either domiciled in the same household, if the injury arises from a motorcycle accident. . . .

* * *

- (4) Except as provided in subsection (1) to (3), a person suffering accidental bodily injury arising from a motor vehicle accident while an occupant of a motor vehicle shall claim personal protection insurance benefits from insurers in the following order of priority:
 - (a) The insurer of the owner or registrant of the vehicle occupied.
 - (b) The insurer of the operator of the vehicle occupied.”

MCL 500.3114 (emphasis added).

The DCIC policy violates the Michigan No-Fault Act because it does not bear primary liability for the provision of personal protection insurance benefits for injuries arising out of accidents involving the vehicles it ostensibly insures.⁴ Instead, to the extent that the DCIC policy assumes any liability for such benefits, except in rare situations, such liability is secondary to other no-fault insurance.

Endorsement No. 10 of the DCIC policy covers “Michigan Personal Protection”.

⁴*Michigan Township Participating Plan v Pavolich*, 232 Mich App 378; 591 NW2d 325 (1999), discussed by both the majority and dissenting opinions in the Court of Appeals, is factually distinguishable on this ground. The coverage at issue in *Pavolich* was not mandatory coverage--and, therefore, did not need to be included in a no-fault policy to be in compliance with the No-Fault Act--concluding that the coverage language was surplusage, in light of the way the “named insured” under the policy was designated as it related to the defendant’s entitlement to underinsured motorist coverage, did not render the *Pavolich* policy violative of the Act.

That result cannot simply be extrapolated to situations in which mandatory coverage is at issue. To hold that mandatory coverage may be surplusage due to the designation of the “named insured” would, indeed, render such a policy violative of the No-Fault Act. As the accompanying text demonstrates, the DCIC policy does exactly that. Thus, the holding and analysis of *Pavolich* is simply not applicable or relevant to the arguments presented by Amici Curiae herein.

Ostensibly, it provides the coverage required by §3105(1) of the No-Fault Act. It states, in pertinent part:

“We will pay personal injury protection benefits to or for an ‘insured’ who sustains ‘bodily injury’ caused by an accident and resulting from the ownership, maintenance or use of an ‘auto’ as an ‘auto’. These benefits are subject to the provisions of Chapter 31 of the Michigan Insurance Code.”

(DCIC Policy, Endorsement 10 at 1, Part A, Coverage; 479a).

The problem is with the definition of “insured”. Part B of that same endorsement defines “Who is An Insured”:

“B. Who Is An Insured.

1. You or any ‘family member’.
2. Anyone else who sustains ‘bodily injury’:
 - a. While “occupying” a covered “auto”, or
 - b. As the result of an ‘accident’ involving any other ‘auto’ operated by you or a ‘family member’ if that ‘auto’ is a covered ‘auto’ under the policy’s Liability Coverage, or
 - c. While not ‘occupying’ any ‘auto’ as a result of an ‘accident’ involving a covered ‘auto’.”

(DCIC Policy, Endorsement 10 at 2, Part B; 480a).

In order to determine if an injured person is entitled to benefits under that definition, it is first necessary to ascertain just who “you” is. At the beginning of the DCIC Policy, the policy states:

“Throughout this policy, the words, ‘you’ and ‘your’ refer to the Named Insured shown in the Declarations. The words ‘we’, ‘us’ and ‘our’ refer to the Company providing this insurance.”

(117a; 448a). Applying that definition to this particular policy endorsement, ostensibly

providing personal protection (first-party no-fault) benefits, results in an absurdity.

As set forth by the Court of Appeals, “[t]he ‘named insured’ shown on the declarations page is ‘DaimlerChrysler Corporation and/or Chrysler Corporation and its U.S. Subsidiaries’”. *Abay v DaimlerChrysler Insurance Company*, unpublished opinion *per curiam* of the Court of Appeals issued August 13, 2009 (Docket No. 283624). (See, Declaration Sheet; 26a; 446a; and amendatory Endorsement No. IL-A, 1277a). Therefore, “you” is not a human being but one or more corporate entities. For purposes of obtaining first-party benefits, an injured person, therefore, is not “you”. Yet, the very purpose behind the enactment of the No-Fault Act, as expressed by this Court, was “to afford protection to **persons** suffering injury arising out of the ownership, maintenance, or use of a motor vehicle”. *Clevenger v Allstate Insurance Company*, 443 Mich 646, 651; 505 NW2d 553 (1993) (emphasis added). Reading the DCIC policy literally, its provisions do not afford that protection to “you” because *a corporation*, the literal “you”, *cannot suffer bodily injury arising out of the ownership, maintenance or use of a motor vehicle and **a person who actually suffered such injury is not included within the definition of “you”***. Not only is that conclusion “absurd”, it is also at odds with the statutory requirements of the No-Fault Act.

Recently, the Court of Appeals, in the context of statutory construction, observed that, in *Cameron v Auto Club Insurance Association*, 476 Mich 55; 718 NW2d 784 (2006), this Court had resurrected “the absurd-results rule”. *Detroit International Bridge Company v Commodities Export Company*, 279 Mich App 662, 674; 760 NW2d 565 (2008). *Accord: Capitol Properties Group, LLC v 1247 Center Street, LLC*, 283 Mich App 422, 437; 770 NW2d 105 (2009). In *International Bridge*, the Court of Appeals paraphrased Justice

MARKMAN's opinion in *Cameron* in concluding that "a statute need not be applied literally if no reasonable lawmaker could have conceived of the ensuing result". *Id.* at 675.

In addition, in *Rohlman v Hawkeye-Security Insurance Company*, 442 Mich 520; 502 NW2d 310 (1993), this Court had arrived at much the same principle in the context of interpreting insurance policies in light of statutory requirements:

"The policy and the statutes relating thereto must be read and construed together as though the statutes were a part of the contract, for it is to be presumed that the parties contracted with the intention of executing a policy satisfying statutory requirements, and intended the contract to carry out its purpose."

Id. at 525, fn 3 (emphasis added).

The revival of the "absurd-results" canon of statutory construction has applicability in the appropriate interpretation of an insurance policy. It is well-established that the construction or interpretation of insurance policies are governed by general principles of contractual interpretation. *E.g.*, *Rory v Continental Insurance Company*, 473 Mich 457, 461; 703 NW2d 23 (2005); *Farm Bureau Mutual Insurance Company of America v Nikkel*, 460 Mich 558, 566; 596 NW2d 915 (1999); *Klida v Braman*, 278 Mich App 60, 63; 748 NW2d 244 (2008); *Fromm v Meemic Insurance Company*, 264 Mich App 302, 311; 690 NW2d 528 (2004). Furthermore, the canons of statutory construction are generally congruent with principles of contract interpretation. *See, American Alternative Insurance Company, Inc v York*, 469 Mich 955; 670 NW2d 567 (2003), (MARKMAN, J., concurring).

To the extent, then, that a literal reading of "you" in the DCIC policy would represent a construction that "no reasonable [drafter] could have conceived" of because it would conflict with the presumption that "that the parties contracted with the intention of executing a policy satisfying statutory requirements, and intended the contract to carry out its

purpose”, such a reading should be eschewed by this Court.⁵ Instead, “you” should be defined to represent a human being. This conclusion is strengthened by the fact, as observed by dissenting Judge SHAPIRO, that the term “you” is used elsewhere in the policy to mean the lessee of the vehicle in question--a human being:

“The policy’s definition of ‘you’ also renders many other provisions meaningless, particularly since the policy defines ‘we’ and ‘our’ as ‘the Company providing this insurance’, creating the absurd result that both ‘you’ and ‘we’ are the same entity under the policy. The anomaly of the insured and insurer being the same wreaks havoc with the entire policy and belies any notion that the policy can simply be read as ‘plain language’. The policy is replete with provisions that are meaningless, ambiguous or confusing given the identity of ‘you’ and ‘we’.

* * *

And these provisions cannot be rationally understood unless ‘you’ is interpreted to mean the lessee.”

SHAPIRO, J., *supra*, dissenting, at 6.

The validity of dissenting Judge SHAPIRO’s analysis is brought into ever sharper focus by this Court’s admonition as to reconciling a contract with overriding statutory requirements:

“[W]e are obligated to construe contracts that are potentially in conflict with a statute, and thus void against public policy, where reasonably possible, to harmonize them with the statute.”

Cruz v State Farm Mutual Automobile Insurance Company, 466 Mich 588, 599; 648 NW2d 591 (2002) (emphasis added). As more fully explained in Issue II, the only way to discharge that responsibility with respect to the DCIC policy is to construe “you” as referring to a human being.

⁵Appellee’s assertion that, “There is no requirement in MCL 500.3114, in 500.3101, or anywhere in the no fault act, as to the required identity of the ‘person named in the policy,’ or the “named insured’, may be accurate, however, for Appellee to conclude that the No-Fault Act contemplates providing PIP coverage to *anything* other than human beings is an absurdity. (See Appellee’s Brief at 39.)

The same infirmities that beset the policy's use of "you", when "you" is defined to mean the "Named Insured" when the "Named Insured" is an inanimate business entity and not the lessee of the vehicle, also appear with the use of the term "family members." The Named Insured on the DCIC policy, "DaimlerChrysler Corporation and/or Chrysler Corporation and its U.S. Subsidiaries", cannot have "family members". Therefore, no personal protection benefits are afforded to family members through this policy. This conclusion further emphasizes the need to have "you", in the DCIC policy, defined as a human being in order to comport with the statutory scheme of the Michigan No-Fault Act.

Nor can resort to subsection 2 of Part B of Endorsement 10 alleviate the problems presented by subsection 1 and explicated immediately above. Subsection 2 ostensibly covers (a) an occupant of a motor vehicle covered by the policy; (b) anyone else suffering bodily injury in an accident involving vehicles both of which are covered by DCIC policies, and (c) anyone sustaining bodily injury while not an occupant of a motor vehicle covered by the policy. But what the policy gives with one hand, it takes away with the other. Endorsement 10 contains exclusions also pertinent to this inquiry. Part C of Endorsement 10 provides, in pertinent part:

"We will not pay personal injury protection benefits for 'bodily injury':

* * * *

6. To anyone entitled to Michigan no-fault benefits **as a Named Insured under another policy**. This exclusion does not apply to you or anyone 'occupying' a motorcycle.
7. To anyone entitled to Michigan no-fault benefits **as a 'family member' under another policy**. This exclusion does not apply to you or any 'family member' or anyone 'occupying' a motorcycle."

(DCIC Policy, Endorsement 10 at 2, Part C, Exclusions; 480a) (emphasis added).

Thus, in every household in which there is another vehicle insured by a no-fault insurer other than DCIC (the vast majority of relevant households), according to the terms of the DCIC policy, a person injured in a motor vehicle accident who would otherwise come under the coverage of the DCIC policy must first look to the insurer of the other household vehicle for primary coverage for personal protection benefits--regardless of how "you" is defined.⁶ Such priority shifting is violative of MCL 500.3114(1) and (4) and the purpose of the No-Fault Act. *Clevenger, supra*. Thus, the provisions of the DCIC policy violate the Michigan No-Fault Act. See *Abay v DaimlerChrysler Insurance Company, supra*, SHAPIRO, J., dissenting opinion at 4-5; 2015a-2016a.

Those provisions also violate public policy. The Declarations page of the DCIC policy clearly provides for personal protection coverage for personal injury protection. (DCIC Policy, Declarations Page, 446a). Yet, as the foregoing analysis establishes, that

⁶Judge SHAPIRO correctly concludes in his dissent:

"[A]lthough DCC purports to be providing the required no-fault insurance, its policy actually results in insurers who should be secondary under the no-fault act becoming primary and DCC never has to pay any claims under the policy for PIP benefits anytime the lessee or his family member owns and insures another vehicle. By making itself the sole named insured, DCC avoids its duty to provide PIP benefits required by law."

Abay v DaimlerChrysler Insurance Company, supra, SHAPIRO, J., dissenting opinion at 4-5 (2015a-2016a). E.g., *Robert Mason v Allstate Insurance Company v DaimlerChrysler Insurance Company, et al*, pending Court of Appeals No. 297891 (Oakland County Circuit Case No. 08-089794-NI); *Corwin and ACIA v DaimlerChrysler Insurance Company, et al*, pending in Oakland County Circuit Court, Case No. 08-093529; *DaimlerChrysler Insurance Company v Allstate and Lubienski, on behalf of Richard and Norma Bluhm*, Oakland County Circuit Court Case No. 02-041634-NF; *State Farm Mutual Automobile Insurance Company v DaimlerChrysler Insurance Company*, Oakland County Circuit Court Case No. 05-063494-CK.

coverage is wholly illusory for any household owning a motor vehicle that is not insured under a DCIC policy. As the Court of Appeals concluded in *Farm Bureau Insurance Company v Allstate Insurance Company*, 233 Mich App 38; 592 NW2d 395 (1999):

“It would be unconscionable to permit an insurance company offering statutorily required coverage to collect premiums for it with one hand and allow it to take the coverage away with the other by using a self-devised ‘other insurance’ limitation. Nothing could more clearly defeat the intention of the Legislature.”

Id. at 42 (italics in the original) (emphasis added). It is also noteworthy that, just a few years later, in *Farmers Insurance Exchange v Kurzmann*, 257 Mich App 412; 668 NW2d 199 (2003), the Court of Appeals noted:

“For more than twenty years, it has been against the public policy of this state to include a provision in any insurance policy that excludes coverage for bodily injury to any insured or a member of the insured’s family. *State Farm Mut. Automobile Ins. Co. v Sivey*, 404 Mich 51, 57-58, 272 NW2d 555 (1978).”

Id. at 418. As dissenting Judge SHAPIRO observed: “MCL 500.3114(3) provides that where the motor vehicle is registered in the name of a person’s employer, the policy shall provide primary PIP coverage for the ‘employee, his or her spouse [and] a relative of either domiciled in the same household.’” *Abay v DaimlerChrysler Insurance Company, supra*, SHAPIRO, J., dissenting opinion at fn. 3. This Court should not permit by artifice that which cannot be done directly.

What is worse, DCIC’s interpretation of its own policy language could potentially leave an injured person with no first-party coverage whatsoever. Recall that the DCIC policy exclusion at issue, with respect to mandatory personal protection insurance benefits, applies where the injured person is a named insured on another policy of no-fault insurance with another no-fault insurer—regardless of the definition of “you”. However,

policies written by other no-fault insurers may exclude coverage for their named insureds under certain circumstances. See *Frankenmuth Mutual Insurance Company v Titan Insurance Company*, unpublished opinion *per curiam* of the Michigan Court of Appeals issued October 25, 2005 (Docket No. 262345) (13b-15b) (noting “that many car insurance policies, including plaintiff’s, ordinarily exclude coverage for accidents that occur in automobiles that the owner does not expressly insure under the policy, but, instead insure with a different company under a different policy”) (14b). See, *Raska v Farm Bureau Mutual Insurance Company of Michigan*, 412 Mich 355; 314 NW2d 440 (1982) (The “owned automobile” exclusion does not violate public policy.).

Allstate Insurance Company’s standard Michigan no-fault insurance policy does just that, and it does not violate the mandatory requirements of the Michigan No-Fault Act. It includes the following exclusion regarding its coverage for first-party no-fault benefits:

“This coverage does not apply to:
* * * *

- “4. **bodily injury to you:**
 - a) while in, on, getting into or out of; or;
 - b) when struck while not in, on, getting into or out of, a **motor vehicle you** own or have registered in **your** name that is not an **insured motor vehicle.**”

(Allstate Michigan Auto Insurance Policy, Part III, Personal Protection Insurance Benefits-- Coverage VA; Exhibit 1, at 12).

The fact that the term “insured motor vehicle” is in bold print signifies that it is defined within the body of the coverage:

- “5. **“Insured Motor Vehicle”** means a **motor vehicle**
 - a) covered under this policy for bodily injury liability insurance; and
 - b) to which **you** are required to maintain security by Chapter 31 of the Michigan Insurance Code.”

(Allstate Auto Insurance Policy, Part III, Personal Protection Insurance Benefits--Coverage VA; Exhibit 1 at 11).⁷

Thus, no vehicle leased through the DaimlerChrysler's Vehicle Lease Program will be insured through an Allstate Insurance Company no-fault insurance policy. The Lease Program requires that no-fault insurance for the leased vehicle be purchased through DCIC. Indeed, a lessee under the Program is forbidden to acquire other no-fault insurance for the vehicle. (See Plaintiff-Appellant's Brief at 3; 914a-915a; 1198a). Accordingly, no vehicle leased through DaimlerChrysler's Vehicle Lease Program will be "covered under this [Allstate's] policy for bodily injury liability insurance". As a result thereof, no vehicle leased through the DaimlerChrysler Vehicle Lease Program constitutes an "**Insured Motor Vehicle**" for purposes of the Allstate policy.

Applying that rationale to the language exclusion means that the Allstate policy does not provide personal protection benefits to the Allstate policyholder if that individual suffers bodily injury in a motor vehicle owned by the policyholder that is not an "**Insured Motor Vehicle**" under Allstate's policy. See *Frankenmuth v Titan*, *supra*. Since the leases emanating from the DaimlerChrysler's Vehicle Lease Program are over 30 days in duration, pursuant to MCL 500.3101(2)(h), DaimlerChrysler's Vehicle Lease Program lessees are "owners" of the leased vehicles. *E.g.*, *Roberts v Titan Insurance Company* (On

⁷In *DaimlerChrysler Insurance Company v Allstate and Lubienski*, on behalf of Richard and Norma Bluhm, Oakland County Circuit Court Case No. 02-041634-NF, discussed in Appellant's Brief at 23-24, Judge Andrews did not recognize that the term "**Insured Motor Vehicle**" is a term of art defined by the Allstate policy to mean a motor vehicle "covered under this [Allstate's] policy for bodily injury liability insurance." Judge Andrews simply found that since the subject Chrysler vehicle was insured (by DCIC), Allstate's policy exclusion did not apply. (1794a). That is simply not the case and an incorrect finding. (See Exhibit 1, 11-12).

Reconsideration), 282 Mich App 339, 355; 764 NW2d 304 (2009); *Ball v Chrysler Corporation*, 225 Mich App 284, 290; 570 NW2d 481 (1997). Therefore, any vehicle leased through DaimlerChrysler's Vehicle Lease Program is owned by the lessee.

To recapitulate, since a lessee of a vehicle leased through the DaimlerChrysler Vehicle Lease Program owns the vehicle and since the vehicle is not covered by the Allstate no-fault policy, a lessee injured in the leased vehicle cannot look to an Allstate no-fault policy for first-party no-fault benefits even if the lessee is also the named insured on the Allstate policy. The lessee is then left with no personal protection benefits whatsoever--according to DCIC's interpretation of its policy, the lessee is required to look to the other insurance (Allstate) and the other insurance has a valid exclusion precluding such coverage. DCIC's interpretation cannot be sustained in light thereof because it would result in a violation of the mandatory requirements of the Michigan No-Fault Act.

A similar situation exists with respect to the standard Michigan No-Fault policy issued by ACIA. That policy excludes the following from its personal protection insurance coverage:

"1. Bodily Injury Not Covered: This insurance does not apply to **bodily injury** to:

* * * *

c. **you** while **occupying**, or through being struck by while not **occupying**, a **motor vehicle** owned or registered by **you** and which is not an **insured motor vehicle**. * *

* "

(Auto Club Insurance Association Car Insurance Policy, effective 1/1/2010, Part I--Bodily Injury and Property Damage Liability Coverages; Exhibit 2 at 6-7). See, *Raska v Farm Bureau Mutual Insurance Company of Michigan*, 412 Mich. 355; 314 NW2d 440 (1982) (The "owned automobile" exclusion does not violate public policy.).

Again, as with Allstate, terms in bold print indicate that they have a specific meaning defined in the policy. Once again, therefore, it is necessary to look to the policy to determine the meaning of “insured motor vehicle”:

- “3. **Insured Motor Vehicle** means:
- a. A **motor vehicle** described on the Declaration Certificate and identified by a vehicle reference number for which:
 - (1) the Liability Insurance of this policy applies, and
 - (2) the **named insured** is required to maintain security under the provisions of the **Code**; or
 - b. A **motor vehicle** to which the Liability Insurance of this policy applies, if it:
 - (1) does not have the security required by the **Code**, and
 - (2) is operated, but not owned, by **you** or a **resident relative**.”

(Auto Club Insurance Association Car Insurance Policy, effective 1/1/2010, Part I--Bodily Injury and Property Damage Liability Coverages; Exhibit 2 at 6).

Looking first at the language of the ACIA exclusion, a person suffering bodily injury as a result of occupying a motor vehicle owned or registered by any person named on the Declaration Certificate and which is not an “insured motor vehicle” cannot look to ACIA for first-party no-fault benefits. It has already been established that the lessee of a vehicle leased through the DaimlerChrysler Vehicle Lease Program is an “owner” of the vehicle pursuant to MCL 500.3101(2)(h). Thus, the only way to avoid the effect of the ACIA exclusion is if the lease vehicle qualifies as an “insured motor vehicle”.

The definition of “insured motor vehicle” in the ACIA no-fault policy, however, renders such an endeavor futile. Looking first at subsection (a) of the definition, it has

already been established that no vehicle leased through the DaimlerChrysler Vehicle Lease Program will be insured through an ACIA no-fault insurance policy, as the Program requires all vehicles to be insured by DCIC and lessees are prohibited from obtaining insurance from any other insurance company. Thus, subsection (a), requiring that the vehicle be described on the Declaration Certificate, cannot apply.

Subsection (b) is also inapplicable. A vehicle leased through the DaimlerChrysler Vehicle Lease Program does “have the security required by the **Code**”, security issued by DCIC. Thus, despite the fact that the lessee is considered an “owner” of the leased vehicle, the leased vehicle still does not meet the definition of an “**Insured Motor Vehicle**” under the ACIA policy. (*E.g., see, 1819a-1824a regarding the Chlebos claim.*)

As with the situation involving an Allstate no-fault policy, the consequences of this conclusion are relevant to this inquiry. Since a lessee of a vehicle leased through DaimlerChrysler’s Vehicle Lease Program “owns” the vehicle, pursuant to MCL 500.3101(2)(h), and since the vehicle is not covered by the ACIA no-fault policy, a lessee injured in the leased vehicle cannot look to an ACIA no-fault policy for first-party no-fault benefits, even if the lessee is also the named insured on the ACIA policy. The lessee is then left with no personal protection benefits whatsoever--according to DCIC’s interpretation of its policy, the lessee is required to look to the other insurance (ACIA) and the other insurance has a valid exclusion precluding such coverage. Once again, DCIC’s interpretation of its policy cannot be sustained in light thereof because it would result in a violation of the mandatory requirements of the Michigan No-Fault Act.

The fact that the DCIC policy explicitly violates the Michigan No-Fault Act and violates Michigan public policy is of no small significance. A contract that is in violation of

a statute or public policy is illegal. *Mino v Clio School District*, 255 Mich App 60, 72; 661 NW2d 586 (2003), citing *American Trust Company v Michigan Trust Company*, 263 Mich 337, 339; 248 NW 829 (1933). Such a contract is void. *Badon v General Motors Corporation*, 188 Mich App 430, 439; 470 NW2d 436 (1991). See *Stokes v Millen Roofing Company*, 466 Mich 660, 672; 649 NW2d 371 (2002). Indeed, a policy exclusion that conflicts with mandatory coverage requirements of the no-fault act is void as contrary to public policy. *Husted v Auto-Owners Insurance Company*, 459 Mich 500, 512; 591 NW2d 642 (1999), citing *Citizens Insurance Company of America v Federated Mutual Insurance Company*, 448 Mich 225, 232; 531 NW2d 138 (1995).

In like measure, it is well-established “that the no-fault act requires car **owners** to be **primarily** responsible for insurance coverage on their vehicles”. *State Farm Mutual Automobile Insurance Company v Enterprise Leasing Company*, 452 Mich 25, 34; 549 NW2d 345 (1996) (emphasis added), citing *Citizens Insurance*, *supra*.⁸ Any attempt to evade that statutory obligation is void, even by agreement of parties to a contract or policy. *Enterprise Leasing*, *supra* at 34-35. Such a result is in keeping with the general legal principle that a contract and/or policy that requires one or more parties thereto to act in a manner prohibited by statute is void. *Michelson v Voison*, 254 Mich App 691, 694; 658 NW2d 188 (2003); *Maids International, Inc v Saunders, Inc*, 224 Mich App 508, 511; 569 NW2d 857 (1997).

In this case, the dissenting opinion from the Court of Appeals identifies such a

⁸In his dissent, Judge SHAPIRO properly observes: “[T]he Car Program by barring the purchase of any other policy, forces its lessees to violate the no-fault act in the context of PIP coverage.” *Abay v DaimlerChrysler Insurance Co*, *supra*, SHAPIRO, J., dissenting opinion at 5 (2016a).

circumstance, adding further weight to the inexorable conclusion that, as presently written, the DCIC policy is void. Dissenting Judge SHAPIRO notes:

“Although DCC is the lessor, it is not the ‘owner’ of the car for purposes of the no-fault act. Pursuant to MCL 500.3101 and this Court’s holding in *Ball v Chrysler Corp*, 225 Mich App 284, 290; 570 NW2d 481 (1997), it is Trent, as lessee, who is the owner. Accordingly, **it is Trent who is required to provide no-fault insurance for the vehicle. Despite his statutory duty to obtain insurance that complied with the no-fault act, however, Trent was not free to choose his insurer or his coverage. Under the Car Program, he was required to purchase the instant policy and his lease payments to DCC included insurance coverage premiums for that coverage even though, as noted, DCC never paid any premiums to DCIC. Finally, even if Trent wanted to purchase insurance that provided him and his family with additional coverage, i.e., coverage that actually complied with the no-fault act, he was barred from doing so under the terms of the Car Program, which prohibited him from securing additional or alternative insurance from other auto insurers.**”

Abay v DaimlerChrysler Insurance Company, supra, SHAPIRO, J., dissenting opinion at 5 (emphasis added).⁹

In light of the foregoing, in this case, the majority opinion’s sole focus on Endorsement 19 was erroneous. Judge SHAPIRO reached the same conclusion, albeit from a different perspective:

“The majority correctly notes that the non-owned vehicle coverage at issue here is also a non-mandatory coverage. However, since we are to read the policy as a whole, we cannot simply ignore the fact that **applying that definition voids coverages that are mandatory.**”

Abay v DaimlerChrysler Insurance Company, supra, SHAPIRO, J., dissenting opinion at 7,

⁹Judge SHAPIRO’s observation also illustrates how every person who leased a vehicle through the Car Program was the victim of fraud by being forced to pay for no-fault insurance from which the person, his or her family, and all occupants of the leased vehicle could reap no benefits due to the no-fault insurance shell game perpetrated by DCIC--premiums are paid but mandatory coverage is not provided. See *Farm Bureau Insurance Company v Allstate Insurance Company, supra*.

n 8 (emphasis added). See fn 4, *supra*. The question of the validity of Endorsement 19 does not matter if the no-fault policy to which Endorsement 19 is a part is otherwise void. The majority opinion's failure to address the fact that the DCIC policy violates MCL 500.3105(1), MCL 500.3114(1) and MCL 500.3114(4) strongly militates in favor of this Court reversing the Court of Appeals' decision and reforming the policies to incorporate and comply with the requirements of the Michigan No-Fault Act, MCL 500.3101 *et seq.*

II. THE REMEDY FOR SUCH VIOLATION IS TO REFORM THOSE POLICIES BY READING INTO THOSE POLICIES THE PROVISIONS OF THE MICHIGAN NO-FAULT ACT DISREGARDED BY THE POLICIES AS WRITTEN.

In Issue I, Amici Curiae maintain that, as presently written, the DCIC policy violates the No-Fault Act and public policy. Accordingly, pursuant to the case law contained therein, the policy is void. That conclusion could raise the specter of DCIC trying to avoid responsibility for the deficiencies in its policy by arguing that, if the policy is void, then DCIC owes no obligation thereunder. However, Michigan law makes clear that this Court need not heed such a siren song.

A long line of Michigan cases holds that mandatory statutory provisions must be read into insurance policies.¹⁰ *E.g.*, *Auto-Owners Insurance Company v Martin*, 284 Mich App 427, 434; 773 NW2d 29 (2009); *Depyper v Safeco Insurance Company of America*, 232 Mich App 433, 437; 591 NW2d 344 (1999), quoting *Rohlman v Hawkeye Security Insurance Company*, *supra*, itself quoting 12A Couch, *Insurance*, 2d (rev ed.), §45:694, p.

¹⁰This is so even if the parties to a policy consciously omit them. See: *Casey v Auto-Owners Insurance Company*, 273 Mich App 388, 399; 729 NW2d 277 (2007). In *Kuebler v Equitable Life Assurance Society of United States*, 219 Mich App 1; 555 NW2d 496 (1996), the Court of Appeals quoted approvingly from a California case, *Homestead Supplies, Inc v Executive Life Insurance Company*, 81 Cal App 3d 978-988-989; 147 Cal Rptr 22 (1978), itself quoting 5 Couch, *Cyclopedia of Insurance Law* [2d ed], § 30:64, pp. 583-584:

“” In the absence of a legislative expression of intent to the contrary, an insurer cannot--at least, as against an innocent insured who is not in pari delicto--accept and retain benefits and then plead as a defense its own violation of a statute [thereby] setting up [the proposition] that such contract is void[.] * * * In other words, the insurer cannot say that the contract of insurance is void because of a violation of [a] * * * statute for the purpose of defeating the insured, and thus take advantage of its own wrong.””

Id. at 11.

331-332; *Randolph v State Farm Fire & Casualty Company*, 229 Mich App 102, 104; 580 NW2d 903 (1998), citing *Stine v Continental Casualty Company*, 419 Mich 89, 104; 349 NW2d 127 (1984). It is of no small irony that the excerpt from Couch, quoted by this Court in *Rohlman, supra*, includes the following:

“A policy of insurance must be construed to satisfy the provisions of the law by which it was required, **particularly when the policy specifies that it was issued to conform to the statutory requirement[s.]**”

Id. at 525, fn 3 (emphasis added). In this case, with respect to personal protection benefits, the DCIC policy specifies:

“These benefits are subject to the provisions of Chapter 31 of the Michigan Insurance Code. ”

DCIC Policy, Endorsement 10 at 1, Part A. (479a). See, *Cruz, supra* (“[W]e are obligated to construe contracts that are potentially in conflict with a statute, and thus void as against public policy, where reasonably possible, to harmonize them with the statute.”) citing *Universal Underwriters Insurance Company v Kneeland, infra*.

Applying this principle to the DCIC policy would result in the revision of the policy in the following particulars. First, as initially set forth in Issue I, *supra*, the definition of “you” at the beginning of the policy would have to be expanded to include the Named Insured, the lessee/owner of the vehicle being insured and the operator of the vehicle being insured. That would result in subsection 1 of Part B of Endorsement 10 covering the owner and operator of the vehicle and his or her family members for personal protection insurance benefits as required by MCL 500.3105(1).

In addition, the facially void exclusions contained in subsections 6 and 7 of Part C of Endorsement 10 would be stricken from the policy. That would result in the coverage

provided in Endorsement 10 being primary, thus meeting the requirements of MCL 500.3114(1) and MCL 500.3114(4) and, simultaneously, meeting the obligation of the owner of the vehicle to obtain and maintain statutorily-required no-fault insurance coverage on the vehicle. MCL 500.3101(1). It would also mean that the insured lessees who have paid insurance premiums for the vehicle would actually be able to obtain the benefits of the DCIC policy if the insured has sustained bodily injury in one of the situations envisioned by MCL 500.3105(1).

Then, and only then, would it be appropriate for this Court (and the Court of Appeals) to review the validity of Endorsement 19. In light of the changes to the definition of “you”,¹¹ dissenting Judge SHAPIRO’s conclusion is particularly apropos, “I would affirm the trial court’s conclusion that Endorsement 19 provides coverage to Trent and his ‘family member[s]’ as defined in the policy”. *Abay v DaimlerChrysler Insurance Company, supra*, SHAPIRO, J., dissenting opinion at 8.

It should be noted that, even if these revisions might cause certain incongruities with other parts of the policy, the revisions should be given effect both because the revisions are statutorily required and because of the legal principle governing interpretation of insurance policies acknowledged by this Court in *Universal Underwriters Insurance Company v Kneeland*, 464 Mich 491; 628 NW2d 491 (2001). In that case, this Court stated:

“[I]t is very commonly stated that when the terms of the agreement have two possible interpretations, by one of which the agreement would create a valid

¹¹Dissenting Judge SHAPIRO offers a differently-worded revision to the definition of “you” but it is of indistinguishable semantic and linguistic effect. *Abay v DaimlerChrysler Insurance Company, supra*, SHAPIRO, J., dissenting opinion at 8.

contract and by the other it would be void or illegal, the former will be performed.”

Id. at 495 quoting 3 Corbin, *Contracts*, §546, pp.170-171. Accord: *Roberts v Titan Insurance Company (On Reconsideration)*, *supra* at 359.

The reason why it is necessary to reform the language of the DCIC policy as proposed by *amici curiae* is to conform the DCIC policy to the requirements of the No-Fault Act. The reformation proposed by *amici curiae* goes only as far as is necessary to meet that goal. The proposed revisions of the DCIC policy, both as set forth herein and in the dissenting opinion of Judge SHAPIRO, would conform the DCIC policy to the Michigan No-Fault Act and are consistent with the rule of construction quoted above. Without that reformation, the DCIC policy remains void and against public policy.

For the reasons set forth herein, this Court should reverse the Court of Appeals decision and adopt the proposed revisions discussed herein.

III. IT IS DAIMLERCHRYSLER INSURANCE COMPANY, NOT *AMICI CURIAE*, WHO MUST LOOK TO THE LEGISLATURE FOR RELIEF FROM THE APPLICATION OF THE PLAIN LANGUAGE OF THE NO-FAULT ACT .

Contrary to DCIC's assertions (see Appellee's Brief at 44), it is DCIC, not *amici curiae*, who must look to the Legislature for relief from application of the plain language of the No-Fault Act as presently written if it wishes to preserve its policy as presently written. Section 3101(1) of the No-Fault Act requires that an owner of a motor vehicle obtain and maintain statutorily-required no-fault insurance coverage on the vehicle. MCL 500.3101(1). As presently written, the DCIC policy is in violation of that provision of the Act because the "Named Insured" under the policy is not the owner or registrant of the vehicle.¹² The reformation of the policy proposed by *amici curiae* redresses that deficiency. If DCIC is unhappy with that which must be done to put its mandatory coverage into compliance with the Act, DCIC is free to try to persuade the Legislature to rewrite section 3101(1) thereof. Unless and until that occurs, DCIC is not free to ignore the plain language of the Act.

Section 3105(1) of the No-Fault Act requires a no-fault insurer to pay first-party no-fault benefits for "accidental bodily injury arising out of the ownership, operation, maintenance or use of a motor vehicle as a motor vehicle". MCL 500.3105(1).¹³ As

¹² It should be remembered that, by statutory mandate, DaimlerChrysler is neither an "Owner" nor "Registrant" of vehicles it leases. Instead, by operation of law, the lessees of the vehicles are considered to be "owners" and/or "registrants".

However, DCC acknowledges that it maintains the title and registration for the vehicles included in the Vehicle Lease Program. Thus, at a minimum, DCIC should have equal priority under MCL 500.3114 and be required to pay a pro rata share for PIP benefits incurred as a result of an accident involving a DCC owned, registered and leased vehicle.

¹³See fn 12, *supra*.

presently written, the DCIC policy is in violation of that provision of the Act. See, Arguments I and II, *supra*. The reformation of the policy proposed by *amici curiae* redresses that deficiency and brings it into compliance with the No-Fault Act. DCIC is free to try to persuade the Legislature to rewrite section 3105(1) if DCIC is unhappy with that which must be done to put its mandatory coverage into compliance with the Act. However, unless and until that occurs, DCIC cannot ignore the plain language requirements of the Act.

Finally, sections 3114(1) and (4) of the No-Fault Act set forth the priority among no-fault insurers for the payment of no-fault benefits. MCL 500.3114(1), MCL 500.3114(4). As presently written, the DCIC policy is in violation of those provisions of the Act. The reformation of the policy proposed by *amici curiae* remedies that deficiency. If DCIC is unhappy with that which must be done to put its mandatory coverage into compliance with the Act, DCIC is free to try to persuade the Legislature to rewrite sections 3114(1) and (4) thereof. But unless and until that occurs, DCIC cannot ignore the plain language of the Act.

As the foregoing demonstrates, it is *amici curiae* who seek to require DCIC to conform to the No-Fault Act as written. Certainly in this context, *amici curiae* have no need to petition the Legislature for any change to the Act.

The ultimate issue posed by this appeal is stark and simple: Will DCIC be allowed to continue the massive violation of the No-Fault Act and Michigan public policy by permitting its policy to remain as written, with all of the deficiencies outlined by Plaintiff, *amici curiae*, and dissenting Judge SHAPIRO in the Court of Appeals in this case? The time has come for this Court to put an end to DCIC's PIP shifting scheme. The legal rights of

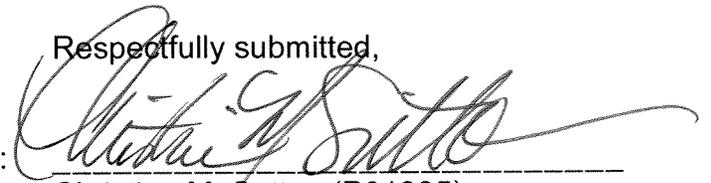
DCIC's policyholders who have faithfully paid premiums for illusory coverage demand nothing less, as do Michigan No-Fault insurers, including Amici Curiae, that have been forced to pay claims which DCIC conveniently shifted its responsibility to pay, according to the terms of its carefully crafted policies.

RELIEF REQUESTED

WHEREFORE, Amici Curiae, Allstate Insurance Company and Auto Club Insurance Association respectfully request that this Honorable Court reverse the Court of Appeals decision and adopt the proposed revisions discussed herein for reasons stated by the dissent of the Court of Appeals, the trial court, and as set forth in this Brief.

Respectfully submitted,

BY:



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EXHIBIT 1

Allstate Property and Casualty Insurance Company

Table Of Contents

General

When And Where The Policy Applies	3
Limited Mexico Coverage	3
Changes	3
Duty To Report Policy Changes	3
Combining Limits Of Two Or More Autos Prohibited	4
Transfer	4
Provisional Premium	4
Cancellation	4
Conditional Reinstatement.....	5
Notice to Allstate	5
Excluded Drivers	5
Medicare Provision	5
Fraud and Misrepresentation.....	5
What Law Will Apply.....	5
Where Lawsuits May Be Brought.....	5

Part I—Automobile Liability Insurance Bodily Injury Liability – Coverage AA Property Damage Liability - Coverages BB, and Limited Property Damage - Coverage BT

Insuring Agreements	6
Our Right To Appeal.....	6
Limited Property Damage Liability.....	6
Additional Payments Allstate Will Make	6
Insured Persons	6
Insured Autos	7
Definitions	7
Exclusions — What is not covered	7
Financial Responsibility	8
Limits Of Liability	8
If There Is Other Insurance	8
Assistance And Cooperation	8
Action Against Allstate	8
What To Do In Case Of An Auto Accident or Claim..	9

Part II—Property Protection Coverage (Coverage BV)

Insuring Agreement	9
Definitions	9
Exclusions — What is not covered	9
Limits Of Liability	9
Action Against Allstate	9
Notice to Allstate	10
What You Must Do If There Is A Loss	10
Non-Duplication of Benefits	10

Part III—Personal Protection Insurance Benefits (Coverage VA)

Insuring Agreement	10
Definitions	11
Exclusions — What is not covered	12
Coordination Of Benefits	13
Limits Of Liability	14
Action Against Allstate	14
Proof Of Claim; Medical Reports	14
Notice to Allstate	15
Subrogation Rights	15

Trust Agreement	15
Non-Duplication of Benefits	15
If We Cannot Agree	15

Part IV—Motorcycle Medical Payments (Coverage CC)

Insuring Agreement	16
Insured Persons	16
Insured Motorcycles	16
Definitions	16
Exclusions — What is not covered	17
Limits of Liability	17
If There Is Other Insurance	18
Assistance and Cooperation	18
Action Against Allstate	18
Subrogation Rights	18
Proof of Claim; Medical Reports	18

Part V — Automobile Death Indemnity Insurance Coverage CM

Insuring Agreements	18
Insured Persons	18
Definitions	18
Exclusions — What is not covered	19
Payment Of Benefits; Autopsy	19
Consent Of Beneficiary	19
Proof Of Claim; Medical Reports	19

Part VI—Uninsured Motorists Insurance (Coverage SS)

Insuring Agreement	19
Insured Persons:	19
Definitions	20
Exclusions — What is not covered	21
Limits of Liability.....	21
Non-Duplication of Benefits.....	22
Combining Limits of Two or More Automobiles is Prohibited	22
If There Is Other Insurance	22
Proof Of Claim; Medical Reports	22
Trust Agreement.....	22
Payment Of Loss By Allstate	22
Assistance and Cooperation	22
Action Against Allstate	23
If We Cannot Agree	23

Part VII—Underinsured Motorists Insurance (Coverage SU)

Insuring Agreement	23
Insured Persons:	23
Definitions	24
Exclusions — What is not covered	24
Limits of Liability.....	25
Combining Limits of Two or More Automobiles is Prohibited	25
If There Is Other Insurance	25
Proof Of Claim; Medical Reports	25
Trust Agreement.....	26
Payment Of Loss By Allstate	26
Assistance and Cooperation	26
Action Against Allstate	26
If We Cannot Agree	26

Allstate Property and Casualty Insurance Company

Part VIII—Protection Against Loss To The Auto (Coverages DA, DB, DD, DE, HH, HG, JJ, UU, ZA, ZZ)

Insuring Agreements For Each Coverage	26
Additional Payments Allstate Will Make	28
Insured Autos	28
Definitions	29
Exclusions — What is not covered.....	29
Right To Appraisal	30
Payment Of Loss By Allstate	30
Limits of Liability	30
If There is Other Insurance	31
Action Against Allstate	31
Subrogation Rights	31
What You Must Do If There Is A Loss.....	31
Loss Payable Clause.....	31

Allstate Property and Casualty Insurance Company

Allstate Property and Casualty Insurance Company

The Company Named in the Declarations
A Stock Company
Home Office: Northbrook, Illinois 60062

General

This policy is a legal contract between **you** and **us**. A coverage applies only when a premium for it is shown on the Policy Declarations. If more than one **auto** is insured, premiums will be shown for each **auto**. If **you** pay the premiums when due and comply with the policy terms, **Allstate**, relying on the information **you** have given **us**, makes the following agreements with **you**.

When And Where The Policy Applies

Your policy applies only during the Policy Period for which a premium has been paid. During this time, it applies to losses to the **auto**, accidents and occurrences within the United States of America, its territories or possessions or Canada, or between their ports. The Policy Period is shown on the Policy Declarations.

Limited Mexico Coverage

For **your** protection **you** should purchase insurance from a company licensed in Mexico. However, the coverage of this policy for an insured private passenger **auto** or **utility auto** is extended to cover that **auto** within the Republic of Mexico. This coverage applies only while the insured **auto** is within 75 miles of the United States border and only for a period not to exceed ten days after each separate entry into the Republic of Mexico.

If loss or damage occurs which may require repair of the insured **auto** or replacement of any part(s) while the **auto** is in Mexican territory, the basis for adjustment of the claim will be as follows:

The repair or replacement costs will not exceed the Cost of having the repairs or replacements made at the nearest point in the United States where the repairs or replacements can be made. The cost for towing, transportation and salvage operations of the **auto** while within Mexican territory are not covered under this policy.

WARNING

Unless **you** have auto insurance written by a Mexican insurance company, **you** may spend many hours or days in jail if **you** have an accident in Mexico. Insurance coverage should be secured from a company licensed under the laws of Mexico to write such insurance in order to avoid complications and possible penalties under the laws of **Mexico**, including the impoundment of **your auto**.

Changes Premium Changes

The premium for each **auto** is based on information **Allstate** has received from **you** or other sources. **You** agree to cooperate with **us** in determining if this information is correct, if it is complete, and if it changes during the Policy Period. **You** agree that if this information changes or is incorrect or incomplete, **we** may adjust **your** premium accordingly during the Policy Period.

Changes which may result in a premium adjustment are contained in **our** rules. These include, but are not limited to:

1. **autos** insured by the policy, including changes in use.
2. drivers residing in **your** household and their years licensed to drive.
3. coverages or coverage limits.
4. rating territory.
5. discount eligibility.
6. the driving records of those drivers residing in **your** household.

Any calculation or adjustment of **your** premium will be made using the rules, rates and forms in effect, and on file if required, for **our** use in **your** state.

Coverage Changes

When **Allstate** broadens a coverage during the Policy Period without additional charge, **you** have the new feature if **you** have the coverage to which it applies. The new feature applies on the date the coverage change is effective in **your** state. Otherwise, the policy can be change only by endorsement. Any change in **your** coverage will be made using the rules, rates and forms in effect, and on file if required, for **our** use in **your** state.

Duty To Report Policy Changes

Your policy was issued in reliance on the information **you** provided concerning **autos** and persons insured by the policy. To properly insure **your auto**, **you** should promptly notify **us** when **you** change **your** address or whenever any **resident** operators insured by **your** policy are added or deleted.

You must tell **us** within 30 days when **you** acquire an additional or replacement **auto**. If **you** don't, certain coverages of this policy may not apply.

Allstate Property and Casualty Insurance Company

When **you** acquire an additional **auto**, **we** will provide 30 days of coverage immediately after **you** become the owner. However, **we** will provide this coverage only if:

1. **You** acquire the **auto** during the Policy Period;
2. **You** tell **us** within 30 days of acquiring the **auto**;
3. No other insurance policy provides coverage for the **auto**;
4. **Allstate** or one of its affiliates insures all other private passenger **autos** or **utility autos you** own; and
5. **You** pay the additional premium.

We will not provide coverage for more than 30 days unless:

1. **You** ask **us** to insure the additional **auto** within 30 days after **you** become the owner;
2. **We** agree to provide the coverage **you** select for this **auto**; and
3. **You** pay the additional premium.

Combining Limits Of Two Or More Autos Prohibited

The limits of liability applicable to any one **auto** shown on the Policy Declarations will not be combined with, added to or stacked upon the limits of liability applicable to any other **auto** shown on the Policy Declarations or covered by the policy, even though a separate premium is charged for each of those **autos**, regardless of the number of:

1. vehicles or persons shown on the declarations page;
2. vehicles involved in the accident;
3. persons seeking damages as a result of the accident; or
4. insured persons from whom damages are sought. If two or more **autos** are shown on the Policy Declarations an one of these **autos** is involved in the accident, the limit of liability shown on the Policy Declarations for the involved **auto** will apply. If none of the **autos** shown on the Policy Declarations is involved in the accident, the highest limits of liability shown on the Policy Declarations for any one **auto** will apply. If two or more of the **autos** shown on the Policy Declarations are involved in the accident, the highest limits of liability shown on the Policy Declarations for any one of the involved **autos** will apply.

Transfer

This policy can't be transferred to anyone without **our** written consent. However, if **you** die, coverage will be provided until the end of the Policy Period for which a premium has been paid for:

1. **your** legal representative while acting as such, and
2. persons covered on the date of **your** death.

Provisional Premium

The coverage of this policy and the premium shown on the Policy Declarations for these coverages have been established in accordance with the provisions of Chapter 31 of the Michigan Insurance Code. If a court declares or enters a judgment the effect of which is to render any provisions of this act invalid or, unenforceable, **Allstate** shall have the right to revise the coverage(s) as a result of such judgment. **We** will compute any premium change or refund on a pro rata basis.

Cancellation

You may cancel this policy by writing to **us** and telling **us** the future date **you** wish to stop coverage.

Allstate may cancel part or all of this policy by mailing notice to **you** at **your** last known address. If **we** cancel because **you** did not pay the premium, the date of cancellation will be at least 10 days after the date of mailing. Otherwise, **we** will give **you** 20 days notice.

Proof of mailing the notice will be proof of notice. A refund, if due, will be in proportion to the time **your** policy has been in effect. Cancellation will be effective even if the refund is not made immediately.

After **your** original policy has been in effect 55 days, **Allstate** will not cancel or reduce **your** coverage during the Policy Period unless:

1. **You** don't pay the premium when it's due;
2. **You** or any member of **your** household, or any other person who customarily operates an **auto** insured under this policy, has had a driver's license suspended during the Policy Period and the revocation or suspension has become final; or
3. **Allstate** has within the first 55 days effected cancellation.

If **we** don't intend to continue the policy beyond the current Policy Period, **we** will mail **you** notice at least 30 days before the end of the Policy Period.

Allstate Property and Casualty Insurance Company

Conditional Reinstatement

If we mail a cancellation notice because **you** did not pay the required premium when due and **you** then tender payment by check, draft, or other remittance which is not honored upon presentation, **your** policy will terminate on the date and time shown on the cancellation notice and any notice **we** issue which waives the cancellation or reinstates coverage is void. This means that **Allstate** will not be liable under this policy for claims or damages after the date and time indicated on the cancellation notice.

Notice To Allstate

Notice of an accident or occurrence given by the insured person or someone on that person's behalf to any authorized agent of **Allstate** within Michigan is notice to **Allstate**. If it is not reasonably possible to give notice within the time prescribed in this policy, notice must be given as soon as it is reasonably possible.

Excluded Drivers

If **you** authorize **Allstate** to exclude a specific named individual, **you** have no automobile liability coverage and no coverage for damage to the **auto** when that named individual operates **your** vehicle. If the named excluded individual drives **your** vehicle and has an accident, **you** may be personally liable, but **you** will not have insurance covering **your** liability or covering damage to the **auto**. If **your** vehicle is being operated by an individual named as an excluded driver, insurance under this policy is null and void for:

Coverage AA	Bodily Injury Liability Insurance
Coverage BB	Property Damage Liability Insurance
Coverage BT	Limited Property Damage Liability Insurance
Coverage CM	Automobile Death Indemnity Insurance
Coverage DA	Limited Collision Insurance
Coverage DB	Broad Form Collision Insurance
Coverage DD	Standard Collision Insurance
Coverage HH	Comprehensive Insurance
Coverage HG	Auto Fire, Lightning, Transportation And Theft Insurance
Coverage JJ	Towing and Labor Costs
Coverage UU	Rental Reimbursement Coverage
Coverage ZA	Sound System Coverage
Coverage ZZ	Tape Coverage

Medicare Provision

The benefits provided by the Federal Medicare program will not offset, reduce or be primary to any coverage provided by this policy. This Medicare provision is applicable to medical expenses for goods or services provided on or after June 6, 1983 due to accidents which occurred on or after December 5, 1980.

Fraud Or Misrepresentation

This entire policy is void from its inception if it was obtained or renewed through material misrepresentation, fraud or concealment of material fact. This means that **Allstate** may not be liable for any claims or damages that would otherwise be covered.

We may not provide coverage for any insured who has made fraudulent statements or engaged in fraudulent conduct in connection with any accident or loss for which coverage is sought under this policy.

What Law Will Apply

This policy is issued in accordance with the laws of Michigan and covers property or risks principally located in Michigan. Subject to the following paragraph, any and all claims or disputes in any way related to this policy shall be governed by the laws of Michigan.

If a covered loss to the auto, a covered auto accident, or any other occurrence for which coverage applies under this policy happens outside Michigan, claims or disputes regarding that covered loss to the auto, covered auto accident, or other covered occurrence may be governed by the laws of the jurisdiction in which that covered loss to the auto, covered auto accident, or other covered occurrence happened.

Where Lawsuits May Be Brought

Subject to the following two paragraphs, any and all lawsuits in any way related to this policy, shall be brought, heard, and decided only in a state or federal court located in Michigan. Any and all lawsuits against persons not parties to this policy but involved in the sale, administration, performance, or alleged breach of this policy, or involved in any other way with this policy, shall be brought, heard, and decided only in a state or federal court located in Michigan, provided that such persons are subject to or consent to suit in the courts specified in this paragraph.

If a covered loss to the auto, a covered auto accident, or any other occurrence for which coverage applies under this policy happens outside Michigan, lawsuits regarding that covered loss to the auto, covered auto accident, or other covered occurrence may also be brought in the judicial district where that covered loss to the auto, covered auto accident, or other covered occurrence happened.

Nothing in this provision, **Where Lawsuits May Be Brought**, shall impair any party's right to remove a state court lawsuit to a federal court.

Part I

Automobile Liability Insurance Bodily Injury — Coverage AA Property Damage — Coverage BB Limited Property Damage—Coverage BT

Bodily Injury Liability—Coverage AA and Property Damage Liability—Coverage BB

Allstate will pay for damages an insured person is legally obligated to pay because of:

1. accidental **bodily injury** sustained by any person; and
2. accidental damage to or destruction of property.

Under these coverages, **your** policy protects an insured person from claims for accidents arising out of the ownership, maintenance or use, loading or unloading of an insured **auto**.

We will not pay any punitive or exemplary damages, fines or penalties under **Bodily Injury Liability** or **Property Damage Liability** coverage.

We will defend an insured person sued as the result of an **auto** accident, even if the suit is groundless or false. We will choose the counsel. We may settle any claim or suit if we believe it is proper. We will not defend an insured person sued for damages which are not covered by this policy. Our obligation to defend an insured person may be terminated upon our payment of policy limits.

Our Right to Appeal

If an **insured person** or any other insurer elects not to appeal a judgment, we may do so. We will pay reasonable costs and interest incidental to the appeal. We will not be liable for more than the limit shown on **your** Policy Declarations plus the reasonable costs and interest incidental to the appeal.

Limited Property Damage Liability—Coverage BT

Allstate will pay for property damages to, or destruction of a motor vehicle which the insured person is legally obligated to pay under section 500.3135, subsection 2(d) of the Michigan Insurance Code.

Under this coverage, **your** policy protects an insured person up to the amount shown on the Policy Declarations from liability for property damages arising out of the ownership, maintenance or use, loading, or unloading of an insured **auto**, to the extent that the damages are not covered by insurance.

Additional Payments Allstate Will Make

When we defend an insured person under this part, we will pay:

1. up to \$50 a day for loss of income if we ask that person to attend hearings or trials to defend against a suit. We will pay other reasonable expenses incurred at our request.
2. court costs for defense.
3. interest on damages awarded in any suit we defend accruing after judgment is entered and before we have paid, offered to pay, or deposited in court that portion of the judgment which is not more than our limit of liability. We will pay prejudgment interest as required by law on that part of the judgment which does not exceed our limits of liability. We will pay post judgment interest as required by law on that part of the judgment which does not exceed our limits of liability. We will not pay prejudgment or post judgment interest on that part of the judgment which exceeds our limits of liability.
4. premiums on appeal bonds and on bonds to release attachments, but not in excess of our limit of liability. We aren't required to apply for or furnish these bonds.

We will repay an insured person for:

1. the cost of any bail bonds required due to an accident or traffic law violation involving the use of the insured **auto**. We will not pay more than \$200 per bond. We aren't required to apply for or furnish these bonds.
2. expense incurred for first aid to others at the time of an **auto** accident involving the insured **auto**.

Insured Persons

1. While using **your** insured **auto**:
 - a) **you**,
 - b) any **resident relative**, and
 - c) any other person using it with **your** permission.
2. While using a non-owned **auto**:
 - a) **you**,
 - b) any **resident relative** using a four-wheel private passenger **auto** or **utility auto**.

However, the non-owned **auto** must not be available for **your** regular use, or for the regular use of any **resident relative**.

3. Any other person or organization liable for the use of an insured **auto** provided:
 - a) the **auto** is not owned or hired by this person or organization, and
 - b) the use is by an insured person under 1. or 2. above.
4. Does not include "excluded drivers".

Allstate Property and Casualty Insurance Company

Insured Autos

1. An **auto** described on the Policy Declarations. This includes the four-wheel private passenger **auto** or **utility auto you** replace it with.
2. An additional four-wheel private passenger **auto** or **utility auto you** acquire ownership of during the Policy Period will be covered for 30 days immediately after **you** become the owner. However, **we** will provide this coverage only if **Allstate** or one of its affiliates insures all other private passenger **autos** or **utility autos you** own, an **you** pay the additional premium.

Coverage will be continued beyond this 30 day period only if;

- a) **you** ask **us** to continue coverage within 30 days after **you** acquire the **auto** or **utility auto**;
 - b) **we** agree to continue coverage for this additional **auto** or **utility auto**; and
 - c) **you** pay the additional premium.
3. A substitute four wheel private passenger **auto** or **utility auto**, not owned by **you** or a **resident**, being temporarily used while **your** insured **auto** is being serviced or repaired, or if **your** insured **auto** is stolen or destroyed.
 4. A non-owned **private passenger** or **utility auto** used by **you** or a **resident relative** with the owner's permission. This **auto** must not be available for the regular use of an insured person.
 5. A trailer while attached to an insured **auto**. The trailer must be designed for use with a private passenger **auto** or **utility auto**. This trailer can't be used for business purposes with other than a private passenger **auto** or **utility auto**.

Definitions

1. "**Allstate**," "**We**," "**Us**," or "**Our**" means the company as shown on the policy declarations.
2. "**Auto**" means a land motor vehicle designed for use on public roads.
3. "**Bodily Injury**" means physical harm to the body, sickness, disease, or death, but does not include:
 - a) Any venereal disease;
 - b) Herpes;
 - c) Acquired Immune Deficiency Syndrome (AIDS);
 - d) AIDS Related Complex (ARC);
 - e) Human Immunodeficiency Virus (HIV); or any resulting symptom, effect, condition, disease or illness related to a. through e. listed above.

4. "**Relative**" means a person related by blood, marriage, or adoption.
5. "**Resident**" means a person who actually resides in **your** household with the intention to continue living there. Unmarried dependent children while temporarily away from home will be considered **residents**, if they intend to continue to live in **your** household.
6. "**Utility Auto**" means an **auto** of the pick-up body, sedan delivery or panel truck type. This **auto** must have a gross vehicle weight of 10,000 pounds or less, according to manufacturer specifications.
7. "**You**" or "**Your**" means the policyholder named on the Policy Declarations and that policyholder's **resident** spouse.

Exclusions—What is not Covered

Allstate will not pay for any damages an insured person is legally obligated to pay because of:

1. **bodily injury** or property damage arising out of the use of **your** insured **auto** while used to carry persons or property for a charge, or any **auto you** are driving while available for hire by the public. This exclusion does not apply to:
 - a) shared-expense car pools.
 - b) the occasional rental of **your** insured motor home or travel-trailer to others for personal use if a rental premium is shown on the Policy Declarations for this coverage.
2. **bodily injury** or property damage arising out of **auto** business operations such as repairing, servicing, testing, making deliveries, road testing, washing, parking, storing or selling of **autos**. However, coverage does apply to **you, resident relatives, your** partners of the partnership in the business or employees of the partnership or a **resident relative** when using **your** insured **auto**.
3. **bodily injury** or property damage arising out of the use of a non-owned **auto** while being used in any business or occupation of an insured person. However, coverage does apply while **you, your** chauffeur or domestic servant are using a private passenger **auto** or trailer.
4. **bodily injury** to an employee of any insured person arising in the course of employment. Coverage does not apply to a domestic employee who is not required to be covered by a workers compensation law or similar law.
5. **bodily injury** to a co-worker injured in the course of employment. This exclusion does not apply to **you**.

Allstate Property and Casualty Insurance Company

6. **injury** to or destruction of property an insured person owns, is in charge of or rents. However, a private residence or a garage rented by that person is covered.
7. **bodily injury** or property damage intended by, or reasonably expected to result from, the intentional or criminal acts or omissions of an **insured person**. This exclusion applies even if:
- an insured person lacks the mental capacity to control or govern his or her conduct;
 - an insured person is temporarily insane or temporarily lacks the mental capacity to control or govern his or her conduct or is temporarily unable to form any intent to cause **bodily injury** or property damage;
 - such **bodily injury** or property damage is of a different kind or degree than intended or reasonably expected; or
 - such **bodily injury** or property damage is sustained by a different person than intended or reasonably expected.

This exclusion applies regardless of whether an insured person is actually charged with, or convicted of, a crime.

This exclusion precludes coverage for any insured person under the policy regardless of whether the person seeking coverage participated in any way in the intentional or criminal acts or omissions.

8. **bodily injury** or property damage which would also be covered under nuclear energy liability insurance. This applies even if the limits of that insurance are exhausted.
9. property damage to an **auto** if an insured person is able under the Michigan Insurance Code. According to the Michigan Insurance Code, an insured person may be held liable for up to the amount indicated on the Policy Declarations for damage that they cause to someone else's **auto**, to the extent that the damages are not covered by insurance. Coverage does apply if Coverage BT is purchased.
10. **bodily injury** or property damage arising out of the use of a non-owned **auto** which is available for **your** regular use or the regular use of a **resident relative**. Coverage does apply to a temporary substitute **auto**, an additional **auto** or a replacement **auto**, as described in this part.
11. **bodily injury** or property damage arising out of the use of any **auto**, including a trailer, owned by or furnished or available for the regular use of the

insured or any **resident** of his household which is not an insured **auto**.

Financial Responsibility

When this policy is certified as proof under any motor vehicle financial responsibility law, this policy will comply with the provisions of that law.

Limits of Liability

The limits shown on the Policy Declarations are the maximum **we** will pay for any single **auto** accident. The limit stated for each person for **bodily injury** is **our** total limit of liability for damages because of **bodily injury** sustained by one person in any single **auto** accident, including damages sustained by anyone else as a result of that **bodily injury**. Subject to the limit for each person, the limit stated for each occurrence is **our** total limit of liability for damages for **bodily injury** sustained by two or more persons in any single **auto** accident. For property damage, the limit applies to damages arising from each occurrence.

The liability limits apply to each insured **auto** as shown on the Policy Declarations. The insuring of more than one person or **auto** under this policy will not increase **our** liability limits beyond the amount shown for any one **auto**, even though a separate premium is charged for each **auto**. The limits also **will not** be increased if **you** have other **auto** insurance policies that apply.

There will be no duplication of payments made under the Bodily Injury Liability and Uninsured Motorists Coverages of this policy.

An **auto** and attached trailer are considered one **auto**. Also, an **auto** and a mounted camper unit, topper, cap or canopy are considered one **auto**.

If There Is Other Insurance

If an insured person is using a substitute private passenger **auto** or non-owned **auto**, **our** liability insurance will be excess over other available insurance. If more than one policy applies on a primary basis to an accident involving **your** insured **auto**, **we** will bear **our** proportionate share with other available liability insurance.

Assistance And Cooperation

When **we** ask, an insured person must cooperate with **us** in the investigation, settlement and defense of any claim or lawsuit. If **we** ask, that person must also help **us** obtain payment from anyone who may be jointly responsible.

We can't be obligated if an insured person voluntarily takes an action or makes any payments other than for covered expenses for bail bonds or first aid to others.

Allstate Property and Casualty Insurance Company

Action Against Allstate

No insured person may sue **us** under this coverage unless there is full compliance with all policy terms.

If liability has been determined by judgment after trial, or by written agreement among the insured, the other person, and **us**, then whoever obtains this judgment or agreement against an insured person, may sue **us** up to the limits of this policy. However, no one has the right to join **us** in a suit to determine legal responsibility.

The bankruptcy or insolvency of an insured person or that person's estate will not relieve **us** of any obligation up to the policy limits.

What To Do In Case Of An Auto Accident

If **you** have an accident, call **your** agent. **We** must be informed promptly of all details. If an insured person is sued as the result of an **auto** accident, **we** must be informed immediately.

Part II

Property Protection

Coverage—Coverage BV

We will pay for damage to tangible property, as set forth in the Michigan Insurance Code, caused by accident and arising out of the ownership, maintenance and use of an **insured motor vehicle** as a **motor vehicle**. The accident must happen in the State of Michigan.

Definitions

1. **"Allstate," "We," "Us," or "Our"** means the company as shown on the policy declarations.
2. **"Damage"** means accidental physical injury to or destruction of, tangible property. Damage includes loss of use of the tangible property.
3. **"Insured Motor Vehicle"** means
 - a) a **motor vehicle**
 - i. covered under this policy for property damage liability insurance; and
 - ii. for which **you** are required to have insurance pursuant to Chapter 31 of the Michigan Insurance Code; or
 - b) a **motor vehicle** operated by **you** or a **resident relative** which is not owned by **you** or a **resident relative** and to which the property damage liability insurance of this policy applies.
4. **"Motor Vehicle"** means a vehicle, including a trailer:
 - a) having more than two wheels;
 - b) operated or designed for operation on a public highway by power other than muscular power; and
 - c) does not include a motorcycle, snowmobile, all terrain vehicle, dune buggy, golf cart, motorized wheelchair or farm vehicle.
5. **"Relative"** means a person related by blood, marriage or adoption.
6. **"Resident"** means a person who physically resides in **your** household with the intention to continue living there. Unmarried dependent children, while temporarily away from home will be considered **residents** if they intend to continue to live in **your** household.
7. **"You"** or **"Your"** means the policyholder named on the Policy Declarations.

Exclusions—What is not covered

This coverage does not apply to damage to:

1. any property while the **insured motor vehicle** is located for use as a residence or premises.
2. the property of any person while such person is using the **insured motor vehicle** without **your** permission.
3. any property owned by **you** or a **resident relative** if **you** or a **resident relative** was the owner, registrant or operator of a vehicle involved in the **motor vehicle** accident out of which the **damage** arose.
4. any vehicle or trailer, or the contents of either designed for, or operated upon a public highway.

Coverage is afforded if such vehicle or trailer is parked in such a way as not to cause unreasonable risk of the **damage** which occurred.
5. an **insured motor vehicle** or trailer, covered by this policy, which is **damaged** by another **insured motor vehicle** or trailer.
6. any property if such **damage** is caused intentionally by the owner or possessor of the property.
7. any property as a result of an accident involving a **motor vehicle** being operated by **you** or a **resident relative**, if the **motor vehicle** being operated by, but not owned by or registered to **you** has Michigan no-fault insurance or the equivalent as defined in the Michigan Insurance Code.

Allstate Property and Casualty Insurance Company

8. utility transmission lines, wires or cables arising from the failure of a municipality, utility company or cable television company to comply with the requirements of Section 217.186 of the Michigan Compiled Laws.
9. any property as a result of an accident occurring outside the State of Michigan.
10. an property, other than the **insured motor vehicle**, that is **damaged** within the course of a business of repairing, servicing or otherwise maintaining **motor vehicles**.

Limit of Liability

The limit of **our** liability for Property Protection Coverage is \$1,000,000. This is the maximum **Allstate** will pay for damage arising from any one accident. **We** will not pay more than the lesser of:

1. reasonable repair costs; or
2. replacement costs less depreciation; and
3. where applicable, the value of loss of use.

Action Against Allstate

No one may sue **us** under this coverage unless there is full compliance with the terms of this policy. Any action for recovery of benefits payable under this coverage must be commenced within one year of the date of the accident.

Notice to Allstate

Notice of the accident must be sent to **us** or one of **our** authorized agents as soon as possible, by the person who sustains loss or by someone on that person's behalf. This notice must include the time, place and circumstances of the accident and information sufficient to identify the damaged property.

What You Must Do If There Is A Loss

If **you** have an accident, call **your** agent.

1. Protect the property from further loss. **We** will pay reasonable expenses to guard against further loss. If the property is not protected, further loss is not covered.
2. As soon as possible, any person making claim must give **us** sworn proof of loss, including all details reasonably required by **us**. **We** have the right to inspect the damaged property.

Non-Duplication of Benefits

Regardless of the number of **motor vehicles** insured, or the number of insurers or self-insurers providing security under the provisions of Chapter 31 of the

Michigan Insurance Code, or the provisions of any other law providing for no-fault benefits for motor or other vehicle accidents, no person may recover duplicate benefits for the same expenses or loss.

Part III

Personal Protection Insurance Benefits—Coverage VA

Allstate will pay to or on behalf of an eligible **injured person** the following benefits in accordance with Chapter 31 of the Michigan Insurance Code. Payments will be made only when accidental **bodily injury** arises from the use of a **motor vehicle** as a **motor vehicle**.

1. Allowable Expenses
All reasonable and necessary expenses actually incurred for the care, recovery or rehabilitation of an **injured person**. Charges for medical, hospital, nursing, x-ray, dental, surgical, ambulance, funeral and burial services, subject to the limits elected by the insured, and prosthetic devices are included. This benefit does not include charges for a hospital room in excess of a reasonable and customary charge for semi-private accommodations, except when the **injured person** requires special or intensive care.
2. Work Loss
Loss of income or expenses during the first three years following the date of the accident, consisting of:
 - a) loss of income from work the **injured person** would have performed had that person not been injured.
 - b) expenses incurred in obtaining ordinary and necessary services usually performed by the **injured person** not for income, but for the benefit of the **injured person** or the **injured person's** dependents.

Loss of income or expenses incurred after the death of the **injured person** is not covered.

3. Survivor's Loss
Loss sustained during the first three years after the date of the accident by the **dependent survivors** of the deceased **injured person**. The loss must be due to and incurred after the death of the **injured person**.

The following losses are covered:

- a) Contributions of tangible things of economic value, not including services, that the **dependent survivors** of the deceased **injured person** would have received for their support, during their dependence, from the

Allstate Property and Casualty Insurance Company

injured person had the **injured person** notified.

- b) Reasonable expenses incurred by the **dependent survivors** of the deceased **injured person**, during their dependency, in obtaining ordinary and necessary services which the **injured person** would have performed for their benefit had the **injured person** not died.

Definitions

1. **"Allstate," "We," "Us," or "Our"** means the company as shown on the policy declarations.

2. **"Bodily Injury"** means physical harm to the body, sickness, disease, or death including damage to or loss of a person's prosthetic device in connection with the injury. **Bodily injury** does not include:

- a) Any venereal disease;
- b) Herpes;
- c) Acquired Immune Deficiency Syndrome (AIDS);
- d) AIDS related complex (ARC);
- e) Human Immunodeficiency Virus (HIV);

or any resulting symptom, effect, condition, disease, or illness related to a. through e. listed above.

3. **"Dependent Survivors"** means:

- a) the surviving spouse of the deceased **injured person**
 - i. if residing in the same household at the time of the **injured person's** death; or
 - ii. if dependent on the **injured person** at the time of the **injured person's** death.
Dependency ends upon remarriage or death.
- b) a child of the deceased **injured person**
 - i. if residing in the same household at the time of the **injured person's** death; or
 - ii. if dependent on the **injured person** at the time of the **injured person's** death.

The child is dependent only while:

- i. under 18 years of age;
- ii. mentally or physically incapacitated from earning; or
- iii. engaged in a full-time, formal program of academic or vocational education or training. Dependency ends upon death.

- c) any other person who was dependent on the **injured person** at the time of the **injured person's** death. This person is dependent only while:

- i. under 18 years of age;
- ii. mentally or physically incapacitated from earning; or
- iii. engaged in a full-time, formal program of academic or vocational education or training.

Dependency ends upon death.

4. **"Injured Person"** means:

- a) **You**, or a **resident relative** who sustains **bodily injury** in an accident involving a **motor vehicle**.
- b) any other person who sustains **bodily injury**
 - i. while in, on, getting into or out of the **insured motor vehicle**.
 - ii. while not in, on, getting into or out of any **motor vehicle**, but as a result of an accident involving the **insured motor vehicle**.
 - iii. as the result of an accident involving any other **motor vehicle**:
 - a. which is being operated by **you**, and
 - b. to which the bodily injury liability insurance of this policy applies.

However, an **injured person** does not include any person while in, on, getting into or out of a **motor vehicle** not being operated by **you** or a **resident relative**.

5. **"Insured Motor Vehicle"** means a **motor vehicle**:

- a. covered under this policy for bodily injury liability insurance; and
- b) to which **you** are required to maintain security by Chapter 31 of the Michigan Insurance Code.

6. **"Motorcycle"** means a vehicle:

- a) having a saddle or seat for the use of the rider;
- b) designed to travel on not more than three wheels in contact with the ground, however wheels on any attachment to the vehicle are not considered as wheels in contact with the ground;
- c) which is equipped with a motor that exceeds 50 cubic centimeters piston displacement;
- d) which is not a moped as defined in the Michigan Compiled Laws Section 257.328; and

Allstate Property and Casualty Insurance Company

- e) which is not a four wheel all terrain vehicle, snowmobile, dune buggy, golf cart or motorized wheelchair.
7. "**Motorcycle Accident**" means a loss involving the use of a **motorcycle** as a **motorcycle**. Losses which involve the ownership, operation, maintenance or use of a **motor vehicle** as a **motor vehicle** are not included.
8. "**Motor Vehicle**" means a vehicle, including a trailer:
- a) having more than two wheels;
 - b) operated or designed for operation on a public highway by power other than muscular power;
 - c) which is not a **motorcycle**;
 - d) which is not a moped as defined in the Michigan Compiled Laws Section 257.328; and
 - e) which is not a farm tractor or other implement of husbandry which is not subject to the registration requirements of the Michigan Compiled Laws Section 257.216.
9. "**Motor Vehicle Accident**" means a loss involving the use of a **motor vehicle** as a **motor vehicle** regardless of whether the accident also involves the ownership, operation, maintenance or use of a **motorcycle** as a **motorcycle**.
10. "**Relative**" means a person related by blood, marriage or adoption.
11. "**Resident**" means a person who physically resides in **your** household with the intention to continue living there. Unmarried dependent children, while temporarily away from home will be considered **residents** if they intend to continue to live in **your** household.
12. "**You**" and "**Your**" means the policyholder named on the Policy Declarations.
3. **bodily injury** to any person, other than **you** or any **resident relative**, while not in, on, getting into or out of a **motor vehicle**, if the accident occurs outside the State of Michigan.
4. **bodily injury to you:**
- a) while in, on, getting into or out of; or
 - b) when struck while not in, on, getting into or out of;
- a **motor vehicle you** own or have registered in **your** name that is not an **insured motor vehicle**.
5. **bodily injury** to the owner or registrant of a **motor vehicle** or **motorcycle** involved in the accident if that **motor vehicle** or **motorcycle** does not have the security required by Chapter 31 of the Michigan Insurance Code in effect.
6. **bodily injury** to any resident relative who is entitled to personal protection benefits as a named insured under any other auto policy.
7. **bodily injury** to any person, other than **you** or any **resident relative**, who is entitled to personal protection insurance benefits:
- a) as a named insured or **resident relative**, under any other auto policy; or
 - b) under any other security maintained, in lieu of an insurance policy, as provided in Chapter 31 of the Michigan Insurance Code.
8. **bodily injury** to any person, other than **you** or any **resident relative:**
- a) while in, on, getting into or out of; or
 - b) when struck while not in, on, getting into or out of;
- any **motor vehicle**, other than the **insured motor vehicle**, which is being operated by the owner or registrant if such **motor vehicle** has the security required by the Michigan Insurance Code in effect.

Exclusions—What is not covered

This coverage does not apply to:

1. **bodily injury** to any person whose injury is intentionally self-inflicted or is the result of an attempt to intentionally injure another person. Benefits will not be payable to or on behalf of any such person. No benefits will be paid to any person who intentionally causes **bodily injury** to the **injured person**.
 2. **bodily injury** to any person while using a **motor vehicle** or **motorcycle** taken unlawfully without a reasonable belief that the taking and using of that **motor vehicle** was with the permission of the owner.
 9. **bodily injury** to any **person**, other than **you** or a **resident relative** while in, on, getting into or out of any **motor vehicle**, other than the **insured motor vehicle:**
- a) which is being operated by **you** or any **resident relative** outside the State of Michigan; and
 - b) neither the owner nor the registrant of the **motor vehicle** is required to provide security with respect to that **motor vehicle** under Chapter 31 of the Michigan Insurance Code.

Allstate Property and Casualty Insurance Company

10. **bodily injury** to any person if the **bodily injury** arises out of the ownership, operation, maintenance or use of a parked motor vehicle unless one or more of the following occurred:
- The **motor vehicle** was parked in such a way as to cause unreasonable risk of the **bodily injury** which occurred.
 - The **bodily injury** was a direct result of physical contact with:
 - equipment permanently mounted on the parked **motor vehicle** while that equipment was being operated or used; or
 - property being lifted onto or lowered from the parked **motor vehicle** in the loading or unloading process.
 - The **bodily injury** was sustained by that person while in, on, getting into or out of the parked **motor vehicle**.
13. **bodily injury** to **you** or any **resident relative** while occupying a **motor vehicle** owned by or registered by **your** employer or any **resident relative's** employer, and furnished by the employer, if the **motor vehicle** has the security required by Chapter 31 of the Michigan Insurance Code in effect.
14. **bodily injury** sustained by any person if at the time of the accident the person:
- was not a **resident** of the State of Michigan; and
 - was an occupant of a **motor vehicle** or **motorcycle** not registered in Michigan; and
 - was not insured by an insurer which has filed a certification in compliance with Michigan Compiled Laws Section 500.3163.

However, this coverage does not apply if benefits are available under any workers' disability compensation act to an employee who sustains the injury in the course of that person's employment while loading, unloading, entering or alighting from or doing mechanical work on a **motor vehicle** unless the injury arose from the use or operation of another **motor vehicle**.

15. **bodily injury** to any person whose injury was the result of a **motorcycle accident**.

Coordination of Benefits

- If Allowable Expenses are identified as excess on the Policy Declarations, Allowable Expenses benefits will be reduced by any amount paid or payable under the provisions of any:
 - individual, blanket or group accident disability or hospitalization insurance.
 - medical or surgical reimbursement plan.
 - automobile no-fault benefits or medical expense benefits, or premises insurance affording medical expense benefits.
- This reduction applies only to amounts that are duplication of payment for the same items of loss or expense. This reduction applies only to **you** or a **resident relative**.
- If Allowable Expenses are identified as excess on the Policy Declarations, the **injured person** must seek treatment afforded for, or payable by his other coverage before **we** will be liable for any excess not paid for by such other coverage. **You** have a duty to mitigate **your** damages.
- If Work Loss is identified as excess on the Policy Declarations, Work Loss benefits will be reduced by any amounts paid or payable under the provisions of any valid and collectible:
 - individual, blanket or group accident or disability insurance.
 - salary or wage continuation program, including sick pay programs.

Allstate Property and Casualty Insurance Company

- c) workers compensation law, or similar disability law, or any state or federal government laws, except Social Security Retirement Benefits.

This reduction applies only to amounts that are a duplication of payment for the same items of loss or expense. This reduction applies only to **you** or a **resident relative**.

Limit of Liability

The limit is shown on the Policy Declarations for Allowable Expenses, Work Loss and Survivor's Loss are the maximum **we** will pay for any one **injured person** as the result of any one **motor vehicle accident**.

These limits are the maximum **Allstate** will pay for any one **motor vehicle accident** regardless of the number of:

- a) claims made;
 - b) vehicles or persons shown on the Policy Declarations; or
 - c) vehicles involved in the accident.
1. There is no limit to amounts payable or the length of time the benefits, described under Allowable Expenses may be incurred. However, funeral and burial expenses are limited to the amount stated on the Policy Declarations.
 2. The maximum amount payable for Work Loss incurred in any single 30 day period is shown on the Policy Declarations. The amount stated on the Policy Declarations will apply pro rata to any lesser period. Work Loss benefits are not payable for loss incurred more than 3 years after the date of the accident. **We** will not pay more than:
 - a) 85% of loss of income, unless the **injured person** presents **us** with reasonable proof of a lower tax advantage, in which case a greater percentage will apply, plus
 - b) \$20 per day, or the amount shown on the Policy Declarations, whichever is greater, for reasonable expenses for services incurred by the **injured person**.
 3. The maximum amount payable for Survivor's Loss, due to the death of an **injured person**, in any single 30 day period is stated on the Policy Declarations. However, reasonable expenses for services incurred are limited to \$20 a day. The limitation for reasonable expenses for services does not increase the maximum amount payable for Survivor's Loss. Survivor's Loss benefits are not payable for loss incurred more than 3 years after the date of the accident.

Any benefits payable to or on behalf of an **injured person** under this coverage will be reduced by:

- a) the amount paid, payable or required to be provided under the laws of any State or Federal Government, except benefits provided by the Federal Medicare Program or Medicaid Program.
- b) any deductible amount stated on the Policy Declarations. However, any deductible amount stated on the Policy Declarations applies to **you** or a **resident relative** only.

If either Allowable Expenses or Work Loss is identified as excess under Coverage VA on the Policy Declarations, then any amount payable under the excess benefit will be reduced by a \$300 deductible amount. If both Allowable Expenses and Work Loss are identified as excess, the \$300 deductible will apply only once. The \$300 deductible amount is reduced by any amount paid by any source, other than **Allstate**. However, payment by another source must be for the same items of loss or expense that would have been payable under Allowable Expenses or Work Loss if it were no for the deductible amount.

Action Against Allstate

No one may sue **us** under this coverage unless there is full compliance with all the terms of the policy.

Any action for recovery of Personal Protection Insurance benefits under this insurance must begin within one year after the date of the accident unless **we** have been given written notice of the injury within one year or unless **we** have previously made a payment of Personal Protection Insurance benefits for the injury. If the notice has been given or a payment has been made, the action may begin anytime within one year after the most recent loss or expense covered under Coverage VA has been incurred. However, no recovery can be made for any loss or expense incurred more than on year before the date the action began.

Proof of Claim; Medical Reports

As soon as possible, any person making a claim must give **us** written proof of claim. It must include all details **we** may need to determine the amounts payable. **We** may also require any person making a claim to submit to an examination under oath and sign the transcript, as often as **we** reasonably require.

The injured person may be required to take medical examinations by physicians we choose, as often as we reasonably require. We must be given authorization to obtain medical reports and other records pertinent to the claim.

Allstate Property and Casualty Insurance Company

If **we** request, the **injured person**, or someone on that person's behalf, or that person's employer must give **us** a sworn statement of the earnings of the **injured person** since the date of the accident and for a reasonable time prior to the accident.

Notice to Allstate

Notice of the accident must be given to **us**, or one of **our** authorized agents as soon as possible, by the **injured person** or someone on that person's behalf. This notice must include the time, place and circumstances of the accident and the identity of the **injured person**.

If an **injured person** or someone on that person's behalf sues a third party to recover damages from anyone believed responsible for the injury, a copy of any summons, complaint, or other document pertaining to the lawsuit must be sent to **us** as soon as possible.

Subrogation Rights

When **we** pay, an **injured person's** rights of recovery from anyone else become **ours** up to the amount **we** have paid, subject to any applicable limitations provided under Chapter 31 of the Michigan Insurance Code. The **injured person** must protect these rights and help **us** enforce them.

Trust Agreement

When **we** pay any person under this coverage:

1. **We** are entitled to repayment of amounts paid by **us**, exclusive of recoverable attorney's fees and expenses, out of the proceeds of any settlement that person recovers from any legally responsible party or insurer.
2. All rights of recovery against any legally responsible party or insurer must be maintained and preserved for **our** benefit.

Our rights under this provision are subject to any applicable limitations provided in Chapter 31 of the Michigan Insurance Code.

Non-Duplication of Benefits

Regardless of the number of **motor vehicles** insured, or the number of insurers or self-insurers providing security under the provisions of Chapter 31 of the Michigan Insurance Code, or the provisions of any other law providing for no-fault benefits for motor or other vehicle accidents, no person may recover duplicate benefits for the same expenses or loss.

If the **injured person** is entitled to recover benefits under more than one policy, the maximum recovery under all policies will not exceed the amount payable

under the provisions of the policy providing the highest dollar limit.

Any **person** who sustains **bodily injury** while operating or occupying a **motorcycle**, which is involved in a **motor vehicle accident** will claim Personal Protection Insurance benefits in the following order of priority:

1. The insurer of the owner or registrant of the **motor vehicle** involved in the accident.
2. The insurer of the operator of the **motor vehicle** involved in the accident.
3. The **motor vehicle** insurer of the operator of the **motorcycle** involved in the accident.
4. The **motor vehicle** insurer of the owner or registrant of the **motorcycle** involved in the accident.

If a person sustains **bodily injury** in a **motor vehicle accident** while an operator or passenger of a **motorcycle**, exclusion 7 does not apply if it conflicts with the order of priority for payment of Personal Protection Insurance benefits as described above.

If We Cannot Agree

If the **injured person** or **we** don't agree on that person's right to receive Allowable Expenses, Work Loss, or Survivor's Loss Benefits, or the amount, then at the written request of the insured, the disagreement may be submitted to arbitration. Unless it is agreed otherwise, arbitration will be conducted in the county in which the **injured person** resides.

The **injured person** will select one arbitrator. **We** will select another. The two arbitrators will select a third. If they cannot agree on a third arbitrator within 30 days, the judge of the court of record in the county of jurisdiction where arbitration is pending will choose the third arbitrator. The written decision of any two arbitrators will be awarded, however arbitrators may not award future benefits. The **injured person** will pay the arbitrator that person selects. **We** will pay the one **we** select. The expense of the third arbitrator and all other expenses of arbitration will be shared equally. However, attorney fees and fees paid to medical and other a pert witnesses are not considered arbitration expenses. These costs will be paid by the party incurring them. All rights under this provision are subject to applicable limitations provided in Chapter 31 of the Michigan Insurance Code.

A unanimous award of the arbitrators will be binding absent clear error of law which materially affected the outcome. **Allstate** will pay a nonunanimous award within 30 days of issuance, unless **Allstate** chooses to

Allstate Property and Casualty Insurance Company

reject the award within that time limit, thereby requiring the entire matter to be pursued through litigation.

Part IV

Motorcycle Medical Payments—Coverage CC

Allstate will pay to or on behalf of an insured person all reasonable expenses actually incurred by an insured person for necessary medical treatment, services or products actually rendered to that insured person. Ambulance, hospital, medical, surgical, X-ray, dental, orthopedic and prosthetic devices, pharmaceuticals, eyeglasses, hearing aids, funeral service expenses and professional nursing services are covered. Payments will be made only when **bodily injury** is caused by a **motorcycle accident**.

This coverage does not apply to **bodily injury** to any person to the extent that treatment is provided or benefits are paid or payable to or on behalf of an injured person under any workers compensation law.

Insured Persons

1. **You** and any **resident relative** who sustains **bodily injury** while in, on, getting onto or off of a **motorcycle**. The use of a non-owned **motorcycle** must be with the owner's permission.
2. Any other person who sustains **bodily injury** while in, on, getting onto or off of:
 - a) **your** insured **motorcycle** while being used by **you**, a **resident relative**, or any other person with **your** permission.
 - b) a non-owned **motorcycle** if the injury results from **your** operation or occupancy.
 - c) a non-owned **motorcycle** if the injury results from the operation on **your** behalf by **your** private chauffeur or domestic servant.
 - d) a non-owned **motorcycle** if the injury results from the operation or occupancy by a **resident relative**.

The use of non-owned **motorcycles** must be with the owner's permission.

Insured Motorcycles

1. Any **motorcycle** described on the Policy Declarations.
2. A replacement **motorcycle** **you** acquire ownership of during the Policy Period provided it replaces the insured **motorcycle**.
3. An additional **motorcycle** **you** acquire ownership of during the Policy Period. This **motorcycle** will

be covered for 30 days immediately after **you** become the owner. However, we will provide this coverage only if **Allstate** or one of its affiliates insures all other **motorcycles** **you** own, and **you** pay the additional premium.

Coverage will be continued beyond this 30 day period only if:

- a. **You** ask **us** to continue coverage within 30 days after **you** acquire the **motorcycle**;
 - b. **We** agree to continue coverage for this additional **motorcycle**; and
 - c. **You** pay the additional premium.
4. A substitute motorcycle, not owned by **you** or a **resident**, temporarily used while **your** insured **motorcycle** is being serviced or repaired, or if **your** insured **motorcycle** is stolen or destroyed.
 5. A non-owned **motorcycle** used with the owner's permission. This **motorcycle** must not be available or furnished for the regular use of an insured person.

Definitions

1. "**Allstate**," "**We**," "**Us**," or "**Our**" means the company as shown on the policy declarations.
2. "**Bodily Injury**" means physical harm to the body, sickness, disease, or death, but does not include:
 - a) Any venereal disease;
 - b) Herpes;
 - c) Acquired Immune Deficiency Syndrome (AIDS);
 - d) AIDS Related Complex (ARC);
 - e) Human Immunodeficiency Virus (HIV); or any resulting symptom, effect, condition, disease or illness related to a. through e. listed above.
3. "**Motorcycle**" means a vehicle:
 - a) having a saddle or seat for the use of the rider;
 - b) designed to travel on not more than three wheels in contact with the ground; however wheels on any attachment to the vehicle are not considered as wheels in contact with the ground;
 - c) which is equipped with a motor that exceeds 50 cubic centimeters piston displacement; and
 - d) which is not a moped as defined in the Michigan Compiled Laws Section 257.32b; and

Allstate Property and Casualty Insurance Company

- e) which is not an all terrain vehicle, snowmobile, dune buggy, golf cart or motorized wheelchair.
- 4. **"Motorcycle Accident"** means a loss involving the use of a **motorcycle** as a **motorcycle**. Losses which involve the ownership, operation, maintenance or use of a **motor vehicle** as a **motor vehicle** are not covered.
- 5. **"Motorcycle Business"** means the business or occupation of selling, repairing, testing, washing, servicing, storing or parking of **motorcycles**, including their pick-up, transfer between locations and delivery.
- 6. **"Motor Vehicle"** means a vehicle, including a trailer:
 - a) having more than two wheels;
 - b) operated or designed for operation on a public highway by power other than muscular power;
 - c) which is not a **motorcycle**;
 - d) which is not a moped as defined in the Michigan Compiled Laws Section 257.32b; and
 - e) which is not a farm tractor or other implement of husbandry which is not subject to the registration requirements of the Michigan Compiled Laws Section 257.216.
- 7. **"Motor Vehicle Accident"** means a loss involving the ownership, maintenance or use of a **motor vehicle** as a **motor vehicle**, regardless of whether the accident also involves the ownership, operation, maintenance or use of a **motorcycle** as a **motorcycle**.
- 8. **"Relative"** means a person related by blood, marriage or adoption.
- 9. **"Resident"** means a person who physically resides in **your** household with the intention to continue living there. **Your** unmarried dependent children while temporarily away from home will be considered **residents** if they intend to continue to live in **your** household.
- 10. **"You"** or **"Your"** means the policyholder named on the Policy Declarations and that policyholder's **resident** spouse.

Exclusions—What is not covered

This coverage does not apply to **bodily injury** to:

1. **you** or a **resident relative** while in, on, getting onto or off of a **motorcycle you** or a **resident relative** own but do not insure for this coverage.
2. any person while in, on, getting onto or off of an owned **motorcycle** while available for hire to the public.
3. any person, other than **you** or a **resident relative**, while using a non-owned **motorcycle**:
 - a) which is available for hire by the public;
 - b) in a **motorcycle business**; or
 - c) in any other business or occupation.

Coverage is provided to **you, your** private chauffeur or domestic servant while using a **motorcycle** in any other business or occupation.

4. any person to the extent that medical care is provided or medical expenses are paid or payable to or on behalf of such person under any workers compensation law.
5. any person resulting from any act of war, insurrection, rebellion or revolution.
6. an person whose injuries are sustained in a **motor vehicle accident**.

Limit of Liability

The limit shown on the Policy Declarations is the maximum **we** will pay for all expenses incurred by or for each person as the result of any one **motorcycle accident**.

The medical payments limit applies to each insured **motorcycle** as shown on the Policy Declarations. The insuring of more than one **person** or **motorcycle** under this policy will not increase **our** limit beyond the amount shown or anyone **motorcycle**, even though a separate premium is charged for each **motorcycle**. The limit also will not be increased if **you** have other **auto** or **motorcycle** insurance policies that apply.

If an insured person dies as the result of a covered **motorcycle** accident, **we** will pay the lesser of the following as a funeral service expenses benefit:

1. \$2,000;
2. the Coverage CC limit of liability stated on the Policy Declarations; or
3. the remaining portion of the Coverage CC limit of liability not expended for other medical expenses.

Allstate Property and Casualty Insurance Company

The funeral service expenses benefit does not increase and will not be paid in addition to, the limits of liability stated on the Policy Declarations for Coverage CC. This benefit is payable to the deceased insured person's spouse if a **resident** of the same household at the time of the accident. However, if the deceased is a minor, the benefit is payable to either parent if that parent is a **resident** of the same household at the time of the accident. In all other cases, the benefit is payable to the deceased insured person's estate.

There will be no duplication of payments made under the Bodily Injury Liability and Motorcycle Medical Payments coverages of this policy. All payments made to or on behalf of any person under this coverage will be considered as advance payments to that person. The damages payable under the Bodily Injury Liability coverage of this policy will be reduced by that amount.

If There Is Other Insurance

When this coverage applies to a substitute **motorcycle** or non-owned **motorcycle**, **Allstate** will pay only after all other collectible auto medical insurance has been exhausted.

When this coverage applies to a replacement **motorcycle** or additional **motorcycle**, this policy will not apply if **you** have other collectible **motorcycle** medical insurance.

Assistance and Cooperation

When **we** ask, an insured person must cooperate with **us** in the investigation, settlement and defense of any claim or lawsuit. If **we** ask, that person must also help **us** obtain payment from anyone who may be jointly responsible.

We can't be obligated if an insured person voluntarily takes any action or makes any payments other than for covered expenses for first aid to others.

Action Against Allstate

No one may sue **us** under this coverage unless there is full compliance with all the policy terms.

Subrogation Rights

When **we** pay, an insured person's rights of recovery from anyone else become **ours** up to the amount **we** have paid. The insured person must protect these rights and help **us** enforce them.

Proof Of Claim; Medical Reports

As soon as possible, any person making claim must give **us** written proof of claim. It must include all details **we** may need to determine the amounts payable. **We** may also require any person making a claim to submit to an

examination under oath and sign the transcript, as often as **we** reasonably require.

The injured person may be required to take medical examinations by physicians **we** choose, as often as **we** reasonably require. **We** must be given authorization to obtain medical reports and other records pertinent to the claim.

Part V Automobile Death Indemnity Insurance Coverage CM

Automobile Death Indemnity Insurance

Allstate will pay a benefit of \$10,000 if an insured person dies as a direct result of **bodily injury** caused by an **auto** accident. The injury must be sustained while the insured person is in, on, getting into or out of, or when struck as a pedestrian by, an **auto**, trailer or semi-trailer.

Benefits will be paid only if:

1. death occurs within 90 days of the **auto** accident; or
2. death occurs within 1 year of the **auto** accident and the **bodily injury** has continuously prevented the insured person from performing every duty pertaining to that person's occupation.

Any benefit payable under this coverage shall be excess over any other insurance collectible under this policy.

Insured Persons

The person or persons shown on the Policy Declarations as the named insured(s) and their resident spouse.

Definitions

1. "**Allstate**," "**We**," "**Us**," or "**Our**" means the company as shown on the policy declarations.
2. "**Auto**"—means a land motor vehicle designed for use on public roads.
3. "**Bodily Injury**" – means physical harm to the body, sickness, disease, or death, but does not include:
 - a) Any venereal disease;
 - b) Herpes;
 - c) Acquired Immune Deficiency Syndrome (AIDS);
 - d) AIDS Related Complex (ARC);

Allstate Property and Casualty Insurance Company

- e) Human Immunodeficiency Virus (HIV); or any resulting symptom, effect, condition, disease or illness related to a. through e. listed above.

Exclusions — What is not covered

This coverage does not apply to death:

1. sustained in the course of an occupation by any person while:
 - a) operating, loading, unloading, assisting on, or performing any other duties related to the use of a commercial **auto**, or an **auto** hired or rented to others for a charge.
 - b) repairing or servicing **autos**, including any related duties.
2. due to suicide committed while sane or insane.
3. due to any act of war, insurrection, rebellion, or revolution.
4. sustained while in, on, getting into or out of, or when struck as a pedestrian by:
 - a) a vehicle operated on rails or crawler-treads;
 - b) a vehicle or other equipment designed for use off public roads, while not on public roads; or
 - c) a vehicle when used as a residence or premises.

Payment Of Benefits; Autopsy

The benefit is payable to the deceased insured person's spouse. The spouse must be a resident of the same household as the deceased insured person at the time of the accident. If there is no surviving spouse, the benefit is payable to the deceased insured person's estate.

Allstate has the right and must be given the opportunity to make an autopsy where it is not prohibited by law.

Consent of Beneficiary

The beneficiary's consent is not required for cancellation, assignment, change of beneficiary, or any other change under this coverage.

Proof of Claim; Medical Reports

As soon as possible, any person making a claim must give **us** written proof of claim. It must include all details **we** may need to determine the amounts payable.

We must be given authorization to obtain medical reports and other records pertinent to the claim.

Part VI Uninsured Motorists Insurance—Coverage SS

Uninsured Motorists Insurance Coverage SS

We will pay damages which an insured person is legally entitled to recover from the owner or operator of an uninsured auto because of **bodily injury** sustained by an insured person. The **bodily injury** must be caused by accident and arise out of the ownership, maintenance or use of an uninsured auto. **We** will not pay any punitive or exemplary damages.

If an insured person sues a person believed responsible for the accident without giving **us** notice so as to give **us** adequate time to intervene in a lawsuit, **we** are not bound by any resulting judgment.

Insured Persons

1. **You** and any **resident relative**.
2. Any person while in, on, getting into or out of an insured auto with **your** permission.
3. Any other person who is legally entitled to recover because of **bodily injury** to **you**, a **resident relative**, or an occupant of **your** insured auto with **your** permission.

An insured auto is a motor vehicle:

1. described on the Policy Declarations. This includes the **motor vehicle you** replace it with. However, **you** must notify **us** within 30 days of the replacement. **You** must also pay any additional premium.
2. which is an additional private passenger auto or **utility auto you** become the owner of during the Policy Period. This auto will be covered if **we** insure all other private passenger autos or **utility autos you** own. **You** must, however, tell **us** within 30 days after **you** acquire the auto or **utility auto**. **You** must pay an additional premium.

Coverage will be continued beyond this 30 day period only if:

- a) **you** ask **us** to continue coverage within 30 days after **you** acquire the auto or **utility auto**;
- b) **we** agree to continue coverage for this additional auto or **utility auto**;

Allstate Property and Casualty Insurance Company

- c) **you** pay the additional premium.
- 3. not owned by **you** or a **resident relative**, being temporarily used while **your** insured auto is being serviced or repaired, or if **your** insured auto is stolen or destroyed. The auto must be used with the owner's permission. It also must not be available or furnished for the regular use of **you** or any **resident relative**.
- 4. not owned by **you** or a **resident relative**, if being operated by **you** with the owner's permission. The **motor vehicle** must not be available or furnished for the regular use of **you** or any **resident relative**.
- 5. not made available for public hire by an insured person.
- 3. a **motor vehicle** insured for bodily injury liability under Part I of this policy.
- 4. a **motor vehicle** or trailer operated on rails or crawler-treads.
- 5. a farm vehicle.
- 6. an all terrain vehicle, snowmobile, golf cart or other vehicle not required to maintain liability insurance under the motor vehicle code in the state in which the accident occurred.
- 7. an underinsured **motor vehicle** as defined under **Part VII — Underinsured Motorists Insurance (Coverage SU)** of this policy.

An uninsured auto is:

- 1. a **motor vehicle** which has no bodily injury liability bond or insurance policy in effect at the time of the accident.
- 2. a **motor vehicle** covered by a bond or insurance policy which does not provide at least the minimum financial security requirements of the state in which **your** insured auto is principally garaged.
- 3. a **motor vehicle** for which the insurer denies coverage, or the insurer becomes insolvent.
- 4. a hit-and-run **motor vehicle** which causes **bodily injury** to an insured person by physical contact with the insured person or with a vehicle occupied by that person. The identity of the operator and the owner of the vehicle must be unknown. The accident must be reported within 24 hours to a police, peace or judicial officer, to the Commissioner of Motor Vehicles of the State of Michigan or to the equivalent department in the state where the accident occurred. **We** must be notified within 30 days. If the insured person was occupying a vehicle at the time of the accident, **we** have a right to inspect it.

An uninsured auto is not:

- 1. a **motor vehicle** that is lawfully self-insured.
- 2. a **motor vehicle** owned by any federal, state or local government or agency.

Definitions

- 1. "**Allstate**," "**We**," "**Us**," or "**Our**" means the company as shown on the policy declarations.
- 2. "**Bodily Injury**" means physical harm to the body, sickness, disease, or death, but does not include:
 - a) Any venereal disease;
 - b) Herpes;
 - c) Acquired Immune Deficiency Syndrome (AIDS);
 - d) AIDS Related Complex (ARC);
 - e) Human Immunodeficiency Virus (HIV); or any resulting symptom, effect, condition, disease or illness related to a. through e. listed above.
- 3. "**Motor Vehicle**" means a land motor vehicle or trailer other than:
 - a) a vehicle or other equipment designed for use off public roads while not on public roads;
 - b) a vehicle operated on rails or crawler treads;
 - c) a vehicle when used as a residence or premises; or
 - d) a motorcycle, snowmobile, all terrain vehicle, dune buggy, golf cart or motorized wheelchair.
- 4. "**Relative**" means a person related by blood, marriage or adoption.
- 5. "**Resident**" means a person who physically resides in **your** household with the intention to continue living there. Unmarried dependent children while temporarily away from home will be

Allstate Property and Casualty Insurance Company

considered **residents** if they intend to continue to live in **your** household.

6. "**Utility Auto**" means an auto of the pick-up body, sedan delivery or panel truck type. This auto must have a gross vehicle weight of 10,000 pounds or less, according to manufacturer specifications.
7. "**You**" or "**Your**" means the policyholder named on the Policy Declarations and that policyholder's **resident** spouse.

Exclusions — What is not covered

Allstate will not pay any damages an insured person is legally entitled to recover because of:

1. **bodily injury** to any person who makes a settlement without **our** written consent.
2. **bodily injury** to any person injured while in, on, getting into or out of, or when struck by an uninsured **motor vehicle** which is either owned by **you** or a **resident relative** or furnished for or available for the regular use of **you** or a **resident relative**.
3. **bodily injury** while in, on, getting into or out of a **motor vehicle** **you** own which is insured for this coverage under another policy.
4. **bodily injury** for any claim that directly or indirectly benefits any workers' compensation or disability benefits insurer. This includes a self-insurer.
5. **bodily injury** to any person arising from the operation or use of a motorcycle or moped.
6. **bodily injury** arising from the operation or use of an all terrain vehicle, snowmobile, dune buggy, golf cart or other recreational vehicles.
7. **bodily injury** arising from the operation or use of farm vehicles.
8. **bodily injury** arising out of the participation in any prearranged, organized, or spontaneous:
 - a. racing contest;
 - b. speed contest; oruse of an **auto** at a track or course designed or used for racing or high performance driving;

or in practice or preparation for any contest or use of this type

Limits of Liability

The coverage limit shown on the Policy Declarations for:

1. "each person" is the maximum that **we** will pay for damages arising out of **bodily injury** to one person in any one **motor vehicle** accident, including damages sustained by anyone else as a result of that **bodily injury**.
2. "each accident" is the maximum that **we** will pay for damages arising out of **bodily injury** to two or more persons in any one **motor vehicle** accident. This limit is subject to the limit for "each person".

These limits are the maximum that **Allstate** will pay for any one **motor vehicle** accident regardless of the number of:

1. claims made;
2. vehicles involved in the accident; or
3. vehicles, persons or premiums shown on the Policy Declarations.

The Uninsured Motorists Insurance Coverage limits apply to each insured **motor vehicle** as shown on the Policy Declarations.

The limits of liability will be reduced by:

1. all amounts paid by or on behalf of the owner or operator of the uninsured auto or anyone else legally responsible, including partial payments made by an insolvent insurer.

This includes all sums paid under the Bodily Injury Liability coverage of this or any other auto insurance policy.
2. all amounts paid or payable, if for the same elements of loss, under any workers' compensation law, disability benefits law or Automobile No Fault benefits law or any similar automobile medical payments coverage.

Allstate Property and Casualty Insurance Company

Non-Duplication of Benefits

No insured person will receive duplicate benefits for the same elements of loss under this or any other uninsured motorists insurance, including approved plans of self-insurance.

We will not make a duplicate payment under this coverage for any element of loss for which payment has been made by or on behalf of persons or organizations who may be legally responsible.

Combining Limits of Two or More Automobiles is Prohibited

This provision applies only when the named insured has two or more autos insured in his name. If one of the autos is involved in an accident, the coverage limit will be shown on the Policy Declarations for that auto. If none of the autos is involved in the accident, the coverage limit for any single auto shown on the Policy Declarations may be selected.

In either case, coverage on any other auto may not be added to or stacked upon the coverage of the involved or selected auto.

If There Is Other Insurance

If the insured person was in, on, getting into or out of a vehicle **you** do not own, which is insured for this coverage under another policy, this coverage will be excess. This means that when the insured person is legally entitled to recover damages in excess of the other policy limit, **we** will pay only the amount by which the limit of liability of this policy exceeds the limit of liability of that policy.

If more than one policy applies to the accident on a primary basis, the total benefits payable to any one person will not exceed the maximum benefits payable under the policy with the highest limit for uninsured motorists coverage. **We** will bear our proportionate share of the damages payable with other uninsured motorists benefits. This applies no matter how many autos or auto policies may be involved, whether written by **Allstate** or another company.

Proof of Claim; Medical Reports

As soon as possible, any person making a claim must give **us** written proof of claim. It must include all details **we** may need to determine the amounts payable. **We** may also require any person making a

claim to submit to an examination under oath and sign the transcript, as often as **we** reasonably require.

The injured person may be required to take medical examinations by physicians **we** choose, as often as **we** reasonably require. **We** must be given authorization to obtain medical reports and other records pertinent to the claim.

At **our** request, the insured person must allow **us** to inspect any damaged property.

Trust Agreement

When **we** pay any person under this coverage:

1. **We** are entitled to repayment of amounts paid by **us** and related collection expenses out of the proceeds of any settlement or judgment that person recovers from any responsible party or insurer.
2. All rights of recovery against any responsible party or insurer must be maintained and preserved for **our** benefit.
3. Insured persons, if **we** ask, must take proper action in their name to recover damages from any responsible party or insurer. **We** will select the attorney. **We** will pay all related costs and fees.

We will not ask the insured person to sue the insured of an insolvent insurer.

Payment Of Loss By Allstate

Any amount due is payable to the insured person, to the parent or guardian of an insured minor, or to the spouse of any insured person who dies. However, **we** may pay any person lawfully entitled to recover the damages.

Assistance and Cooperation

We may require the insured person to take proper action to preserve all rights to recover damages from anyone responsible for the **bodily injury**. **We** may also require any person making claim to submit to questioning under oath and require that person to sign the transcript.

Allstate Property and Casualty Insurance Company

Action Against Allstate

Any legal action against **Allstate** must be brought within 3 years from the date of the accident. No one may sue **us** under this coverage unless there is full compliance with all the policy terms and conditions.

If We Cannot Agree

If the **insured person** and **we** do not agree on that person's right to receive any damages or the amount of that person's damages, then the disagreement will be resolved in a court of competent jurisdiction. Costs, including attorney fees, are to be paid by the party incurring them.

The **insured person** and **Allstate** can decide the disagreement through arbitration if the **insured person** and **Allstate** mutually agree in writing to proceed to arbitration. All expenses of the arbitration will be shared equally. However, attorney fees and fees paid to medical and other expert witnesses are not considered arbitration expenses. These costs will be paid by the party incurring them.

A demand for arbitration must be filed within 3 years from the date of the accident, or coverage under this part will not be afforded.

Part VII

Underinsured Motorists Insurance (Coverage SU)

We will pay damages which an insured person is legally entitled to recover from the owner or operator of an underinsured auto because of **bodily injury** sustained by an insured person. The **bodily injury** must be caused by an accident and arise out of the ownership, maintenance or use of an underinsured auto. **We** will not pay any punitive or exemplary damages.

If an insured person sues a person believed responsible for the accident without giving **us** notice so as to give **us** adequate time to intervene in a lawsuit, **we** are not bound by any resulting judgment.

Insured Persons

1. **You** and any **resident relative**.
2. Any person while in, on, getting into or out of an insured auto with **your** permission.

Any other person who is legally entitled to recover because of **bodily injury** to **you**, a **resident relative**, or an occupant of **your** insured auto with **your** permission.

An insured auto is a motor vehicle:

1. described on the Policy Declarations. This includes the **motor vehicle you** replace it with. However, **you** must notify **us** within 30 days of the replacement. **You** must also pay any additional premium.
2. which is an additional private passenger auto or **utility auto you** become the owner of during the Policy Period. This auto will be covered if **we** insure all other private passenger autos or **utility autos you** own. **You** must, however, tell **us** within 30 days after **you** acquire the auto or **utility auto**. **You** must pay an additional premium.

Coverage will be continued beyond this 30 day period only if:
 - a) **you** ask **us** to continue coverage within 30 days after **you** acquire the auto or **utility auto**;
 - b) **we** agree to continue coverage for this additional auto or **utility auto**;
 - c) **you** pay the additional premium.
3. not owned by **you** or a **resident relative**, being temporarily used while **your** insured auto is being serviced or repaired, or if **your** insured auto is stolen or destroyed. The auto must be used with the owner's permission. It also must not be available or furnished for the regular use of **you** or any **resident relative**.
4. not owned by **you** or a **resident relative**, if being operated by **you** with the owner's permission. The **motor vehicle** must not be available or furnished for the regular use of **you** or any **resident relative**.
5. not made available for public hire by an insured person.

An underinsured auto is:

a **motor vehicle** which has bodily injury liability protection in effect and applicable at the time of the accident in an amount equal to or greater than the amounts specified for bodily injury liability by the financial responsibility laws of Michigan, but less than the limits of liability for Underinsured Motorists Insurance shown on the Policy Declarations.

Allstate Property and Casualty Insurance Company

An underinsured auto is not:

1. a **motor vehicle** that is lawfully self-insured.
 2. a **motor vehicle** owned by any federal, state or local government or agency.
 3. a **motor vehicle** insured for bodily injury liability under Part I of this policy.
 4. a **motor vehicle** or trailer operated on rails or crawler-treads.
 5. a farm vehicle.
 6. an all terrain vehicle, snowmobile, golf cart or other vehicle not required to maintain liability insurance under the motor vehicle code in the state in which the accident occurred.
 7. an uninsured **motor vehicle** as defined under **Part V — Uninsured Motorists Insurance (Coverage SS)** of this policy.
5. "**Resident**" means a person who physically resides in **your** household with the intention to continue living there. Unmarried dependent children while temporarily away from home will be considered **residents** if they intend to continue to live in **your** household.
 6. "**Utility Auto**" means an auto of the pick-up body, sedan delivery or panel truck type. This auto must have a gross vehicle weight of 10,000 pounds or less, according to manufacturer specifications.
 7. "**You**" or "**Your**" means the policyholder named on the Policy Declarations and that policyholder's **resident** spouse.

Definitions

1. "**Allstate**," "**We**," "**Us**," or "**Our**" means the company as shown on the policy declarations.
2. "**Bodily Injury**" means physical harm to the body, sickness, disease, or death, but does not include:
 - a) Any venereal disease;
 - b) Herpes;
 - c) Acquired Immune Deficiency Syndrome (AIDS);
 - d) AIDS Related Complex (ARC);
 - e) Human Immunodeficiency Virus (HIV); or any resulting symptom, effect, condition, disease or illness related to a. through e. listed above.
3. "**Motor Vehicle**" means a land motor vehicle or trailer other than:
 - a) a vehicle or other equipment designed for use off public roads while not on public roads;
 - b) a vehicle operated on rails or crawler treads;
 - c) a vehicle when used as a residence or premises; or
 - d) a motorcycle, snowmobile, all terrain vehicle, dune buggy, golf cart or motorized wheelchair.
4. "**Relative**" means a person related by blood, marriage or adoption.
5. "**Exclusions — What is not covered**
Allstate will not pay any damages an insured person is legally entitled to recover because of:
 1. **bodily injury** to any person who makes a settlement without **our** written consent.
 2. **bodily injury** to any person injured while in, on, getting into or out of, or when struck by an underinsured **motor vehicle** which is either owned by **you** or a **resident relative** or furnished for or available for the regular use of **you** or a **resident relative**.
 3. **bodily injury** while in, on, getting into or out of a **motor vehicle you** own which is insured for this coverage under another policy.
 4. **bodily injury** for any claim that directly or indirectly benefits any workers' compensation or disability benefits insurer. This includes a self-insurer.
 5. **bodily injury** to any person arising from the operation or use of a motorcycle or moped.
 6. **bodily injury** arising from the operation or use of an all terrain vehicle, snowmobile, dune buggy, golf cart or other recreational vehicles.
 7. **bodily injury** arising from the operation or use of farm vehicles.
 8. **bodily injury** arising out of the participation in any prearranged, organized, or spontaneous:
 - a. racing contest;
 - b. speed contest; or

Allstate Property and Casualty Insurance Company

- c. use of an **auto** at a track or course designed or used for racing or high performance driving; or in practice or preparation for any contest or use of this type.

Limits of Liability

The coverage limit shown on the Policy Declarations for:

1. "each person" is the maximum that **we** will pay for damages arising out of **bodily injury** to one person in any one **motor vehicle** accident, including damages sustained by anyone else as a result of that **bodily injury**.
2. "each accident" is the maximum that **we** will pay for damages arising out of **bodily injury** to two or more persons in any one **motor vehicle** accident. This limit is subject to the limit for "each person".

These limits are the maximum that **Allstate** will pay for any one **motor vehicle** accident regardless of the number of:

1. claims made;
2. vehicles involved in the accident; or
3. vehicles, persons or premiums shown on the Policy Declarations.

The Underinsured Motorists Insurance limits apply to each insured **motor vehicle** as shown on the Policy Declarations.

The limits of liability will be reduced by:

1. all amounts paid by or on behalf of the owner or operator of the underinsured auto or anyone else responsible, including partial payments made by an insolvent insurer. This includes all sums paid under the Bodily Injury Liability coverage of this or any other auto insurance policy.
2. all amounts paid or payable, if for the same elements of loss, under any workers' compensation law, disability benefits law or Automobile No Fault benefits law or any similar automobile medical payments coverage.

We are not obligated to make any payment for **bodily injury** under this coverage which arises out of an accident involving the use of an underinsured auto until after the limits of liability for all liability protection in effect and applicable at the time of the

accident have been exhausted by payment of judgments or settlements.

Non-Duplication of Benefits

No insured person will receive duplicate benefits for the same elements of loss under this or any other underinsured motorists insurance, including approved plans of self-insurance.

We will not make a duplicate payment under this coverage for any element of loss for which payment has been made by or on behalf of persons or organizations who may be legally responsible.

Combining Limits of Two or More Automobiles is Prohibited

This provision applies only when the named insured has two or more autos insured in his name. If one of the autos is involved in an accident, the coverage limit will be shown on the Policy Declarations for that auto. If none of the autos is involved in the accident, the coverage limit for any single auto shown on the Policy Declarations may be selected.

In either case, coverage on any other auto may not be added to or stacked upon the coverage of the involved or selected auto.

If There Is Other Insurance

If the insured person was in, on, getting into or out of a vehicle **you** do not own, which is insured for this coverage under another policy, this coverage will be excess. This means that when the insured person is legally entitled to recover damages in excess of the other policy limit, **we** will pay only the amount by which the limit of liability of this policy exceeds the limit of liability of that policy.

If more than one policy applies to the accident on a primary basis, the total benefits payable to any one person will not exceed the maximum benefits payable under the policy with the highest limit for underinsured motorists coverage. **We** will bear our proportionate share of the damages payable with other underinsured motorists' benefits. This applies no matter how many autos or auto policies may be involved, whether written by **Allstate** or another company.

Proof of Claim; Medical Reports

As soon as possible, any person making a claim must give **us** written proof of claim. It must include all details **we** may need to determine the amounts

Allstate Property and Casualty Insurance Company

payable. **We** may also require any person making a claim to submit to an examination under oath and sign the transcript, as often as **we** reasonably require. The injured person may be required to take medical examinations by physicians **we** choose, as often as **we** reasonably require. **We** must be given authorization to obtain medical reports and other records pertinent to the claim.

At **our** request, the insured person must allow **us** to inspect any damaged property.

Trust Agreement

When **we** pay any person under this coverage:

1. **We** are entitled to repayment of amounts paid by **us** and related collection expenses out of the proceeds of any settlement or judgment that person recovers from any responsible party or insurer.
2. All rights of recovery against any responsible party or insurer must be maintained and preserved for **our** benefit.
3. Insured persons, if **we** ask, must take proper action in their name to recover damages from any responsible party or insurer. **We** will select the attorney. **We** will pay all related costs and fees.

We will not ask the insured person to sue the insured of an insolvent insurer.

Payment Of Loss By Allstate

Any amount due is payable to the insured person, to the parent or guardian of an insured minor, or to the spouse of any insured person who dies. However, **we** may pay any person lawfully entitled to recover the damages.

Assistance and Cooperation

We may require the insured person to take proper action to preserve all rights to recover damages from anyone responsible for the **bodily injury**. **We** may also require any person making claim to submit to questioning under oath and require that person to sign the transcript.

Action Against Allstate

Any legal action against **Allstate** must be brought within 3 years from the date of the accident. No one may sue **us** under this coverage unless there is full compliance with all the policy terms and conditions.

If We Cannot Agree

If the **insured person** and **we** do not agree on that person's right to receive any damages or the amount of that person's damages, then the disagreement will be resolved in a court of competent jurisdiction. Costs, including attorney fees, are to be paid by the party incurring them.

The **insured person** and **Allstate** can decide the disagreement through arbitration if the **insured person** and **Allstate** mutually agree in writing to proceed to arbitration. All expenses of the arbitration will be shared equally. However, attorney fees and fees paid to medical and other expert witnesses are not considered arbitration expenses. These costs will be paid by the party incurring them.

A demand for arbitration must be filed within 3 years from the date of the accident, or coverage under this part will not be afforded.

Part VIII—Protection Against Loss To The Auto

The following coverages apply when indicated on the Policy Declarations. Additional payments, **autos** insured, definitions, exclusions and other information applicable to all these coverages appear beginning on page 22.

Limited Collision Insurance Coverage DA

Allstate will pay for collision damage to **your** insured **auto** if the operator of **your** insured **auto** is not more than 50% at fault for the accident which resulted in the damage .

Determination of whether **you** are legally entitled to recover for the loss and, if so, the amount **you** are entitled to recover, will be made by agreement between **you** and **us**. If **you** and **we** don't agree, then upon the written request of either, the disagreement will be settled by arbitration.

Loss caused by birds or animals is not a collision. Glass breakage, whether or not caused by collision, is not payable under this coverage.

This coverage does not apply to any loss to **your** insured **auto** that is payable under any property protection insurance.

Allstate Property and Casualty Insurance Company

Broad Form Collision Insurance Coverage DB

Allstate will pay for collision damage to **your** insured **auto**, less the deductible amount stated on the Policy Declarations.

If the operator of **your** insured **auto** is not more than 50% at fault for the accident which resulted in the collision damage, then the deductible for Coverage DB indicated on the Policy Declarations will not be subtracted.

Determination as to whether **you** are legally entitled to recover for the loss and, if so, the amount **you** are entitled to recover, will be made by agreement between **you** and **us**. If **you** and **we** don't agree, then upon the written request of either, the disagreement will be settled by arbitration. However, the deductible amount **will not** be charged regardless of operator fault, if **your auto** is involved in a collision with another **auto** insured with **us**.

Loss caused by birds or animals is not a collision. Glass breakage, whether or not caused by collision, is not payable under this coverage.

This coverage does not apply to any loss to **your** insured **auto** that is payable under any property protection insurance.

Standard Collision Insurance Coverage DD

Allstate will pay for collision damage to **your** insured **auto** less the deductible stated on the Policy Declarations.

The deductible will not be charged if **your auto** is involved in a collision with another **auto** insured by **us**.

This coverage does not apply to any loss to **your** insured **auto** that is payable under any property protection insurance.

Loss caused by birds or animals is not a collision. Glass breakage, whether or not caused by collision, is not payable under this coverage.

Auto Comprehensive Insurance Coverage HH

Allstate will pay for direct and accidental loss to **your** insured **auto** or a non-owned **auto** not caused by collision. Loss caused by missiles, falling objects, fire, theft, larceny, explosion, earthquake, windstorm, hail, water, flood, malicious mischief or vandalism, riot or civil commotion is payable under this coverage. Loss due to hitting or being hit by a bird or an animal is payable under this coverage.

Glass breakage, whether or not caused by collision, is payable under this coverage. The deductible amount will not be subtracted from the loss payment for loss to window glass if:

1. "Full Glass" coverage is indicated on the Policy Declarations for that insured auto; or
2. A loss payment is made, or would be made but is not because the deductible exceeds the amount of loss, under Collision Coverage DA, DB, or DD for other loss to that insured **auto** for the same accident.

By agreement between **you** and Allstate, the deductible amount will not be subtracted from a glass breakage loss if the glass is repaired rather than replaced.

Auto Fire, Lightning, Transportation, and Theft Insurance Coverage HG

Allstate will pay for direct and accidental loss to **your** insured **auto** or a non-owned **auto** caused by:

1. fire or lightning.
2. smoke or smudge due to a sudden, unusual and faulty operation of any fixed heating equipment serving the premises in which the **auto** is located.
3. stranding, sinking, burning, collision or derailment of any conveyance in or upon which the **auto** is being transported on land or on water.
4. theft or larceny.

Towing and Labor Costs Coverage JJ

Allstate will pay costs for labor done at the initial place of disablement of **your** insured **auto** or a non-owned **auto**. We will also pay for towing made necessary by the disablement. The total limit of our liability for each loss is shown on the Policy Declarations.

Rental Reimbursement Coverage Coverage UU

If **you** have collision or comprehensive coverage under this policy and the loss involves either coverage, Allstate will repay **you** for **your** cost of renting an **auto** from a rental agency or garage. We will not pay more than the dollar amount per day, shown on the Policy Declarations. We will not pay mileage charges.

If **your** insured **auto** is stolen, payment for transportation expenses will be made under the terms of paragraph 3. under "Additional Payments Allstate Will Make". However, the limits for this coverage will apply if they exceed the limits stated under "Additional Payments Allstate Will Make".

Allstate Property and Casualty Insurance Company

If **you** insured **auto** is disabled by a collision or comprehensive loss, coverage starts the day after the loss. If it is driveable, coverage starts the day after the **auto** is taken to a garage for repairs.

Coverage ends when whichever of the following occurs first:

1. if the **auto** is disabled by a collision or comprehensive loss, completion of repairs or replacement of the **auto**;
2. if the **auto** is stolen, or is a total loss, when **we** offer settlement or **your auto** is returned to use; or
3. thirty full days of coverage.

Sound System Coverage Coverage ZA

Allstate will pay for loss to a **sound system** permanently installed in **your auto** by bolts, brackets or other means, its antenna and other apparatus in or on **your auto** used specifically with that system.

This coverage applies only if comprehensive insurance is in effect under this policy. Coverage ZA makes **sound systems**, and antennas or other apparatus used specifically with them insured property under the terms of both collision and comprehensive insurance. The limit of **our** liability is shown on the Policy Declarations.

Tape Coverage Coverage ZZ

Allstate will pay for loss to any tapes or similar items used with **auto sound systems**. Coverage applies to property **you** or a **resident relative** own that is in or on **your** insured **auto** at the time of loss. The total limit of our liability for each loss is shown on the Policy Declarations.

This coverage applies only if **you** have comprehensive coverage under this policy. Coverage ZZ makes tapes or similar items insured property under **your** comprehensive insurance.

Additional Payments Allstate Will Make

1. Allstate will pay up to \$200 for loss of clothing and personal luggage, including its contents, belonging to **you** or a **resident relative** while it is in or upon **your** insured **auto**. This provision does not apply if the insured **auto** is a **travel-trailer**.

This coverage applies only when:

- a) The loss is caused by collision and **you** have purchased collision coverage.
 - b) The entire **auto** is stolen, and **you** have purchased comprehensive coverage.
 - d) Physical damage is done to the **auto** and to the clothing and luggage caused by earthquake,
3. A substitute four wheel private passenger **auto** or **utility auto**, not owned by **you** or a **resident**, temporarily used with the permission of the owner while **your** insured **auto** is being serviced or repaired, or if **your** insured **auto** is stolen or destroyed.
 4. A non-owned four wheel private passenger **auto** or **utility auto** used by **you** or a **resident relative** with the owner's permission. This **auto** must not be available or furnished for the regular use of **you** or any **resident**.

explosion, falling objects, fire, lightning or flood and **you** have purchased comprehensive insurance.

2. If **you** have purchased collision or comprehensive insurance under this policy, Allstate will pay general average and salvage charges imposed when **your** insured **auto** is being transported.
3. If **you** have comprehensive coverage under this policy, Allstate will repay up to \$10 a day but not more than \$300 for each loss for the cost of renting an **auto** from any rental agency or garage, when the entire **auto** is stolen. This coverage begins 48 hours after **you** report the theft to **us**, but ends when **we** offer settlement or **your auto** is returned to use.

Insured Autos

1. Any **auto** described on the Policy Declarations. This includes the four-wheel private passenger **auto** or **utility auto** **you** replace it with if **you** notify Allstate within 30 days of the replacement and pay the additional premium. Coverage will not continue after 30 days if **we** are not notified of the replacement **auto**.
2. An additional four-wheel private passenger **auto** or **utility auto** **you** acquire ownership of during the Policy Period will be covered for 30 days immediately after **you** become the owner. However, **we** will provide this coverage only if Allstate or one of its affiliates insure all other private passenger **autos** or **utility autos** **you** own, and **you** pay the additional premium.

Coverage will be continued beyond this 30 day period only if:

- a) **you** ask **us** to continue coverage within 30 days after **you** acquire the **auto** or **utility auto**;
- b) **we** agree to continue coverage for this additional **auto** or **utility auto**; and
- c) **you** pay the additional premium.

Allstate Property and Casualty Insurance Company

5. A trailer while attached to an insured **auto**. This trailer must be designed for use with a private passenger **auto**. This trailer can't be used for business purposes with other than a private passenger **auto** or **utility auto**. Home, office, store, display or passenger trailers, **travel-trailers** or **camper units** are not covered unless described on the Policy Declarations.

Definitions

1. "**Allstate**," "**We**," "**Us**," or "**Our**" means the company as shown on the policy declarations.
2. "**Auto**" means a land motor vehicle designed for use on public roads.
3. "**Camper Unit**" means a demountable unit designed to be used as temporary living quarters, including all equipment and accessories built into and forming a permanent part of the unit. A camper unit does not include:
 - a) caps, tops or canopies designed for use as protection of the cargo area of a **utility auto**; or
 - b) radio or television antennas, awnings, cabanas or equipment designed to create additional off-highway living facilities.
4. "**Motor Home**" means a self-propelled land motor vehicle equipped, designed or used as a living quarters.
5. "**Relative**" means a person related by blood, marriage or adoption.
6. "**Resident**" means a person who actually resides in **your** household with the intention to continue living there. Unmarried dependent children temporarily away from home will be considered **residents** if they intend to continue to live in **your** household.
7. "**Sound System**" means any device within the insured **auto** designed for:
 - a) voice or video transmission, or for voice, video or radar signal reception;
 - b) recording or playing back recorded material; or
 - c) supplying power to cellular or similar telephone equipment and which is installed in a location other than the one designed by the **auto's** manufacturer for that device.
8. "**Travel-trailer**" means a trailer of the house, cabin or camping type equipped or used as a living quarters.
9. "**Utility Auto**" means an **auto** of the pick-up body, sedan delivery or panel truck type. This **auto** must

have a gross vehicle weight of 10,000 pounds or less, according to manufacturer's specifications.

10. "**You**" or "**Your**" means the policyholder named on the Policy Declarations and that policyholder's **resident** spouse.
11. "**Custom parts or equipment**" means equipment, devices, accessories, enhancements, and changes, other than those offered by the manufacturer of the **auto** specifically for that model, or installed by the **auto** dealership when new as part of the original sale, which alter the appearance or performance of an **auto**. This does not include items designed for assisting disabled persons or items covered under Sound System Coverage.

Exclusions—What is not covered

These coverages do not apply to:

1. loss intended by, or reasonably expected to result from, the intentional or criminal acts or omissions of an insured person. This exclusion applies even if:
 - a. an insured person lacks the mental capacity to control or govern his or her conduct;
 - b. an insured person is temporarily insane or temporarily lacks the mental capacity to control or govern his or her conduct or is temporarily unable to form any intent to cause the loss;
 - c. loss is of a different kind or degree than intended or reasonably expected; or
 - d. such loss is sustained by a different person than intended or reasonably expected.

This exclusion applies regardless of whether an insured person is actually charged with, or convicted of, a crime.

This exclusion precludes coverage for any insured person under the policy regardless of whether the person seeking coverage participated in any way in the intentional or criminal acts or omissions.

2. any **auto** used for the transportation of people or property for a fee. This exclusion does not apply to shared-expense car pools.
3. any damage or loss resulting from any act of war, insurrection, rebellion or revolution.
4. loss to any non-owned **auto** used in **auto** business operations such as repairing, servicing, testing, washing, parking, storing or selling of **autos**.
5. loss due to radioactive contamination.

Allstate Property and Casualty Insurance Company

6. damage resulting from wear and tear, freezing, mechanical or electrical breakdown. Coverage is provided for mechanical or electrical breakdown resulting from collision or comprehensive losses. Burning of wiring used to connect electrical components is covered.
7. tires unless stolen or damaged by fire, malicious mischief or vandalism. Coverage is provided if the damage to the tire occurs at the same time and from the same cause as other loss covered by this policy.
8. loss to any **sound system** as defined, within your **auto**. Coverages under this Part also will not apply to any apparatus in or on the **auto** designed for use with that system.

This exclusion will not apply if **you** have purchased Coverage ZA.
9. loss to any tapes or similar items, unless **you** have purchased Tape Coverage under this policy. (Coverage ZZ).
10. loss to a **camper unit** whether or not mounted. This exclusion will not apply if the **camper unit** is described on the Policy Declarations.
11. loss to appliances, furniture, equipment and accessories that are not built into or forming a permanent part of a **motor home** or **travel-trailer**.
12. loss to **your motor home** or **your travel-trailer** while rented to anyone else unless a specific premium is shown on the Policy Declarations for the rented vehicle.
13. under Coverages DA, DB or DD:
 - a) losses caused by birds or animals.
 - b) glass breakage, whether or not caused by collision.
14. loss or damage arising out of participation in any prearranged, organized, or spontaneous:
 - a. racing contest;
 - b. speed contest; or
 - c. use of an **auto** at a track or course designed or used for racing or high performance driving;or use in practice or preparation for any contest of this type.
15. loss to any **custom parts or equipment** designed for racing which is installed in or upon **your insured auto**. This includes, but is not limited to,

nitrous oxide systems, roll cages, and air intake modifications.

Right To Appraisal

Both **you** and **Allstate** have a right to demand an appraisal of the loss. Each will appoint and pay a qualified appraiser. Other appraisal expenses will be shared equally. The two appraisers, or a judge of a court of record, will choose an umpire. Each appraiser will state the actual cash value and the amount of loss. If they disagree, they'll submit their differences to the umpire. A written decision by any two of these three persons will determine the amount of the loss.

Payment Of Loss By Allstate

Allstate may pay for the loss in money, or may repair or replace the damaged or stolen property. **We** may, at any time before the loss is paid or the property is replaced, return at **our** own expense any stolen property, either to **you** or at **our** option to the address shown on the Policy Declarations, with payment for any resulting damage. **We** may take all or part of the property at the agreed or appraised value. **We** may settle any claim or loss either with **you** or the owner of the property.

If a loss or damage occurs which may require repair of the insured **auto** or replacement of any part(s) while the **auto** is in Mexican territory, the basis for adjustment of the claim will be as follows:

The repair or replacement costs will not exceed the cost of having the repairs or replacements made at the nearest point in the United States where the repairs or replacements can be made. The cost for towing, transportation and salvage operations of the **auto** while within Mexican territory are not covered under this policy.

Limits of Liability

Allstate's limit of liability is the least of:

1. the actual cash value of the property or damaged part of the property at the time of loss, which may include a deduction for depreciation; or
2. the cost to repair or replace the property or part to its physical condition at the time of loss using parts produced by or for the vehicle's manufacturer, or parts from other sources, including, but not limited to, non-original equipment manufacturers, subject to; all applicable state laws and regulations; or
3. \$500, if the loss is to a covered trailer not described on the Policy Declarations.

Any applicable deductible amount is then subtracted.

Allstate Property and Casualty Insurance Company

If **Allstate**, at its option, elects to pay for the cost to repair or replace the property or part, **Allstate's** liability does not include any decrease in the property's value, however measured, resulting from the loss and/or repair or replacement. If repair or replacement results in the betterment of the property or part, **you** may be responsible, subject to applicable state laws and regulations, for the amount of the betterment.

The maximum **Allstate** will pay for a covered loss to any **custom parts or equipment** is \$1000.

An **auto** and attached trailer are considered separate **autos**, and **you** must pay the deductible, if any, on each. Only one deductible will apply to an **auto** with a mounted **camper unit**. If unmounted, a separate deductible will apply to the **auto** and **camper unit**.

If There Is Other Insurance

If there is other insurance covering the loss at the time of the accident, **we** will pay only **our** share of any damages. **Our** share is determined by adding the limits of this insurance to the limits of all other insurance that applies on the same basis and finding the percentage of the total that **our** limits represent.

When this insurance covers a substitute **auto** or non-owned **auto**, **we** will pay only after all other collectible insurance has been exhausted.

When this insurance covers a replacement **auto** or additional **auto**, this policy **will not** apply if **you** have other collectible insurance.

When more than one coverage is applicable to the loss, **you** may recover under the broadest coverage but not both. However, any Coverage ZA deductible will always apply.

Action Against Allstate

No one may sue **us** under this coverage unless there is full compliance with all the policy terms, including appraisal.

Subrogation Rights

When **we** pay, **your** rights of recovery from anyone else become **ours** up to the amount **we** have paid. **You** must protect these rights and help **us** enforce them.

What You Must Do If There Is A Loss

If **you** have an accident, call **your** agent.

1. As soon as possible any **person** making claim must give **us** written proof of loss. It must include all details reasonably required by **us**. **We** have the right to inspect the damaged property. **We** may require any person making claim to file with **us** a

sworn proof of loss. **We** may also require that person to submit to examinations under oath.

2. Protect the **auto** from further loss. **We** will pay reasonable expenses to guard against further loss. If **you** don't protect the **auto**, further loss is not covered.
3. Report all theft losses promptly to the police.

Loss Payable Clause

If a Lienholder and/or Leaseholder is shown on the Policy Declarations, **we** may pay loss or damage under this policy to **you** and the Lienholder and/or Leaseholder as its interest may appear, except:

- 1) Where fraud, misrepresentation, material omission, or intentional damage has been committed by or at the direction of **you**.
- 2) When the vehicle(s) is intentionally damaged, destroyed or concealed by or at the direction of **you** or any owner.
- 3) When **you** or any owner makes fraudulent statement(s) or engages in fraudulent conduct in connection with any accident or loss for which coverage is sought.

The Lienholder and/or Leaseholder must notify **us** of any change in ownership or hazard that is known.

If **you** or any owner fails to render proof of loss within the time granted in the policy, the Lienholder and/or Leaseholder must do so within sixty days in the form and manner described in the policy. The Lienholder and/or Leaseholder are subject to the provisions of the policy relating to appraisal, time of payment and bringing suit.

We may cancel this policy according to its terms. **We** will notify the Lienholder and/or Leaseholder at least ten days prior to the date of cancellation that the cancellation is effective as to the interest of the Lienholder and/or Leaseholder.

Whenever **we** pay the Lienholder and/or Leaseholder any sum for loss or damage under this policy, **we** will be subrogated to the extent of payment to the rights of the party to whom payment was made. However, these subrogation provisions must in no way impair the rights of the Lienholder and/or Leaseholder to recover the full amount of its claim from the insured.

The Lienholder or Leaseholder has no greater rights under the provisions of the policy than the insured.

Allstate Property and Casualty Insurance Company

INDEX OF POLICY PROVISIONS

Action Against Allstate

- Liability 8
- Property Protection Coverage 9
- Personal Protection Insurance Benefits 14
- Motorcycle Medical Payments 18
- Uninsured Motorists Insurance 23
- Underinsured Motorists Insurance 26
- Physical Damage to the Auto 31

Additional Payments Allstate Will Make

- Liability 6
- Physical Damage to the Auto 28

Assistance And Cooperation

- Liability 8
- Motorcycle Medical Payments 18
- Uninsured Motorists Insurance 22
- Underinsured Motorists Insurance 26

Cancellation 4

Changes 3

Combining Limits Of Two Or More Autos Prohibited

- General 4
- Uninsured Motorists Insurance 22

Consent of Beneficiary.....19

Coordination Of Benefits 13

Definitions

- Liability 7
- Property Protection Coverage 9
- Personal Protection Insurance Benefits 11
- Motorcycle Medical Payments 16
- Auto Death Indemnity 18
- Uninsured Motorists Insurance 20
- Underinsured Motorists Insurance 24
- Physical Damage to the Auto 29

Duty To Report Policy Changes 3

Excluded Drivers 4

Exclusions — What is not covered

- Liability 7
- Property Protection Coverage 9
- Personal Protection Insurance Benefits 12
- Motorcycle Medical Payments 17
- Auto Death Indemnity 19
- Uninsured Motorists Insurance 21
- Underinsured Motorists Insurance 24
- Physical Damage to the Auto 29

Financial Responsibility 8

If There Is Other Insurance

- Liability 8
- Motorcycle Medical Payments 18
- Uninsured Motorists 22
- Underinsured Motorists Insurance 25
- Physical Damage to the Auto 31

If We Cannot Agree

- Personal Protection Insurance Benefits 15
- Uninsured Motorists 23
- Underinsured Motorists Insurance 26

Insured Autos

- Liability 7
- Physical Damage to the Auto 28

Insured Motorcycles 16

Insured Persons

- Liability 6
- Motorcycle Medical Payments 16
- Auto Death Indemnity 18
- Uninsured Motorists Insurance 19
- Underinsured Motorists Insurance 236

Insuring Agreements

- Liability 4
- Property Protection Coverage 7
- Personal Protection Insurance Benefits 9
- Motorcycle Medical Payments 15
- Auto Death Indemnity 26
- Uninsured Motorists Insurance 17
- Underinsured Motorists Insurance 20
- Physical Damage to the Auto 20

Limited Mexico Coverage 3

Limits of Liability

- Liability 8
- Property Protection Coverage 9
- Personal Protection Insurance Benefits 14
- Motorcycle Medical Payments 17
- Uninsured Motorists Insurance 21
- Underinsured Motorists Insurance 25
- Physical Damage to the Auto 30

Medicare Provision 4

Non-Duplication of Benefits

- Property Protection Coverage 10
- Personal Protection Insurance Benefits 15

Notice To Allstate

- General 5
- Property Protection Coverage 10
- Personal Protection Insurance Benefits 15

Allstate Property and Casualty Insurance Company

Payments of Benefits, Autopsy..... 19

Payment Of Loss By Allstate

- Uninsured Motorists 22
- Underinsured Motorists Insurance 26
- Physical Damage to the Auto 30

Proof Of Claim; Medical Reports

- Personal Protection Insurance benefits 14
- Motorcycle Medical Payments 18
- Auto Death Indemnity 19
- Uninsured Motorists Insurance 22
- Underinsured Motorists Insurance 256

Provisional Premium 4

Right To Appraisal 30

Subrogation Rights

- Personal Protection Insurance Benefits 15
- Medical Payments Coverage 18
- Physical Damage to the Auto 31

Transfer 4

Trust Agreement

- Personal Protection Insurance Benefits 15
- Uninsured Motorists Insurance 22
- Underinsured Motorists Insurance 26

What To Do In Case Of An Auto

Accident Or Claim

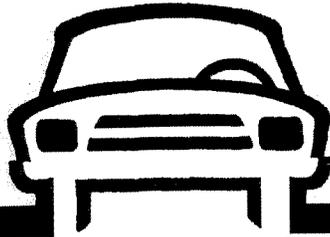
- Liability 9
- Proper Protection Coverage 10
- Personal Protection Insurance Benefits 14
- Motorcycle Medical Payments 18
- Uninsured Motorists Insurance 22
- Underinsured Motorists Insurance 25
- Physical Damage to the Auto 31

What Law Will

Apply.....5

When And Where The Policy Applies 5

EXHIBIT 2



INSURANCE POLICY



(Edition 6-08)

Auto Club Insurance Association • Auto Club Group Insurance Company • MemberSelect Insurance Company • Dearborn, Michigan 48126

THIS POLICY IS ISSUED BY THE INSURANCE COMPANY NAMED ON THE DECLARATION CERTIFICATE.

GENERAL INSURING AGREEMENT

In exchange for the premium deposit, or premium payment, **we** agree with the **Principal Named Insured** to provide insurance for the Coverages and Limits of Liability stated on the Declaration Certificate made a part of this policy. This agreement is subject to all the terms of this policy which is issued in reliance upon the declarations made in the application and contained on the Declaration Certificate. The Declaration Certificate together with the policy form and any endorsements completes the policy. If this policy form is revised, it will be amended or replaced at the beginning of the next policy term.

WHAT YOU MUST DO IN CASE OF CAR ACCIDENT OR LOSS

NOTICE

1. In the event of an accident, occurrence or **loss**, **you** (or someone acting for **you**) must inform **us** or **our** authorized agent promptly giving:
 - a. the time, place and other facts;
 - b. the names and addresses of all involved persons and witnesses.
2. If it is not possible to do this promptly, it must be done as soon as it is reasonably possible.

OTHER DUTIES

1. A person claiming any coverage under this policy must:
 - a. cooperate with and assist **us** in any matter concerning a claim or suit;
 - b. send any legal papers received relating to any claim or suit to **us** promptly;
 - c. provide any written Proofs of Loss **we** require. Submit to examinations by **us**, under oath, as often as **we** may reasonably require.
 - d. allow **us** to examine any other persons or witnesses, under oath, while not in the presence of any person claiming, or who may claim, any coverage under this policy. This must be done as often as **we** may reasonably require.
2. A person claiming **Personal Protection Insurance** or **Uninsured/Underinsured Motorists Coverage** must:
 - a. give **us** written notice of any injury;

- b. submit to physical and mental examinations at **our** expense by doctors **we** select as often as **we** may reasonably require;
- c. authorize **us** to obtain medical, wage and other records;
- d. give **us** a copy of any legal papers served in connection with any lawsuit started by **you** or **your** legal representative to recover damages for **bodily injury** against a person or organization who may be liable; under **Uninsured/Underinsured Motorists Coverage** make a written report of a hit-and-run accident within 24 hours to a law enforcement agency; allow **us** to inspect the **car occupied** by the **insured person**, if that **car** is within the possession and control of the **insured person** or his or her representative; file with **us** within 30 days written notice of the hit-and-run accident.

3. A person claiming **Car Damage Coverages** must:
 - a. immediately report theft of the **insured car**, its **equipment** or **extra equipment** to a law enforcement agency;
 - b. when required, prior to payment of a claim for damages caused by fire, submit a report to the fire department in the locale where the fire occurred;
 - c. take reasonable steps to protect the **insured car** from further damage. **We** will pay **your** reasonable expenses for this. The **loss** must be covered by **Car Damage Coverages**. **We** will not pay for further damage if **you** fail to protect the **insured car**;
 - d. allow **us** to inspect and appraise the damaged **insured car** before its repair or disposal if that car is within the possession and control of the **insured person** or his or her representative.

CONTENTS OF POLICY

	Page		Page
GENERAL INSURING AGREEMENT	1	Arbitration	12
WHAT YOU MUST DO IN CASE OF CAR ACCIDENT OR LOSS		PART V-CAR DAMAGE COVERAGES	
Notice	1	Definitions	13
Other Duties	1	Insuring Agreements:	
DEFINITIONS USED THROUGHOUT THIS POLICY	3	Comprehensive Coverage	13
PART I-BODILY INJURY AND PROPERTY DAMAGE LIABILITY COVERAGES		Limited Collision Coverage	13
Definition	4	Basic Collision Coverage	14
Insuring Agreement	4	Broad Collision Coverage	14
Additional Payments	4	Car Rental Coverage	14
Exclusions	4	Extra Equipment Coverage	14
Broadened Other Car Coverage	5	Supplementary Payments	14
Conformity With Financial Responsibility Laws	5	Deductible	14
Limits of Liability	5	Exclusions	15
Other Insurance	5	Limits of Liability	15
PART II-MICHIGAN NO-FAULT COVERAGES		No Benefit To Bailee	15
Definitions	6	Other Insurance	16
Insuring Agreements:		Defense	16
Personal Protection Insurance Coverage	6	Appraisal and Arbitration	16
Medical Benefits (Allowable Expenses)	6	Payment of Loss	16
Work Loss Benefits	6	GENERAL POLICY CONDITIONS APPLYING TO ALL PARTS OF THIS POLICY	
Expense for Services Benefits	6	1. Policy Term, Territory, Use	16
Survivors' Loss Benefits	6	2. Conformity With Statutes	16
Property Protection Insurance Coverage	6	3. Two or More Cars	16
Exclusions	6	4. No Duplication or Pyramiding	16
Limits of Liability	7	5. Our Recovery Rights	16
Governmental Benefits Set Off	8	6. Transfer of the Policy	16
Deductible	8	7. Suit Against Us	17
Other Insurance	8	8. Bankruptcy	17
Reimbursement & Trust Agreement	9	9. Excluded Driver	17
Arbitration	9	10. Cancellation	17
PART III-DEATH INDEMNITY COVERAGE		11. Cancellation By Us, Limited	17
Definition	9	12. Nonrenewal	17
Insuring Agreement	9	13. Changes	18
Exclusions	10	14. Change of Address or Rating Conditions	18
PART IV-UNINSURED/UNDERINSURED MOTORISTS COVERAGE		15. Effective Time	18
Definitions	10	16. Declarations	18
Insuring Agreement	10	17. Additional Car Option	18
Exclusions	11	18. Premium	18
Limits of Liability	11	19. Constitutionality	18
Other Insurance	12	20. Concealment or Fraud	19
		21. Transfer of Title	19
		22. Loss Payable	19
		23. Non-Assessable	19
		24. Return of Premium Deposit	19
		SIGNATURE CLAUSE	
		Auto Club Insurance Association	20
		Auto Club Group Insurance Company	20
		MemberSelect Insurance Company	20

INDEX OF COVERAGES

Allowable Expenses	6	Expense for Services Benefits	6
Bodily Injury Liability Coverage	4	Medical Benefits (Allowable Expenses)	6
Broadened Other Car Coverage	5	Michigan Limited Property Damage Liability Coverage	5
Car Rental Coverage	14	Personal Protection Insurance Coverage	6
Collision Coverages:		Property Damage Liability Coverage	4
Basic Collision Coverage	14	Property Protection Insurance Coverage	6
Broad Collision Coverage	14	Supplementary Payments	14
Limited Collision Coverage	13	Survivors' Loss Benefits	6
Comprehensive Coverage	13	Uninsured/Underinsured Motorists Coverage	10
Death Indemnity Coverage	9	Work Loss Benefits	6
Extra Equipment Coverage	14		

DEFINITIONS USED THROUGHOUT THIS POLICY

Defined words are shown in **bold** type. In each Part, there are additional definitions for that Part only.

1. **Additional Car** means a **car**, other than a **replacement**, acquired by the **Named Insured** after the effective date of this policy if **we** insure all **cars** owned by the **Named Insured**. This definition is subject to Condition 17 of this policy.
2. **Bodily Injury** means injury, sickness, disease or death of any person.
3. **Car** means a vehicle of the same type as the one described on the Declaration Certificate.
4. **Car Business** means the business or occupation of renting, leasing, selling, repairing, servicing, storing or parking motor vehicles including road testing and delivery.
5. **Code** means Chapter 31 of the Michigan Insurance Code, the Michigan No-Fault Law.
6. **Insured Car** means:
 - a. **Your Car**, which is the vehicle described on the Declaration Certificate and identified by a specific Vehicle Reference Number, a **replacement**, a **temporary substitute** and a **trailer** owned by **you**; and
 - b. **Other Car**, which is any **private passenger car** or **trailer** that **you** or any resident of **your** household: does not own; does not lease for 31 days or more; or does not have furnished or available for frequent or regular use.
7. **Insured Person(s)** means those persons entitled to coverage under this policy. They are defined under each Part.
8. **Lienholder** means Lienholder or other loss-payee named on the Declaration Certificate.
9. **Occupying, Occupied** means in, getting into or getting out of.
10. **Principal Named Insured** means the person or organization named first in Item 1 on the Declaration Certificate. It includes the **spouse** except in Part II - Michigan No-Fault Insurance Coverages.
11. **Private Passenger Car** means a **car** with four wheels or more and a wheelbase of 56 inches or more that is:
 - a. A passenger, station wagon, sport utility or pickup body type car;
 - b. A truck or van type car with a manufacturer's rated gross vehicle weight of 12,000 pounds or less. However, this does not include a step-van, parcel delivery van or cargo cutaway van or other van with a cab separate from the cargo area;
 - c. A motor home.
12. **Property Damage** means damage to, or destruction of, tangible property. It includes loss of use.
13. **Replacement** means a **car**, ownership of which is acquired by the **Named Insured** after the effective date of this policy when it replaces the described **car**. **We** must be told about it within 30 days after the acquisition.
14. **Resident Relative** means a person who is a resident of **your** household related to **you** by blood, marriage or adoption, or is **your** foster child. **Resident Relative** also includes **your** unmarried child attending school away from home. In Part II - Michigan No-Fault Insurance Coverages, **resident relative** includes **spouse**.
15. **Spouse** means **your** husband or wife if a resident of **your** household.
16. **State(s)** includes the District of Columbia, and any state, territory or possession of the United States, and any province of Canada.
17. **Temporary Substitute** means a **car** or **trailer** not owned by **you** or any resident of **your** household used while **your car** is out of use for a short time because of its breakdown, repair, servicing, **loss** or destruction.
18. **Trailer** means a trailer designed to be towed by a **private passenger car**.
19. **War** means war, whether or not declared, civil war, insurrection, rebellion or revolution or any related act or incident.
20. **We, Us, Our(s)** means the Insurance Company named on the Declaration Certificate.
21. **You, Your(s), Named Insured** means any person or organization named on the Declaration Certificate as:
 - a. **Principal Named Insured** or Other Named Insured shown in Item 1. It includes the **spouse** of the **Principal Named Insured** except in Part II - Michigan No-Fault Coverages.
 - b. Principal Driver named in Item 2 but only for the specific vehicle where so named. It includes the **spouse** of the Principal Driver except in Part II - Michigan No-Fault Coverages.

PART I - BODILY INJURY AND PROPERTY DAMAGE LIABILITY COVERAGES

A Coverage from this Part applies only if a premium is listed for it on the Declaration Certificate.

THE DEFINITIONS FOUND ON PAGE 3 APPLY TO THIS PART AND, IN ADDITION, FOR THIS PART:

Insured person(s) means:

For use of **your car**,

- a. **you** and any **resident relative**,
- b. any other person using it with **your** permission;

For use of **other cars**, used with the permission of a person having the right to grant it and if **your car** is a **private passenger car**,

- a. **you**, if an individual,
- b. any **resident relative** who does not own a **private passenger car**;

Any other person who does not own or hire, but is legally responsible for the use of, the **insured car** operated by an **insured person**.

INSURING AGREEMENT

Subject to the Definitions, Exclusions, Conditions and Limits of Liability of this policy, **we** will pay damages for which an **insured person** is legally liable because of **bodily injury** or **property damage** arising out of the ownership, maintenance or use including the loading or unloading of the **insured car**. The **insured car** means: **your car**, which is the vehicle described on the Declaration Certificate and identified by a specific Vehicle Reference Number, a **replacement**, a **temporary substitute** and a **trailer** owned by **you**; and an **other car**, which is a **private passenger car**, or **trailer** that **you** or any resident of **your** household: does not own; does not lease for 31 days or more; or does not have furnished or available for frequent or regular use.

We will defend an **insured person** in any civil action with attorneys of **our** choice or settle any claim for these damages as **we** think appropriate. **We** will choose either **our** staff attorneys or private attorneys; both shall exercise their independent professional judgment in the defense of an **insured person**. However, **we** will not defend or settle, after **we** have paid **our** Limit of Liability for this coverage.

If the words "INCLUDING MICHIGAN LIMITED PROPERTY DAMAGE LIABILITY COVERAGE" are shown on the Declaration Certificate, **we** will also pay for damages which an **insured person** becomes legally obligated to pay for damage to a motor vehicle as required and limited by Section 3135(3)(e) of the **Code**.

ADDITIONAL PAYMENTS

1. In addition to the Limits of Liability for this coverage, **we** will also pay:
 - a. all costs **we** incur in the settlement of any claim or defense of any suit;
 - b. interest on damages awarded in any suit **we** defend accruing after judgment is entered and before **we** have paid, offered to pay, or deposited in court that portion of the judgment which is not more than **our** Limit of Liability. **We** will also pay prejudgment interest as required by law on that part of the judgment which **we** pay;
 - c. premiums on appeal bonds and attachment bonds required in any suit **we** defend. **We** will not pay the premium for attachment bonds of an amount beyond **our** Limit of Liability;
 - d. charges up to \$250 for a bail bond required due to a traffic law violation or auto accident causing **bodily injury** or **property damage** covered by this Part. **We** have no obligation to apply for this type of bond;
 - e. loss of earnings up to \$250 a day when **we** ask **you** to attend trials or hearings;
 - f. expenses incurred by an **insured person** for immediate medical and surgical treatment for others necessary at the time of the accident involving an **insured car**, but not due to **war**;
 - g. other reasonable expenses incurred at **our** request.

EXCLUSIONS

1. Persons and Vehicles Not Covered. The Liability Coverage does not cover:
 - a. the United States of America and any of its agencies;
 - b. a person covered by any contract of nuclear energy liability insurance;
 - c. a person covered by the Federal Tort Claims Act;
 - d. the use of any vehicle which is:

- (1) owned;
- (2) leased for 31 days or more; or
- (3) furnished or available for the frequent or regular use

by **you** or any resident of **your** household unless it is: the vehicle described on the Declaration Certificate and identified by a specific Vehicle Reference Number, a **replacement**, a **temporary substitute** or **trailer** owned by **you**.

2. Business Use Not Covered. The Liability Coverage does not cover:
 - a. **your car** if used in the course of the **car business**. **You** or a **resident relative**, however, are covered;

PART I - BODILY INJURY AND PROPERTY DAMAGE LIABILITY COVERAGES (Continued)

- b. an **other car** if used in the course of the **car business** by anyone;
 - c. an **other car** if used in the course of any other business of an **insured person** except a **private passenger car** operated or **occupied** by you.
3. Bodily Injury and Property Damage Not Covered. The Liability Coverage does not cover:
- a. **bodily injury** during the course of employment: to an **insured person's** domestic employee who is entitled to Workers' Compensation; or to any other employee of an **insured person**;
 - b. **bodily injury** to an **insured person's** fellow employee while using an **insured car** in the course of employment. However, **we** will cover you;
 - c. **bodily injury** or **property damage** if an **insured person** assumes liability by contract or agreement;
 - d. **bodily injury** or **property damage** while an **insured car** is used to carry persons for a fee.

This Exclusion does not apply to a share-the-expense car pool;
 - e. **bodily injury** or **property damage** while an **insured car** is subject to any rental, lease, sale or consignment agreement not shown on the Declaration Certificate or any other endorsement issued by **us**;
 - f. **property damage** to motor vehicles for which an **insured person** is liable due to Section 3135(3)(e) of the **Code**. This Exclusion does not apply if the words "INCLUDING MICHIGAN LIMITED PROPERTY DAMAGE LIABILITY COVERAGE" are shown on the Declaration Certificate;
 - g. **property damage** to property owned by, in the care of, transported by or rented to an **insured person**. **Property damage** to a residence or a private garage or carport rented to an **insured person** is covered.
 - h. traffic fines or court ordered restitution.
4. To the extent that the Limits of Liability under Part I exceed the minimum Limits of Liability required by the Financial Responsibility Law of the **state** in which the loss occurred, the Liability Coverage does not cover:
- a. **bodily injury** or **property damage** expected or intended from the standpoint of the **insured person**, even if the **bodily injury** or **property damage** is different from, or greater than, that which is expected or intended;
5. Coverage from this Part does not apply to punitive damages, exemplary damages, or statutorily imposed treble or multiplied damages.

BROADENED OTHER CAR COVERAGE

A person named on the Declaration Certificate for Broadened Other Car Coverage has Liability Coverage for use of a motor vehicle with four wheels or more not owned by that person or **spouse**. The Limit of Liability will be the same as that for the **car** identified by the Vehicle Reference Number next to the person named. Exclusion 1.d. does not apply; all other policy provisions do apply. If the person named is a **named insured**, coverage also applies for the **spouse**.

CONFORMITY WITH FINANCIAL RESPONSIBILITY LAWS

When **we** certify this policy as proof under any Financial Responsibility Law, it will comply with the law to the extent of the coverage and Limits of Liability required by the law.

LIMITS OF LIABILITY

1. The Limits of Liability shown on the Declaration Certificate apply as follows:
 - a. The **Bodily Injury** Limit for each person is the maximum amount that will be paid for **bodily injury** sustained by one person in one occurrence. This Limit includes any claim of other persons for damages for care and loss of services and society, wrongful death and survivor actions and derivative damages arising out of **bodily injury**;
 - b. Subject to the Limit for each person, the **Bodily Injury** Limit for each occurrence is the maximum amount that will be paid for **bodily injury** sustained by two or more persons in one occurrence. This Limit includes any claim of other persons for damages for care and loss of services and society, wrongful death and survivor actions and derivative damages arising out of **bodily injury**;
 - c. The **Property Damage** Limit for each occurrence is the maximum amount that will be paid for **property damage** sustained in one occurrence;
 - d. If the Declaration Certificate shows SINGLE LIMIT, **our** combined maximum Limit for **bodily injury** and **property damage** in one occurrence is the amount shown on it. This Limit includes any claim of other persons for damages for care and loss of services and society, wrongful death and survivor actions and derivative damages arising out of **bodily injury**.
2. **We** will pay no more than the Limits shown on the Declaration Certificate for a **car** described and identified by a Vehicle Reference Number when the liability is due to that **car**, a **temporary substitute** or **replacement** for it or a **trailer** owned by you.
3. If the liability is due to an **other car**, **we** will pay no more than the highest Limit shown on the Declaration Certificate for any one **car** described and identified by a Vehicle Reference Number on this and no other policy.
4. The Limits are not increased because claim is made or suit is brought against more than one **insured person**.

OTHER INSURANCE

If the **car** involved in a loss and described on the Declaration Certificate is also covered by other liability insurance, **we** will pay the ratio of **our** Limit of Liability to the total applicable Liability Limit. With respect to an **other car**, **temporary substitute**, **additional car** or **replacement**, insurance afforded under this Part is excess over any other collectible **car** liability insurance.

PART II - MICHIGAN NO-FAULT COVERAGES

A Coverage from this Part applies only if a premium is listed for it on the Declaration Certificate.

THE DEFINITIONS FOUND ON PAGE 3 APPLY TO THIS PART AND, IN ADDITION, FOR THIS PART:

Motor Vehicle means a vehicle, including a **trailer**, with more than two wheels, required to be registered in Michigan. The **motor vehicle** must be operated, or designed for operation, upon a public highway by power other than muscular power. **Motor Vehicle** does not include: a **motorcycle**, moped or off-road vehicle; or a farm tractor or other implement of husbandry which is not subject to the registration requirements of the Michigan Vehicle Code.

Motorcycle means a vehicle having a saddle or seat for use of the rider, designed to travel on not more than three wheels and with a motor that exceeds 50 cubic centimeters piston displacement. **Motorcycle** does not include a moped.

Insured Motor Vehicle means:

- a. A **motor vehicle** described on the Declaration Certificate and identified by a Vehicle Reference Number, for which:
 - (1) the Liability Insurance of this policy applies, and
 - (2) the **named insured** is required to maintain security under the provisions of the **Code**; or
- b. A **motor vehicle** to which the Liability Insurance of this policy applies, if it:
 - (1) does not have the security required by the **Code**, and
 - (2) is operated, but not owned, by **you** or a **resident relative**;
- c. A **trailer** with more than two wheels designed for use with a **private passenger car** that is owned or used by **you** or any **resident relative** if it does not have the security required by the **Code**;
- d. A **trailer** with less than three wheels for the purposes of Medical Benefits (Allowable Expenses) only.

Insured Person(s) means:

- a. **you**, if an individual, and any **resident relative**;
- b. any other person who is:
 - (1) **occupying** the **insured motor vehicle**, or
 - (2) injured as a result of an accident involving the **insured motor vehicle** while not **occupying** a **motor vehicle**.

Dependent Survivor(s) means:

- a. the surviving **spouse**, if residing in the same household at the time of death, or if dependent upon the deceased at the time of death. Dependency ends upon death or remarriage of the surviving **spouse**;

- b. a person who was dependent upon the deceased at the time of death and is:

- (1) under the age of 18 years, or
- (2) physically or mentally incapacitated from earning, or
- (3) engaged full-time in a formal program of academic or vocational training.

Dependency ends upon death of the **dependent survivor**.

INSURING AGREEMENTS

1. PERSONAL PROTECTION INSURANCE COVERAGE.

We agree to pay only as set forth in the **Code** the following Benefits to or for an **insured person** who suffers accidental **bodily injury** arising out of the ownership, operation, maintenance or use of a **motor vehicle** as a **motor vehicle**. In case of the death of the **insured person**, **we** will pay these Benefits to or for the **dependent survivor(s)** of the **insured person**.

- a. **MEDICAL BENEFITS (ALLOWABLE EXPENSES)**. All reasonable charges incurred for reasonably necessary products, services and accommodations for an **insured person's** care, recovery or rehabilitation.
- b. **WORKLOSS BENEFITS**. Loss of income from work an **insured person** would have performed if that person had not been injured.
- c. **EXPENSE FOR SERVICES BENEFITS**. Expenses reasonably incurred in obtaining ordinary and necessary services an **insured person** would have performed not for income but for the benefit of that person or dependents.
- d. **SURVIVORS' LOSS BENEFITS**. Contributions of tangible things of economic value that the **dependent survivor(s)** of the deceased at the time of death would have received for support. **We** will pay expenses reasonably incurred by these **dependent survivors** in obtaining ordinary and necessary services the deceased would have performed for their benefit.

2. PROPERTY PROTECTION INSURANCE COVERAGE.

We agree to pay only as set forth in the **Code** for **property damage** caused by accident and arising out of the ownership, operation, maintenance or use of an **insured motor vehicle** as a **motor vehicle**. The accident must happen in the State of Michigan.

EXCLUSIONS

1. **Bodily Injury Not Covered**. This insurance does not apply to **bodily injury** to:
 - a. a person using a **motor vehicle** or **motorcycle** taken unlawfully unless that person reasonably believed there was permission to take and use that **motor vehicle** or **motorcycle**;

PART II - MICHIGAN NO-FAULT COVERAGES (Continued)

- b. a person, other than **you** or a **resident relative**, not **occupying a motor vehicle** if the accident occurs outside the State of Michigan;
 - c. **you** while **occupying**, or through being struck by while not **occupying**, a **motor vehicle** owned or registered by **you** and which is not an **insured motor vehicle**. This exclusion does not apply to Additional Work Loss Benefits if provided by this policy in excess of the limit provided by any insurance covering the **motor vehicle** in which the injury was sustained;
 - d. a **resident relative** while **occupying**, or through being struck by while not **occupying**, a **motor vehicle**, if the **resident relative** is the owner or registrant of that **motor vehicle** and has failed to maintain security required by the **Code** on that **motor vehicle**;
 - e. a person arising out of the ownership, operation, maintenance or use, including loading or unloading, of a parked **motor vehicle**, unless:
 - (1) the **motor vehicle** was parked in such a way as to cause unreasonable risk of the **bodily injury** which occurred, or
 - (2) **bodily injury** was a direct result of physical contact with:
 - (a) equipment permanently mounted on the **motor vehicle** while the equipment was being operated or used, or
 - (b) property being lifted onto or lowered from the **motor vehicle** in the loading or unloading process, or
 - (3) the person was **occupying** the **motor vehicle**;
 - f. a person while **occupying a motor vehicle** located for use as a residence or premises;
 - g. a person while **occupying a motor vehicle** operated in the business of transporting passengers for which security is maintained as required by the **Code**, unless the **motor vehicle** is an **insured motor vehicle** or the person is a passenger in:
 - (1) a school bus,
 - (2) a bus operated as a common carrier certified by the Department of Transportation,
 - (3) a bus operated under a government sponsored transportation program,
 - (4) a bus operated by or providing service to a non-profit organization,
 - (5) a bus operated by a livery (canoe or other watercraft, bicycle or horse) used only to transport passengers to or from a destination point, or
 - (6) a taxicab;
 - h. **you** or a **resident relative** while **occupying a motor vehicle** owned or registered by **your** or their employer for which security is maintained as required by the **Code**;
 - i. a **resident relative** entitled to Personal Protection Insurance Benefits as a person named under the terms of any other policy;
 - j. a person, other than **you** or a **resident relative**, entitled to Personal Protection Insurance Benefits under the terms of any other policy;
 - k. the owner or registrant of a **motor vehicle** or **motorcycle** involved in the accident who has failed to maintain security on that **motor vehicle** or **motorcycle** as required by the **Code**;
 - l. a non-resident of this State while **occupying a motor vehicle** or **motorcycle** not registered in this State and not insured by an insurer which has filed a certification in compliance with the **Code**.
2. Bodily Injury and Property Damage Not Covered. This insurance does not apply to **bodily injury** or **property damage** suffered intentionally or caused intentionally by a person claiming Benefits.
3. Property Damage Not Covered. This insurance does not apply to **property damage**:
- a. to a vehicle and its contents, including **trailers**, designed for operation upon a public highway by power, other than muscular power, unless the vehicle is parked so as not to cause unreasonable risk of the **property damage** which occurred;
 - b. to property owned by **you** or a **resident relative**;
 - c. to the property of a person who is using the **insured motor vehicle** without **your** expressed or implied consent;
 - d. to utility transmission lines, wires or cables arising from the failure of a municipality, utility company, or cable television company to comply with the requirements of Michigan Law.

LIMITS OF LIABILITY

1. **PERSONAL PROTECTION INSURANCE.** Our Limits for Benefits payable to or on behalf of any one person who sustains **bodily injury** in any one **motor vehicle** accident are as set out below.
- a. (i) Medical Benefits (Allowable Expenses) shall include reasonable and customary charges for semi-private hospital accommodations except when the **insured person** requires special care; funeral and burial expenses not to exceed \$2,500 unless a higher limit is shown on the Declaration Certificate;

PART II-MICHIGAN NO-FAULT COVERAGES (Continued)

- (ii) If the Declaration Certificate shows "COORDINATED MEDICAL BENEFITS," it is agreed that primary medical insurance or health care benefit plans providing coverage for **motor vehicle** accident injuries are available to **you** or a **resident relative** and are **your** primary source of protection. If primary protection is available, **we** will pay benefits for all reasonable charges incurred for reasonably necessary products, services and accommodations for the care, recovery or rehabilitation of **you** or a **resident relative**, except to the extent that: (1) benefits are paid or payable under **your** primary protection; or (2) a provider within **your** primary source of protection is qualified and competent to render comparable services or accommodations. If primary protection is not available at the time of loss, amounts payable will be reduced by \$300.
 - b. (i) Work Loss Benefits shall include payment for loss which occurs during the life of the **insured person** and within three years of the date of the accident;
 - (ii) Benefits payable for loss of income from work shall be reduced by 15%. If the **insured person's** income tax advantage is less than 15%, the actual percentage shall apply;
 - (iii) After the application of the above limits, the combined total amount payable for Work Loss in any 30-day period and the income earned shall not exceed the maximum amount established under the **Code**. If greater, the amount shown on the Declaration Certificate will be paid. The combined total limit shall be reduced pro rata for any period of less than 30 days;
 - (iv) If the Declaration Certificate shows "COORDINATED WORK LOSS BENEFITS," sums paid or payable to **you** or a **resident relative** for loss of income from work shall be reduced by amounts paid or payable under a valid and collectible: individual, blanket, group accident or disability insurance, salary or wage continuation plan.
 - c. Expense for Services Benefits shall not exceed \$20 per day during the life of the **insured person** and within three years of the date of the accident
 - d. (i) Survivors' Loss Benefits shall include payment for loss which occurs after the death of the **insured person** and within three years of the date of the accident;
 - (ii) After the application of the above limits, the combined total amount payable in any 30-day period for Survivors' Loss shall not exceed the maximum amount established under the **Code**.
 - e. Governmental Benefits Set Off. From the Benefits otherwise payable under this coverage, **we** will subtract benefits provided or required to be provided under any Workers' Compensation Law, disability benefits law of a similar nature or any other **state** or federal law even though the **insured person** has failed to apply for them. It is the obligation of the **insured person** to apply for any benefits provided or required to be provided by the above laws. It is also the obligation of the **insured person** to reapply, appeal or file suit for those governmental benefits if the initial application is rejected.
 - f. Deductible. Amounts payable under Personal Protection Insurance shall be reduced by any deductible stated on the Declaration Certificate. The deductible applies only to **you** or **your resident relatives** and shall not exceed the deductible amount shown on the Declaration Certificate for either Medical Benefits or Work Loss Benefits, whichever is higher. However, if the Declaration Certificate also states Coordinated Medical Benefits or Coordinated Work Loss Benefits, any amount paid or payable as Medical Benefits or Work Loss Benefits by any source other than **us**, shall be credited toward satisfying the deductible.
2. **PROPERTY PROTECTION INSURANCE.** Regardless of vehicles insured or policies held, **our** Limit under this coverage for all **property damage** from one accident is \$1,000,000. Payment is limited to the lesser of reasonable repair costs or replacement costs less depreciation and, where applicable, the value of loss of use.
- OTHER INSURANCE**
1. **PERSONAL PROTECTION INSURANCE**
- a. An **insured person** shall recover under all applicable policies no more than the amount payable under the policy providing the highest dollar limit.
 - b. If the accident causing injury occurs outside Michigan, this insurance shall be excess over that provided under No-Fault Automobile Insurance Laws of any other **state**.
 - c. Under no circumstances may an **insured person** recover:
 - (1) duplicate similar benefits required by any law for the same expenses or loss; or
 - (2) more than the monthly benefits payable under the **Code**, except for any Additional Work Loss amount to which an **insured person** is otherwise entitled under this policy.
 - d. An **insured person, occupying a motorcycle**, who sustains **bodily injury** in an accident involving a **motor vehicle** shall claim Benefits from insurers in the following order of priority:

PART II-MICHIGAN NO-FAULT COVERAGES (Continued)

- (1) the insurer of the owner or registrant of the **motor vehicle** involved in the accident;
- (2) the insurer of the operator of the **motor vehicle** involved in the accident;
- (3) the **motor vehicle** insurer of the operator of the **motorcycle** involved in the accident;
- (4) the **motor vehicle** insurer of the owner or registrant of the **motorcycle** involved in the accident.

2. PERSONAL PROTECTION INSURANCE AND PROPERTY PROTECTION INSURANCE.

- a. When two or more insurers are in the same order of priority, an insurer paying Benefits is entitled to partial payment from the other insurer(s) including a reasonable amount of expenses.
- b. When **we** are in the same order of priority with other insurer(s), **our** obligation to:
 - (1) pay benefits, or
 - (2) make reimbursement to other insurer(s),

shall be prorated on the basis of the number of insurers in the same order of priority rather than the number of policies in the same order of priority.

REIMBURSEMENT AND TRUST AGREEMENT

1. In the event of payment to any person under this Part:
 - a. **we** shall be entitled (to the extent of that payment) to the proceeds of any settlement or judgment from the exercise of any right of recovery of that person against any person or organization legally responsible for the **bodily injury** or **property damage**. **We** shall have a lien to the extent of **our** payment;
 - b. that person shall:
 - (1) hold in trust for **our** benefit all rights of recovery,
 - (2) do nothing after loss to prejudice any rights of recovery,

- (3) execute and deliver to **us** any papers necessary to secure the rights and obligations as established by this provision.

ARBITRATION

1. If **we** do not agree with the **insured person(s)** that they are entitled to receive:
 - a. Medical Benefits (Allowable Expenses);
 - b. Work Loss Benefits;
 - c. Expense for Services Benefits; or
 - d. Survivors' Loss Benefits;

then the **insured person(s)** and **we** may agree in writing that the issues, excluding matters of coverage, be determined by arbitration.

2. If arbitration occurs, **we** and the **insured person(s)** will each select an arbitrator. The two arbitrators will select a third. If they cannot agree upon the third arbitrator within 30 days, they may petition the Circuit Court for appointment of the third.
3. The **insured person(s)** will pay their arbitrator. **We** will pay **ours**. The expenses of the third arbitrator and other expenses will be shared equally. Attorneys' fees and fees paid to medical or other expert witnesses are to be borne by the party which incurs them.
4. Unless it is agreed otherwise, arbitration shall be conducted in the county in which the **insured person** resides. It will be in accordance with the usual rules governing procedure and admission of evidence in courts of law.
5. The arbitrators shall hear and determine the issues in dispute. The decision in writing of any two will be binding. Judgment upon the award rendered by the arbitrators may be entered in the Circuit Court in the county in which the arbitration was held.
6. All rights, remedies, obligations and limitations of the **Code** will apply.

PART III-DEATH INDEMNITY COVERAGE

Coverage from this Part applies only if listed as Included on the Declaration Certificate.

THE DEFINITIONS FOUND ON PAGE 3 APPLY TO THIS PART AND, IN ADDITION, FOR THIS PART:

1. **Insured Person(s)** means:
 - a. the principal driver of a specific vehicle who is named in Item 2 on the Declaration Certificate,
 - b. the **spouse** of that person named in Item 2.

INSURING AGREEMENT

Subject to the Definitions, Exclusions, Conditions and Limit of Liability that apply to this Part, **we** will pay \$10,000 upon

death of an **insured person** caused by accident while **occupying** or through being struck by a motor vehicle. The death must result directly from the accident and independently of all other causes. It must occur within 90 days of the accident or within one year during a period of continuous total disability. Continuous total disability must result directly from the accident and independently of any other cause. It must begin within 20 days of the accident and prevent the **insured person** from working. Payment will be made to the: (1) surviving **spouse**; or (2) parents of an unmarried minor **resident relative**; or (3) estate. **We** may require an autopsy where it is not forbidden by law.

PART III-DEATH INDEMNITY COVERAGE (Continued)

EXCLUSIONS

DEATH NOT COVERED

We will not pay for death that occurs:

- a. while the **insured person** is engaged in the course of his/her employment:
 - (i) in the **car business**, or
 - (ii) in the business of transporting passengers by motor vehicle, or
 - (iii) in duties incident to commercially licensed motor vehicles. This exclusion does not apply if the commercially licensed motor vehicle is described on the Declaration Certificate;

- b. from disease other than infection caused by **bodily injury**;
- c. due to suicide or **war**;
- d. while not **occupying** a motor vehicle and being struck by, or while **occupying**:
 - (i) a vehicle used as a residence or premises, or
 - (ii) a vehicle, whether the accident occurs on or off the highway, which is:
 - (a) a snowmobile, or
 - (b) operated on rails or crawler treads, or
 - (c) a farm-type tractor, or
 - (d) equipment designed for use principally off the highway;
- e. due to radioactive contamination.

PART IV - UNINSURED/UNDERINSURED MOTORISTS COVERAGE

Coverage from this Part applies only if a premium is listed for it on the Declaration Certificate.

THE DEFINITIONS FOUND ON PAGE 3 APPLY TO THIS PART AND, IN ADDITION, FOR THIS PART:

Insured Person(s) means:

- a. **you**, if an individual, and a **resident relative**;
- b. any other person **occupying Your Car**.

Person(s) using a **car** without reasonably believing that the use is with the permission of someone having the right to grant it are not **insured person(s)**.

Motor Vehicle means a land motor vehicle or **trailer**, requiring vehicle registration, but does not mean:

- a. a vehicle used as a residence or premises;
- b. a vehicle, whether the accident occurs on or off the highway, which is:
 - (1) a snowmobile, or
 - (2) operated on rails or crawler treads, or
 - (3) a farm-type tractor, or
 - (4) equipment designed for use principally off the highway.

Uninsured Motor Vehicle means a **motor vehicle** which is:

- a. not insured by an owner's or operator's **bodily injury** liability bond or policy that is applicable at the time of the accident;
- b. a hit-and-run **motor vehicle** of which the operator and owner are unknown and which makes direct physical contact with:
 - (1) **you** or a **resident relative**, or
 - (2) a **motor vehicle** which an **insured person** is **occupying**;
- c. insured by a **bodily injury** liability bond or policy at the time of the accident issued by a company that is or becomes insolvent;
- d. insured by a **bodily injury** liability bond or policy which provides less than the minimum limits required by the Financial Responsibility Law of the State of Michigan.

4. **Underinsured motor vehicle** means:

a **motor vehicle** whose ownership, maintenance or use has resulted in **bodily injury** of an **insured person** and for which the sum of the Limits of Liability under all **bodily injury** liability insurance policies, bonds or other security required to be maintained under law applicable to the driver or to the person or organization legally responsible for such vehicle and applicable to the vehicle is less than the limits of Uninsured/Underinsured Motorists Coverage provided the **insured person** at the time of the accident.

5. **Uninsured motor vehicle** and **underinsured motor vehicle** do not include any **motor vehicle** which is:

- a. owned by **you** or any resident of **your** household. However, if that **motor vehicle** is **your car**, **we** will cover **you** and **resident relatives**;
- b. furnished or available for the frequent or regular use of **you** or any resident of **your** household;
- c. owned or operated by a self-insurer under any applicable motor vehicle law;
- d. owned by any governmental unit or agency.

6. **Underinsured motor vehicle** does not include an **uninsured motor vehicle**.

INSURING AGREEMENT

1. Subject to the Definitions, Exclusions, Conditions and Limits of Liability of this policy, **we** will pay damages for **bodily injury** to an **insured person** which:
 - a. is caused by accident; and
 - b. arises out of the ownership, operation, maintenance or use of an **uninsured motor vehicle** or **underinsured motor vehicle**; and
 - c. that **insured person** suffers death, serious impairment of body function or permanent serious disfigurement; and
 - d. that **insured person** is legally entitled to recover from the owner or operator of an **uninsured motor vehicle** or **underinsured motor vehicle**.

PART IV-UNINSURED/UNDERINSURED MOTORISTS COVERAGE (Continued)

2. **We** will pay under this Part only after the limits of liability under all applicable **bodily injury** liability bonds and policies have been exhausted by payment of judgments or settlements.
 3. **We** will not be bound by any judgment or settlement for damages arising out of a suit brought against the driver, owner or other person or organization legally responsible for an **uninsured motor vehicle** or an **underinsured motor vehicle**.
 4. The **insured person** may not settle with anyone responsible for the accident without **our** written consent. **We** shall be obligated to respond within thirty (30) days of receiving an **insured person's** written request to settle.
2. This Coverage shall not apply to the benefit of any insurer or self-insurer under any Workers' Compensation or disability benefits law, or law providing for direct benefits without regard to fault, or any similar law.
 3. This Coverage does not apply to punitive damages, exemplary damages, or statutorily imposed treble or multiplied damages.

LIMITS OF LIABILITY

EXCLUSIONS

1. This Coverage does not apply to **bodily injury** sustained by an **insured person**:
 - a. while **occupying** a **motor vehicle** which is owned by **you** or a **resident relative** unless that **motor vehicle** is **your car**;
 - b. while **occupying** a **motor vehicle** which provides the same or similar coverage for **you** or a **resident relative**. But this exclusion will not apply to the extent that the Limit of Liability of this coverage is greater in amount than the Limit of Liability of that same or similar coverage;
 - c. through being struck by any vehicle other than a **motor vehicle**;
 - d. while **occupying** a **motor vehicle** furnished by an **insured person's** employer and operated in the course of that **insured person's** employment unless the **motor vehicle** is **your car**;
 - e. if that **insured person** or their legal representative settles or prosecutes to judgment their **bodily injury** claim with the owner, operator or other person or organization legally responsible for an **uninsured motor vehicle** or **underinsured motor vehicle** without **our** written consent.
 - f. while **occupying your car** when it is being used to carry persons for a fee. This exclusion does not apply to a share-the-expense car pool.
 - g. using a vehicle without a reasonable belief that the **insured person** is entitled, legally or otherwise, to do so.
 - h. arising out of the participation in any prearranged, organized or spontaneous racing or speed contest or use of a track or course designed or used for racing or high performance driving.
2. This is the most **we** will pay regardless of the number of **insured persons**, claims made, vehicles or premiums shown on the Declaration Certificate or vehicles involved in the accident. No one will be entitled to duplicate payments for the same element of loss under this Part.
3. If the damages are caused by an **underinsured motor vehicle**, the most **we** will pay will be the lesser of:
 - a. the difference between the Limits of Liability of this coverage and the sum of the Limits of Liability under all **bodily injury** liability insurance policies, bonds or other security required to be maintained under law applicable to the driver or to the person or organization legally responsible for the **underinsured motor vehicle** and applicable to the **underinsured motor vehicle**; or
 - b. the difference between the amount of the **insured person's** damages for **bodily injury** and the sum of the Limits of Liability under all **bodily injury** liability insurance policies, bonds or other security required to be maintained under law applicable to the driver or to the person or organization legally responsible for the **underinsured motor vehicle** and applicable to the **underinsured motor vehicle**.

PART IV-UNINSURED/UNDERINSURED MOTORISTS COVERAGE (Continued)

Any amount payable will be reduced by:

- a. any amount paid or payable by or on behalf of the owner or operator of the **uninsured motor vehicle** or organization which may be legally liable;
- b. any amount paid or payable under the Liability Insurance Coverage of this or any other policy;
- c. any amount paid or payable under Medical Payments Coverage of any policy.

Any amount payable for economic loss will be in excess over payment made or amount payable under any Workers' Compensation or disability benefits law, the **Code** or other law providing for direct benefits without regard to fault, or similar law.

OTHER INSURANCE

There is other Uninsured/Underinsured Motorists Coverage with **us** or any other insurer for a loss covered by this Part, **we** will only be liable to pay for the damages recoverable in the same proportion that the applicable limit of liability of this coverage bears to the sum of all the applicable limits of liability that cover the loss. However, **we** will not be liable under this coverage to pay more than **our** proportionate share, as determined in the manner provided for in the previous sentence, of an amount equal to the highest Limit of Liability that is applicable to the loss.

ARBITRATION

If **we** and an **insured person** do not agree:

- a. whether that person is legally entitled to recover damages from the owner or operator of an **uninsured motor vehicle** or an **underinsured motor vehicle**;
or
- b. as to the amount of damages;

either party must demand, in writing, that the issues, excluding matters of coverage, be arbitrated.

1. A demand for arbitration must be filed within 3 years from the date of the accident or **we** will not pay damages under this Part. Unless otherwise agreed by express written consent of both parties, disagreements concerning insurance coverage, insurance afforded by the coverage, or whether or not a **motor vehicle** is an **uninsured motor vehicle** or an **underinsured motor vehicle** are not subject to arbitration. Any suit or action against **us** must be filed within 3 years from the date of the accident.

3. If arbitration occurs, each party will select an arbitrator. The two arbitrators will select a third. If such arbitrators are not selected within 30 days, either party may petition the Circuit Court for appointment of the third. Each party will:

- a. pay the expenses it incurs, including the expenses of its chosen arbitrator; and
- b. bear the expenses of the third arbitrator equally, regardless of the arbitrators' decision.

4. Unless both parties agree otherwise, arbitration will take place in the county and **state** in which the **insured person** resides. Arbitration will be subject to the usual rules of procedures and evidence in such county and **state**.

5. For damages caused by an **uninsured motor vehicle**, the decision agreed to in writing by two of the arbitrators will be binding and judgment upon the decision rendered by the arbitrators may be entered in the Circuit Court in the county in which the arbitration was held.

6. For damages caused by an **underinsured motor vehicle**,
 - a. the decision agreed to in writing by two of the arbitrators will be binding if the amount of damages determined by the arbitrators does not exceed \$50,000 for **bodily injury** to any one person or \$100,000 for **bodily injury** to two or more persons in any one **motor vehicle** accident. Judgment upon the award rendered by the arbitrators may be entered in the Circuit Court in the county in which the arbitration was held.
 - b. If the amount exceeds \$50,000 for **bodily injury** to any one person or \$100,000 for **bodily injury** to two or more persons then the decision of the arbitrators will not be binding and either party may demand the right to a trial, unless the parties agree otherwise by prior written agreement. Trial shall be on all issues of the arbitrators' decision. This demand must be made within 60 days of the arbitrators' decision and suit filed in the court of proper jurisdiction within 120 days of the arbitrators' decision. If this demand is not timely made or if suit is not timely filed, the decision of the arbitrators will be binding. Judgment upon the award rendered by the arbitrators may be entered in the Circuit Court in the county in which the arbitration was held.

PART V-CAR DAMAGE COVERAGES

A Coverage from this Part applies only if a premium is listed for it on the Declaration Certificate.

THE DEFINITIONS FOUND ON PAGE 3 APPLY TO THIS PART AND, IN ADDITION, FOR THIS PART:

1. **Insured Person(s)** means:
 - a. For use of **your car**:
 - (1) **you** and any **resident relative**,
 - (2) any other person, other than a carrier or bailee for hire, using it with **your** permission;
 - b. For use of **other cars** used with the permission of a person having the right to grant it and if **your car** is a **private passenger car**:
 - (1) **you**, if an individual,
 - (2) any **resident relative** who does not own a **private passenger car**.
2. **Collision** means, when operated by or in the care of an **insured person**, impact of the **insured car** with another object or upset of the **insured car**. **Loss** caused by missiles, falling objects, fire, theft or larceny, explosion, earthquake, windstorm, hail, water, flood, malicious mischief or vandalism, riot or civil commotion, colliding with a live bird or animal, operation of car-wash equipment or breakage of glass is not deemed **loss** by **collision**. If breakage of glass occurs together with other **loss** due to a **collision**, **you** may elect to have it treated as **loss** caused by **collision**.
3. **Loss** means direct and accidental physical damage to or theft of the **insured car**, including its **equipment** and **extra equipment**. **Loss** does not include consequential damages such as diminished value of the **insured car**:

However, for a **temporary substitute** or an **other car** that you rent from an agency or company on a daily or weekly basis, **loss** does include:

 - a. loss of use; and
 - b. up to \$250 for administrative or other fees

resulting from a covered **loss**.
4. **Equipment** means standard **car** equipment. **Equipment** includes extra or ornamental items **permanently attached** to the **insured car**. It also includes, while in the **car**, two tapes or two discs or two cassettes or two records used with a device for the recording or reproduction of sound.
5. **Permanently Attached** means attached in such a way as to require the use of hand tools to remove.
6. **Substantially at Fault** means a person's action or inaction was more than 50% of the cause of the accident.
7. **Extra Equipment** means parts, equipment or devices including custom, ornamental or electronic items which are:
 - a. permanently attached to the **insured car**; and
 - b. not installed by or available from the original manufacturer of the **insured car** for that make, model and model year.
8. **Betterment** means increasing the value of a vehicle, its parts, **equipment** or **extra equipment** because of improvements beyond repair.
9. **Depreciation** means diminishment or reduction in value of a vehicle, its parts, **equipment** or **extra equipment** because of age, use or condition.
10. **Your Pet** means any dog or cat owned by **you** or a **resident relative**.

COMPREHENSIVE COVERAGE

1. Subject to the Definitions, Exclusions, Conditions and Limits of Liability that apply to this Part, **we** will pay for **loss**, other than by **collision**, to the **insured car**, when operated by or in the care of an **insured person**. This is less any deductible amount shown on the Declaration Certificate.
2. If there is a total theft of **your car**, and it is a **private passenger car**, **we** will pay up to \$20 per day, but no more than \$600, for the cost incurred by the **named insured** for transportation provided by an entity engaged in the transportation business. Payment begins 24 hours after the theft has been reported to **us** and a law enforcement agency and ends when **your car** is returned to use or when **we** offer or pay the **loss**, whichever is earliest. The amount to be paid for the cost of transportation is in addition to the Limit of Liability for the direct **loss** to **your car**. In no event will payment for the cost of transportation covered hereunder exceed either the actual cash value of **your car** or the amount incurred, whichever is less.

LIMITED COLLISION COVERAGE

Subject to the Definitions, Exclusions, Conditions and Limits of Liability that apply to this Part, **we** will pay for **loss** caused by **collision** to the **insured car** when operated by or in the care of an **insured person** who is not **substantially at fault** in the accident from which the damage arose. This is less any deductible amount shown on the Declaration Certificate.

PART V - CAR DAMAGE COVERAGES (Continued)

ASIC COLLISION COVERAGE

Subject to the Definitions, Exclusions, Conditions and Limits of Liability that apply to this Part, **we** will pay for **loss** caused by **collision** to the **insured car** when operated by or in the care of an **insured person**. This is less the deductible amount shown on the Declaration Certificate.

ROAD COLLISION COVERAGE

Subject to the Definitions, Exclusions, Conditions and Limits of Liability that apply to this Part, **we** will pay for **loss** caused by **collision** to the **insured car** when operated by or in the care of an **insured person**. This is less the deductible amount shown on the Declaration Certificate. **You** will not have to pay the deductible if the **insured car**:

is a **private passenger car** and, in a **collision**, it makes physical contact with another **car** insured separately on the Declaration Certificate of this policy or another policy issued by the Auto Club Group as the described vehicle or a **temporary substitute** or **replacement** for it; or is in a **collision** and the **insured person** operating the **insured car** is not **substantially at fault** in the accident from which the damage arose.

CAR RENTAL COVERAGE

Subject to the Definitions, Exclusions, Conditions and Limits of Liability that apply to this Part, **we** will pay up to the daily limit shown on the Declaration Certificate for rental by the **named insured** of a **temporary substitute** for a period of up to 30 days. This applies when **your car** (if a **private passenger car**) is withdrawn from service for more than 24 hours because of **loss**, other than by total theft, covered under this Part and: if Car Rental Coverage is in effect at the time of that **loss**; and the amount of the **loss** exceeds the deductible.

If the **named insured** is entitled to coverage for a **loss** by total theft of **your car**, the per day amount provided under Comprehensive Coverage for the cost of transportation covered thereunder will be that shown on the Declaration Certificate for Car Rental Coverage. Coverage will begin 24 hours after the total theft has been reported to **us** and a law enforcement agency, and will continue for a total time period of up to 60 days.

Payment stops when the earliest of the following occur:

- a. **your car** has been replaced, repaired if damaged, or returned to the **named insured** if undamaged; or
- b. settlement for the total **loss** of **your car** has been made or offered; or
- c. the limits of this coverage have been exhausted.

4. In no event will payment under this coverage exceed either the:

- a. actual cash value of **your car**; or
- b. the amount incurred for **car rental**;

whichever is less.

EXTRA EQUIPMENT COVERAGE (This coverage may only be purchased if you have Comprehensive Coverage. However, it insures against any **loss** otherwise covered under the terms of both Comprehensive and Collision Coverages.)

1. Subject to the Definitions, Exclusions, Conditions and Limits of Liability that apply to this Part, **we** will pay for **loss** to **extra equipment** in excess of \$1,000 if a limit is shown for this Coverage on the Declaration Certificate.
2. In no event will payment under this coverage exceed either:
 - a. the actual cash value of **your car**, including its **extra equipment**; or
 - b. \$1,000 plus the limit shown on the Declaration Certificate.

DEDUCTIBLE

If **loss** to property covered by this Part occurs together with **loss** to property covered by another policy issued by **us** to **you** or a **resident relative**, only the highest applicable deductible from one policy will be charged.

SUPPLEMENTARY PAYMENTS

Pet Injury Protection

1. **We** will pay up to \$500 if **your pet** sustains injury or death as a result of **loss** caused by **collision** to the **insured car** and at the time of the accident:
 - a. **LIMITED, BASIC** or **BROAD COLLISION COVERAGE** applies to a **private passenger car** insured under this policy; and
 - b. **your pet** is inside the **insured car**.
2. If as a result of a covered accident:
 - a. **your pet** is injured, **we** will pay for reasonable and customary costs incurred by **you** or a **resident relative** for veterinary fees including medications and procedures prescribed by **your pet's** veterinarian for treatment of such covered injuries;
 - b. **your pet** dies, **we** will pay the cost to replace the deceased dog or cat with one of like kind and quality.
3. In any event, the most **we** will pay as a result of any one accident is a total of \$500 regardless of the number of dogs or cats that are injured or die in the accident.

Child Restraint System Replacement

We will pay the cost for replacement of child restraint systems damaged during a covered **loss**.

No deductible shall apply under **Supplementary Payments**.

PART V - CAR DAMAGE COVERAGES (Continued)

EXCLUSIONS

1. We will not pay for **loss**:
 - a. to an **other car** while used in the **car business**;
 - b. to an **insured car** while used to carry persons for a fee. This Exclusion does not apply to a share-the-expense car pool;
 - c. to an **insured car** while it is subject to any rental, lease, sale or consignment agreement not shown on the Declaration Certificate or any other endorsement issued by **us**;
 - d. caused by **war** or nuclear contamination, or any consequence of them;
 - e. to tires, unless stolen, damaged by fire or vandalism or the damage happens along with other covered **loss** to the **insured car**;
 - f. limited to wear and tear, freezing, mechanical or electrical breakdown or failure unless the damage results from the total theft of the **insured car**;
 - g. to an office, store, display or passenger **trailer** that is not described on the Declaration Certificate;
 - h. to a house **trailer** owned by an **insured person** that is not described on the Declaration Certificate;
 - i. in excess of \$1,000 to any other type **trailer** or camper unit body, owned by an **insured person**, that is not described on the Declaration Certificate;
 - j. to an **other car** or a **temporary substitute** when the **insured person** is not covered by any other insurance that applies unless the **insured person** is legally obligated to pay for the **loss**;
 - k. to any radar detection device;
 - l. in excess of \$1,000 to **extra equipment** permanently attached to an **insured car** unless:
 - (1) **Extra Equipment Coverage** has been purchased; or
 - (2) the rating symbol and the premium for **your car** have been increased to reflect the value of the **extra equipment**.
 - m. to an **insured car** operated by **you** while fleeing or eluding or attempting to flee or elude a police officer;
 - n. to an **insured car** arising out of the participation in any prearranged, organized or spontaneous racing contest or speed contest or use of a vehicle at a track or course designed or used for racing or high performance driving.
 - o. resulting from seizure or confiscation of an **insured car** by, or surrender of an **insured car** to, any:
 - (1) legally constituted authority; or
 - (2) lienholder, subrogee, assignee, or person with a superior right of ownership or possessionif upon acquisition of the **car** an **insured person** knew or should have known that the **car** had likely been stolen or wrongfully taken away from its rightful owner or possessor;
 - p. due to destruction or confiscation by governmental or civil authorities because **you** or any **resident relative** engaged in illegal activities or failed to comply with Environmental Protection Agency or Department of Transportation standards.

- q. arising out of neglect. Neglect means **your** failure to adequately maintain an **insured car**.

With respect to **loss** caused by water under Comprehensive Coverage, there is no coverage for **loss** caused by:

- (1) moisture, condensation, humidity or vapor; or
- (2) water intrusion around or through panels, surfaces and seals; or
- (3) water that collects in spaces or ventilation systems; or
- (4) fungi, dry rot or bacteria

all of which result from neglect.

LIMITS OF LIABILITY

1. **Our** Limit of Liability for **loss** shall not exceed the lesser of:
 - a. the actual cash value at the time of **loss** of the stolen or damaged property. Actual cash value includes deduction for **depreciation**; or
 - b. the amount necessary to repair or replace the stolen or damaged property; or
 - c. any applicable Limit of Liability shown on the Declaration Certificate.
2. Actual cash value is determined by the market value, age and condition at the time the **loss** occurred. If the repair or replacement of the vehicle results in **betterment**, **you** must pay for the amount of the **betterment**. If there is **depreciation**, then that amount shall be deducted from the cost of repairs or replacement.
3. The cost of repair or replacement is based upon one of the following:
 - a. The cost of repair or replacement agreed upon by **you** and **us**; or
 - b. A competitive bid approved by **us**; or
 - c. A written estimate that uses the prevailing competitive price. The prevailing competitive price means the price charged by a majority of the repair market in the area where the **car** is to be repaired as determined by a survey made by **us**. If **you** ask, **we** will identify some facilities that will perform the repairs at the prevailing competitive price. **You** agree with **us** that repair may include parts furnished by non-original equipment manufacturers. If **you** request parts that cost more than those in the estimate, **we** may require **you** to pay the difference.
4. At **our** option, **we** will replace **your car** with a new one of like make, model and year or pay **you** the amount of **your** original purchase price if:
 - a. **your car** is a **private passenger car**; and
 - b. **you** purchased it new; and
 - c. **we** determine it to be a total **loss**; and
 - d. the **loss** occurs within 90 days of the purchase date.

We shall not be liable for the diminished value of an **insured car** as a result of any covered **loss**.

NO BENEFIT TO BAILEE

This coverage shall not directly or indirectly benefit any carrier or other bailee for hire liable for **loss** to the **insured car**.

PART V - CAR DAMAGE COVERAGES (Continued)

OTHER INSURANCE

here is other insurance for a **loss** covered by this Part, **we** will pay:

the ratio of **our** Limit of Liability to the total applicable limit; or
for damage not recovered under the provisions for Property Protection Insurance described in the **Code** if the **insured car** is damaged by **collision** while parked so as not to cause unreasonable risk. **We** will have recovery rights under Condition 5.

insurance afforded under this Part for **loss** to a **car** not described on the Declaration Certificate is excess over any other insurance.

DEFENSE

suit is brought against any **insured person** for damage to the property of another for a **loss** which would be covered under this Part, **we** will provide the same defense and additional Payments as is provided by the Liability Insurance coverage Part of this policy.

APPRAISAL AND ARBITRATION

If there is a disagreement as to the amount of the **loss**, either **you** or **we** may demand Appraisal of the **loss** within 60 days after proof.

2. If there is disagreement as to whether the operator of **your car** is **substantially at fault**, **you** or **we** may demand in writing that the matter be settled by Arbitration. Disagreements concerning insurance coverage or the insurance afforded by this coverage are not subject to Arbitration except by express written consent of both parties.
3. In either Appraisal or Arbitration, **you** and **we** will each appoint and pay a competent and disinterested person. The appointed persons or a judge of a court having jurisdiction, will appoint an umpire to decide any differences. Decisions of each appointed person will be stated separately. A decision in writing by any two will be binding. **You** and **we** will equally share the other expenses including the cost of the umpire.

PAYMENT OF LOSS

We may pay the **named insured** and **lienholder** as interests may appear for the **loss** in money, or by repairing or replacing the damaged or stolen property. **We** may, at any time before the **loss** is paid or the property is replaced, return at our expense any stolen property either to the **named insured** or to the address shown on the Declaration Certificate. **We** may keep all or part of the property at the agreed or appraised value. The property may not be abandoned to **us**. If the **insured car** is stolen, payment will not be made before 30 days from the time notice of the theft has been given to **us** and the vehicle has not been recovered.

GENERAL POLICY CONDITIONS APPLYING TO ALL PARTS OF THIS POLICY

THE DEFINITIONS FOUND ON PAGE 3 APPLY TO THESE CONDITIONS.

1. POLICY TERM, TERRITORY, USE

This policy applies only to occurrences, accidents and losses which happen during the Policy Term shown on the Declaration Certificate and within the policy territory. The policy territory includes the **states** and between their ports; Property Protection Insurance applies only in the State of Michigan. The **insured car** must be used for the purpose stated in the application for this policy.

2. CONFORMITY WITH STATUTES

If the law of any **state** requires a non-resident to maintain **car** insurance greater than the insurance provided by this policy, **our** limits and the coverage afforded shall be as set forth in that law while the **insured car** is used in that **state**.

3. TWO OR MORE CARS

If more than one **car** is insured under this policy, the terms apply separately to each. A **car** with a **trailer** attached is considered:

- a. one **car** as respects Limits of Liability in Part I, and
- b. separate **cars** in Part V. However, only one deductible will apply.

4. NO DUPLICATION OR PYRAMIDING

Under no circumstances will **we** be required to pyramid or duplicate any types, amounts or limits of motor vehicle coverages available from **us** or any other insurance company.

5. OUR RECOVERY RIGHTS

In the event of any payment under this policy, **we** are entitled to all rights of recovery of the **insured person** against any other person or organization. Any person receiving payment under this policy shall hold in trust and/or reimburse **us** to the extent of **our** payment from the proceeds of any recovery. The **insured person** must help **us** exercise **our** rights. The **insured person** shall do nothing to prejudice **our** rights.

6. TRANSFER OF THE POLICY

This policy may not be transferred without **our** written consent. If the **named insured** dies, this policy shall provide protection until the end of the policy term for:

- a. the surviving **spouse** and **resident relatives**, and
- b. the personal representative while using **your car**.

PART V - CAR DAMAGE COVERAGES (Continued)

7. SUIT AGAINST US

We may not be sued unless there is full compliance with all terms of this policy.

We may not be sued under the Liability Coverages until the obligation of an **insured person** to pay is determined by judgment against the **insured person** after actual trial or by written agreement of the **insured person**, the claimant and **us**. No one shall have any right to make **us** a party to a suit to determine the liability of an **insured person**.

We may not be sued under Personal Protection Insurance unless the action is begun within one year from the date of the accident. If written notice has been given, or a payment was made, within one year of the accident, the action may be begun within one year after the most recent expense has been incurred. An **insured person** may not recover benefits for loss incurred more than one year before the date the action was begun.

An action for Property Protection Insurance benefits shall not be begun later than one year after the accident.

8. BANKRUPTCY

We are not relieved of any obligation under this policy because of the bankruptcy or insolvency of any **insured person**.

9. EXCLUDED DRIVER

Warning - When a named excluded person operates a vehicle, all liability coverage is void - no one is insured. Owners of the vehicle and others legally responsible for the acts of the named excluded person remain fully personally liable.

If a vehicle is being operated by an individual named on the Declaration Certificate as an Excluded Driver, insurance under this policy is null and void for Bodily Injury and Property Damage Liability Coverage, Uninsured/Underinsured Motorists Coverage, Comprehensive Coverage, Collision Coverage, Car Rental Coverage and Extra Equipment Coverage.

10. CANCELLATION

This entire policy may be cancelled upon written request of the **principal named insured**.

Coverage under this policy for a **car** described on the Declaration Certificate and identified by a Vehicle Reference Number may be cancelled upon request of the **named insured** if an owner of that **car**, or the **principal named insured**. Written notice stating when the cancellation is to take effect must be mailed or delivered to **us**. **We** will keep or collect **our** pro rata share of the premium for the period that the policy or coverage has been in effect. **We** will refund to the **principal named insured** any pro rata excess of premium for unexpired time.

Coverage under this policy for any **car** identified on the Declaration Certificate, or the entire policy, may be cancelled by **us**. **We** will mail or deliver 10 days written notice of cancellation to the **principal named insured**. This will be sent to his/her address last known to **us** or **our** authorized agent. Any unused premium will be returned to the **principal named insured** prorated for the unexpired time. **We** may collect any premium due to **us** prorated for the entire time the policy was effective. **We** will mail or deliver 30 days written notice of cancellation for reasons other than failure to pay the premium when due or failure to present a **car** for inspection by **us** at **our** request.

If **you** have elected to use **our** Scheduled Payment Program, failure to pay any installment when due will result in cancellation. If the policy is reinstated, there shall be no coverage during the period of time between the date the policy expired and the date of such reinstatement. A check which is not honored for any reason will not constitute payment, and will not continue coverage beyond any date when such coverage will otherwise terminate for lack of payment.

Cancellation will not affect any claim that originated prior to the date of cancellation.

11. CANCELLATION BY US, LIMITED

After coverage under this policy for a **car** identified on the Declaration Certificate has been effective for a period of 55 days; or if this policy is designated as a renewal on the Declaration Certificate and that **car** had been insured by **us** for 55 days immediately preceding the renewal date; **we** shall issue a notice of cancellation when:

- a. the **principal named insured** or a person on his/her behalf fails to pay any premium or installment, when due; or
- b. **you**, a resident of **your** household, or whoever customarily operates an **insured car**, has had his/her driver's license suspended or revoked during the policy term and the suspension or revocation has become final.

12. NONRENEWAL

We may decline to renew this policy. If **we** do, **we** will mail notice of nonrenewal to the **principal named insured** at the address last known to **us** at least 30 days before the end of the policy term.

If **we** offer to renew this policy, and the **principal named insured** declines, this policy will automatically terminate at the end of the current policy term. Failure to pay the required renewal premium means that **our** offer to renew has been declined. A check which is not honored for any reason will not constitute payment, and will not continue coverage beyond any date when such coverage will otherwise terminate for lack of payment.

3. **CHANGES**

This policy form, the Declaration Certificate and any endorsements include all agreements between the **principal named insured** and **us**. No change or waiver may be effected in this policy except by endorsement issued by **us**. If a premium adjustment is necessary, **we** will make it as of the effective date of the change. Coverage for changes will not apply prior to the date and time shown on file with **us**. When **we** broaden any of **your** coverage during the policy term without charge, the policy will automatically provide the broadened coverage.

4. **CHANGE OF ADDRESS OR RATING CONDITIONS**

If the information used to develop the policy premium changes, **we** may adjust **your** premium during the policy term. The **principal named insured** must inform **us** within 30 days of any changes related to the following:

- a. **your** address;
- b. where **your car** is principally garaged;
- c. **your car** or how it is used, including driving distance to work or annual mileage;
- d. the operators who regularly drive **your car**, including newly licensed family members;
- e. the ownership or registration of **your car**.

If **you** fail to inform **us** of these changes within 30 days, **we** may void coverage as provided under Condition 20 - CONCEALMENT OR FRAUD.

If **we** adjust **your** premium during the policy term as a result of these or other changes in rating conditions, a refund or credit will be issued if the premium is decreased. A billing notice for the additional amount due will be sent if the premium is increased.

5. **EFFECTIVE TIME**

The policy term begins and ends at 12:01 A.M. on the date on the Declaration Certificate at the place where this policy has been signed. A policy term specified as beginning March 1 shall first take effect February 29 if so requested and on file with **us**. Coverage shall not be provided for any loss occurring prior to the effective date and time shown on file with **us**.

6. **DECLARATIONS**

By accepting this policy the **Principal Named Insured** agrees that:

- a. the statements on the Declaration Certificate and in the application for this policy are his/her own; and
- b. this policy is issued in reliance upon the truth of those representations; and
- c. this policy form, the Declaration Certificate and any endorsements include all agreements existing between the **principal named insured** and **us** or any of **our** agents relating to this insurance.

17. **ADDITIONAL CAR OPTION**

We grant an option to the **principal named insured** to purchase insurance under this policy for an **additional car** effective on the date of its acquisition. To exercise this option, the **principal named insured** must designate to **us** one of the **cars** described on the Declaration Certificate and the insurance provided for that **car** to serve as the basis for the selection of coverages and Limits of Liability for the **additional car** insurance. The **principal named insured** may not select coverages or limits in excess of those effective for the designated **car**. Exercise of this option must be made within 30 days of the acquisition of the **additional car**. The election to exercise this option must be made under this and no other policy. Coverage issued under this option shall be excess over any other valid and collectible insurance.

18. **PREMIUM**

Premium deposit or payment shall be calculated on the basis of rating conditions existing at the beginning of each policy term, except as provided in Conditions 13 and 14. The calculated premiums shall conform to approved rates and rules then on file with the State of Michigan.

The premium deposit or payment must properly conform to that which should have been charged. **We** and the **principal named insured** agree to make any necessary adjustments in the premium deposit or payment during the term of the policy or the twelve months succeeding.

19. **CONSTITUTIONALITY**

If an appellate court of Michigan or the United States enters an unappealed judgment which declares the **Code** invalid, unenforceable or unconstitutional, in whole or in part, the Company shall:

- a. have the right to recompute the premium payable for the policy for the entire policy term on the basis of revised rates as approved by the Insurance Commissioner;
- b. have no obligation to make any further payment pursuant to the coverages contained in the policy which were required by the **Code**;
- c. mail to the **principal named insured** revised coverages to apply in the future in substitution for those coverages affected by the decision of the court at revised rates as approved by the Insurance Commissioner. **We** will mail notice of revisions in coverages and rates to the **principal named insured** at least 10 days prior to their effective date. The right of cancellation and pro rata refund will continue to apply.

20. **CONCEALMENT OR FRAUD**

We may void the terms of the policy applying to an **insured car** if an **insured person** has concealed or misrepresented any material fact or circumstance relating to:

- a. this insurance; or
- b. declarations made in applying for, changing or renewing coverage, as provided under Condition 16-DECLARATIONS.

We do not provide coverage for any **insured person** if an **insured person** has concealed or misrepresented any material fact or circumstance relating to this insurance or any claim for which coverage is sought under this policy.

21. **TRANSFER OF TITLE**

If the title of a **car** described on the Declaration Certificate and identified by a specific Vehicle Reference Number is transferred to a person other than **you** or a **resident relative**, this policy provides coverage only for **you** and a **resident relative** while it remains in force.

22. **LOSS PAYABLE**

We agree that payment for **loss** covered by the policy and sustained by the vehicle described on the Declaration Certificate shall be made to the **named insured** and the **lienholder** as interests may appear. Payment for **loss** may be made separately to each interested party. Upon **our** request (either before or after payment) the **lienholder** shall assign and transfer to **us**, to the extent of the payment **we** make to it, its right and interest in the indebtedness to which its lien pertains, including any instrument or security related thereto.

We agree that this Endorsement shall not be invalidated as to the interest of the **lienholder** in the described vehicle by any act or neglect of any **named insured** or of any owner except:

- a. When that vehicle is intentionally damaged, destroyed or concealed by or at the direction of any **named insured** or by any owner; or
- b. When the vehicle is damaged, destroyed or concealed as a result of any other act which constitutes a breach of contract between any **named insured** or owner and the **lienholder**.

We agree to protect the **lienholder** against the consequences of a material change or termination of coverage for a period of 10 days after **we** send written notice of it to them. The **lienholder** agrees to notify **us** of any change of ownership or increase in hazard and to furnish **us** Proof of Loss within 60 days if the **named insured** or owner fails to do so within the time required in the policy. No other terms or conditions of the policy are changed.

23. **NON-ASSESSABLE** (Applies only if this policy has been issued by Auto Club Insurance Association.)

This policy is non-assessable. The **principal named insured** is liable only for payment of the premium deposit and will not be liable for any assessment or contingent liability of any kind.

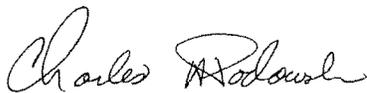
24. **RETURN OF PREMIUM DEPOSIT**

The Board of Governors may authorize a return of premium deposits to the **principal named insured** at times and in amounts as may be determined in the best interests of the Company and consistent with applicable provisions of the Michigan Insurance Code.

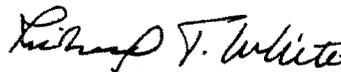
SIGNATURE CLAUSE

The subscribers at Auto Club Insurance Association have caused their Attorney-in-Fact, through its officers shown below, sign this policy at Dearborn, Michigan as of the effective date of this policy.

SUBSCRIBERS AT AUTO CLUB INSURANCE ASSOCIATION
(A Reciprocal Insurance Exchange)



Charles Podowski
President, Auto Club Services, Inc.



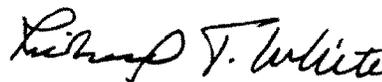
Richard T. White
Secretary, Auto Club Services, Inc.

Auto Club Group Insurance Company has caused its President and Secretary to sign this policy at Dearborn, Michigan as of the effective date of this policy.

AUTO CLUB GROUP INSURANCE COMPANY
(A Capital Stock Company)



Steven D. Monahan
President



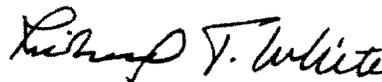
Richard T. White
Secretary

MemberSelect Insurance Company has caused its President and Secretary to sign this policy at Dearborn, Michigan as of the effective date of this policy.

MEMBERSELECT INSURANCE COMPANY
(A Capital Stock Company)



Steven D. Monahan
President



Richard T. White
Secretary