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Policy (O.A.P. 4) and Other Automobile Insurance Forms

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Bulletin

No. A- 07/05

Property & Casualty

– Auto

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Revised Ontario Garage Automobile Policy (O.A.P. 4) and Other Automobile Insurance Forms

To the attention of all insurance companies licensed**to transact automobile insurance in Ontario**

With this bulletin, the Financial Services Commission of Ontario (FSCO) is issuing a revised Ontario Garage Automobile Policy (O.A.P. 4) and further revisions to various other automobile insurance forms. These changes follow recent regulation changes and the release of a revised Ontario Automobile Policy (O.A.P. 1) on May 24, 2005 in Bulletin A-05/05. These changes have been made in consultation with insurance industry stakeholders.

Revised O.A.P. 4

The revised O.A.P. 4 reflects recent amendments to the Statutory Conditions in Regulation 777/93 regarding termination of an insured's contract due to non-payment.

A revised definition of spouse that includes same-sex partners has also been added to the O.A.P. 4. The separate definition of same-sex partner, previously included in the O.A.P. 4, has been eliminated. This change was brought about by the Spousal Relationships Statute Law Amendment Act, 2005, which received Royal Assent on March 9,

2005.

Additional Form Changes

A number of other automobile insurance forms have been revised as a result of the Spousal Relationships Statute Law Amendment Act, 2005 and the recent regulation changes. These revised forms are listed below:

- O.A.F. 1 - Ontario Application For Automobile Insurance Owner's Form
- OPCF 3 - Drive Government Automobiles
- OPCF 27 - Liability for Damage to Non-Owned Automobiles and Providing Other Coverages When Insured Persons Drive Other Automobiles
- OPCF 44R - Family Protection Coverage
- O.A.F. 4 - Ontario Application for Automobile Insurance Garage Form
- O.E.F. 81 - Garage Family Protection Endorsement
- O.E.F. 82 - Liability for Damage to Non-Owned Automobiles

The following Theft Deductible policy endorsement forms were also revised to remove reference to the theft deductible that is no longer applicable under the O.A.P. 1 and O.A.P. 4:

- OPCF 40 - Fire Deductible
- O.E.F. 79 - Owned Automobiles - Fire Deductible Endorsement
- O.E.F. 86 - Customer's Automobiles - Fire Deductible Endorsement

Effective Date and Contact

These changes apply to all policies issued or renewed on or after November 1, 2005. If you have any questions regarding this Bulletin, please contact your designated rate analyst in the Automobile Insurance Services Branch at FSCO.

Bob Christie

Chief Executive Officer and

Superintendent of Financial Services

September 29, 2005

Attachments:

- [O.A.P. 4 - Ontario Garage Automobile Policy](#)
- [O.A.F. 4 - Ontario Application for Automobile Insurance Garage Form](#)
- [O.E.F. 79 - Owned Automobiles - Fire Deductible Endorsement](#)
- [O.E.F. 81 - Garage Family Protection Endorsement](#)
- [O.E.F. 82 - Liability for Damage to Non-Owned Automobiles](#)
- [O.E.F. 86 - Customer's Automobiles - Fire Deductible Endorsement](#)
- [O.A.F. 1 - Ontario Application For Automobile Insurance Owner's Form](#)
- [OPCF 3 - Drive Government Automobiles](#)
- [OPCF 27 - Liability for Damage to Non-Owned Automobiles and Providing Other Coverages When Insured Persons Drive Other Automobiles](#)
- [OPCF 40 - Fire Deductible](#)
- [OPCF 44R - Family Protection Coverage](#)



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Last Modified: 10/13/2005 9:34:14 AM

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ONTARIO GARAGE AUTOMOBILE POLICY (O.A.P. 4)

**Approved by the Superintendent of Financial Services for use as the standard
Garage Automobile Policy on or after November 1, 2005**

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ONTARIO GARAGE AUTOMOBILE POLICY (O.A.P. 4)

Please note that the General Provisions, Definitions, Exclusions and Statutory Conditions of this Policy found in Section 7 and Section 8, except as otherwise stated in those Sections, apply to every Section of the Policy. Each Section of the Policy should be read subject to the provisions in Sections 7 and 8.

WARNING – OFFENCES

It is an offence under the *Insurance Act* to knowingly make a false or misleading statement or representation to an insurer in connection with the person's entitlement to a benefit under a contract of insurance, or to wilfully fail to inform the insurer of a material change in circumstances within 14 days, in connection with such entitlement. The offence is punishable on conviction by a maximum fine of \$100,000 for the first offence and a maximum fine of \$200,000 for any subsequent conviction.

It is an offence under the federal *Criminal Code* for anyone to knowingly make or use a false document with the intent it be acted on as genuine and the offence is punishable, on conviction, by a maximum of 10 years imprisonment.

It is an offence under the federal *Criminal Code* for anyone, by deceit, falsehood, or other dishonest act, to defraud or to attempt to defraud an insurance company. The offence is punishable, on conviction, by a maximum of 10 years imprisonment for cases involving an amount over \$5,000 or otherwise a maximum of 2 years imprisonment.

INSURING AGREEMENTS

In consideration of payment of the premium specified in the Certificate of Insurance and subject to the limits, terms, conditions, provisions, definitions and exclusions stated herein, and subject to the condition that the Insurer shall be liable only under the Section(s) or subsection(s) for which a premium is stated in Item 5 of the Certificate of Insurance:

SECTION 1 THIRD PARTY LIABILITY

OWNED AUTOMOBILES

- 1.1** The Insurer agrees to pay on behalf of the Insured, and in the same manner and to the same extent as if named in this Policy as the Insured every other person who with the consent of the Insured drives or operates, or is an occupant of any automobile owned by the Insured, all sums which the Insured or other person is legally obligated to pay in respect of loss or damage arising from the ownership, use or operation of any automobile owned by the Insured, and resulting from BODILY INJURY TO OR DEATH OF ANY PERSON, OR DAMAGE TO PROPERTY OF OTHERS NOT IN THE CARE, CUSTODY OR CONTROL OF THE INSURED.

OTHER AUTOMOBILES

- 1.2** The Insurer agrees to pay on behalf of the Insured all sums which the Insured is legally obligated to pay in respect of loss or damage arising from the use or operation of any customer's automobile or non-owned automobile or any part of the automobile, and resulting from BODILY INJURY TO OR DEATH OF ANY PERSON, OR DAMAGE TO PROPERTY OF OTHERS NOT IN THE CARE, CUSTODY OR CONTROL OF THE INSURED.

EXCLUSIONS

1.3 THE INSURER SHALL NOT BE LIABLE under this Section,

- 1.3.1 for loss or damage arising from the use or operation of an automobile leased by the Insured from another under a lease contract for a period exceeding thirty days and which requires the Insured to effect and maintain insurance;
- 1.3.2 for loss or damage to property carried in or upon an owned automobile, customer's automobile or non-owned automobile;
- 1.3.3 for loss or damage to any property owned or rented by, or in the care, custody or control of any person insured by this Section;
- 1.3.4 for loss or damage to any customer's automobile;
- 1.3.5 for any amount in excess of the limits stated in Item 5, Section 1 of the Certificate of Insurance and expenditures provided for in the Additional Agreements of this Section, subject to the provisions of Section 255 of the *Insurance Act* (Nuclear Energy Hazard); or
- 1.3.6 for any liability arising from contamination of property carried in the automobile.

ADDITIONAL AGREEMENTS OF INSURER

- 1.4** Where coverage is provided by this Section, the Insurer shall,
- 1.4.1 upon receipt of notice of loss or damage caused to persons or property, make such investigations, negotiations or settlement of any resulting claims on behalf of any person insured by this Policy as may be deemed expedient by the Insurer;
 - 1.4.2 defend in the name and on behalf of any person insured by this Policy and at the cost of the Insurer any civil action which may be brought against such person on account of such loss or damage to persons or property;
 - 1.4.3 pay all costs assessed against any person insured by this Policy in any civil action defended by the Insurer and any interest accruing after judgment upon that part of the judgment which is within the limits of the Insurer's liability;
 - 1.4.4 if the injury is to a person, reimburse any person insured by this Policy for amounts paid for such medical aid as is immediately necessary at the time of such injury;
 - 1.4.5 be liable up to the minimum limit prescribed in a jurisdiction covered by this Policy in which the accident occurred, if that limit is higher than the limit in Item 5, Section 1 of the Certificate of Insurance; and
 - 1.4.6 not set up any defence to a claim that might not be set up if the Policy were a motor vehicle liability policy issued in a jurisdiction covered by this Policy in which the accident occurred.

MULTIPLE INSURED

- 1.5** Coverage under this Section is available in respect of a claim or action by one named Insured against another named Insured, provided,
- (a) coverage shall apply in the same manner and to the same extent as if Policy were issued to each Insured; and
 - (b) the Insurer shall not be liable for any amount in excess of the limit in Item 5, Section 1 of the Certificate of Insurance.

AGREEMENTS OF INSURED

- 1.6** Where coverage is provided by this Section, every person insured by this Policy,
- 1.6.1 by the acceptance of this Policy, irrevocably appoints the Insurer as the insured person's attorney to appear and defend in any jurisdiction covered by this Policy in which action is brought against insured persons arising out of the ownership, use or operation of the automobile; and

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

SECTION 2 ACCIDENT BENEFITS

Please note that the General Provisions, Definitions, Exclusions and Statutory Conditions of this Policy found in Section 7 and Section 8, except as otherwise stated in those Sections, apply to every Section of the Policy. Each Section of the Policy should be read subject to the provisions in Sections 7 and 8.

2.1 Who is covered

For the purposes of Section 2, insured persons are defined in the *Statutory Accident Benefits Schedule* and an insured automobile for this purpose includes an owned, a non-owned, and a customer's automobile as defined in this Policy. In addition, insured persons also include any person who is injured or killed in an automobile accident involving an owned, non-owned or customer's automobile as defined in this Policy, and is not the named Insured, or the spouse or dependant of a named Insured, under any other motor vehicle liability policy, and is not covered under the policy of an automobile in which they were an occupant or which struck them.

2.2 Types and Benefits

The details of the Accident Benefits Coverage are set out in the *Statutory Accident Benefits Schedule* of the *Insurance Act*. This Section outlines the benefits that an insured person may be entitled to receive if injured or killed in an automobile accident. If there is a difference between the interpretation of the wording in this Section and the interpretation of the wording in the *Statutory Accident Benefits Schedule*, the *Statutory Accident Benefits Schedule* prevails.

The insurance company is obligated to inform insured persons about the benefits available.

The benefits in the *Statutory Accident Benefits Schedule* are:

Income Replacement Benefit

This benefit may compensate an insured person for lost income.

Caregiver Benefit

This benefit may provide compensation for some expenses incurred when an insured person cannot continue as the main caregiver for a member of the household who is in need of care.

Non-Earner Benefit

This benefit may provide compensation if an insured person is completely unable to carry on a normal life and does not qualify for an Income Replacement Benefit or Caregiver Benefit.

Medical Benefit

This benefit may pay for some medical expenses incurred when an insured person is injured. These are expenses that are not covered by any other medical coverage plan.

Rehabilitation Benefit

This benefit may pay for some rehabilitation expenses incurred when an insured person is injured. These are expenses that are not covered by any other plan.

Attendant Care Benefit

This benefit may compensate an insured person for some of the expense of an aide or attendant.

Compensation for Other Expenses

This benefit may pay for some other expenses such as the cost of visiting an insured person during treatment or recovery. It may also pay for some housekeeping and home maintenance, the repair or replacement of some items lost or damaged in the accident, and some lost educational expenses.

Death Benefit

This benefit may pay money to some members of the family of an insured person who is killed.

Funeral Expenses

This benefit may pay for some funeral expenses.

Optional Benefits

One or more optional benefits may be purchased to increase the basic levels of benefits provided in this Section. The optional benefits are:

Increased Income Replacement; Increased Caregiver and Dependant Care; Increased Medical, Rehabilitation and Attendant Care; Increased Death and Funeral. An optional Indexation Benefit may be purchased, which provides for certain weekly benefit payments and monetary limits to increase on an annual basis to reflect changes in the cost of living.

2.3 How to Apply for Benefits

2.3.1 Applying for Benefits - Procedures and Time Limits

Anyone applying for Accident Benefits must advise the Insurer within 7 days of the accident. The Insurer will send an application for Accident Benefits to each applicant. The person applying for the benefits must send to the Insurer the completed application within 30 days of receiving it. An insured person may still be entitled to benefits if these time limits are not met for good reason, but payment of the benefits may be delayed. The Insurer must pay the Income Replacement Benefit, Non-Earner Benefit or Caregiver Benefit within 14 days of receiving the complete application. The Insurer must pay the Death Benefit, Funeral Benefit and Compensation for Other Expenses within 30 days of receiving the complete application. Unless the Insurer asks for an Assessment of Attendant Care Needs form within 14 days of receiving a complete application, the Insurer must pay the Attendant Care Benefit within 30 days. If an insured person is claiming the Medical Benefit or Rehabilitation Benefit, the insured person's doctor or other member of a health profession must provide the Insurer with a treatment plan or other related forms. In some cases, the Insurer can ask an insured person to go for an independent assessment to assess the Medical, Rehabilitation or Attendant Care Benefit needs. The Insurer may ask an insured person to provide additional information in connection with the claim, such as a statutory declaration as to the circumstances that gave rise to the application, or proof of identity. The Insurer may also ask an insured person to attend an examination under oath in connection with entitlement to benefits, on reasonable advance notice and at a time and place that are convenient to the person. If the person does not participate as requested, benefits may be delayed or suspended. If the injuries fall within certain guidelines issued by the Superintendent of Financial Services, an insured person may be entitled to some medical or rehabilitation treatments without the

Insurer's prior approval and before a completed application is submitted.

2.3.2 Choosing Which Benefit to Receive

If an insured person qualifies for more than one weekly benefit, the Insurer will notify the person, who must choose which benefit he/ she will receive. The insured person may choose between the Income Replacement, Non-Earner or Caregiver Benefits. An insured person will have 30 days to make a choice.

2.4 Limitations on the Coverage

An insured person is not entitled to the Income Replacement Benefit, Non-Earner Benefit or Compensation for Other Expenses if the person:

- (a) knew, or should reasonably have known, that he/she was operating an automobile without insurance;
- (b) was driving an automobile while not authorized by law to drive;
- (c) was driving an automobile which he/she was specifically excluded from driving under this policy;
- (d) knowingly operated, or should reasonably have known that the automobile was operated, without the owner's consent;
- (e) made or knew about a material misrepresentation that induced the Insurer to issue this policy;
- (f) intentionally failed to notify the Insurer of any significant changes as required under Section 8, section 1 - Material Change in Risk; or
- (g) was convicted of a criminal offence involving the operation of an automobile.

SECTION 3 UNINSURED AUTOMOBILE COVERAGE

Please note that the General Provisions, Definitions, Exclusions and Statutory Conditions of this Policy found in Section 7 and Section 8, except as otherwise stated in those Sections, apply to every Section of the Policy. Each Section of the Policy should be read subject to the provisions in Sections 7 and 8.

3.1 The Insurer agrees to pay all sums that,

- 3.1.1 a person insured under the Policy is legally entitled to recover from the owner or driver of an uninsured automobile or unidentified automobile as damages for bodily injuries resulting from an accident involving an automobile;

- 3.1.2 any person is legally entitled to recover from the owner or driver of an uninsured automobile or unidentified automobile as damages for bodily injury to or the death of a person insured under the Policy resulting from an accident involving an automobile; and
- 3.1.3 a person insured under the Policy is legally entitled to recover from the identified owner or driver of an uninsured automobile as damages for accidental damage to the insured automobile or its contents, or to both the insured automobile and its contents, resulting from an accident involving an automobile.

Definitions

3.2 For the purposes of this Section,

- 3.2.1 "insured automobile" means an owned, non-owned or customer's automobile;
- 3.2.2 "person insured under the Policy" means,
 - (a) in respect of a claim for damage to the insured automobile, the owner of the automobile,
 - (b) in respect of a claim for damage to the contents of the insured automobile, the owner of the contents,
 - (c) in respect of a claim for bodily injury or death,
 - (i) any person while an occupant of the insured automobile,
 - (ii) the Insured and his or her spouse and any dependent relative of the Insured or his or her spouse,
 - 1. while an occupant of an uninsured automobile, or
 - 2. while not the occupant of an automobile or of rolling stock that runs on rails, who is struck by an uninsured or unidentified automobile,
 - (iii) if the Insured is a corporation, unincorporated association or partnership, any director, officer, employee or partner of the Insured for whose regular use the insured automobile is furnished, and his or her spouse and any dependent relative of the person or the spouse,
 - 1. while an occupant of an uninsured automobile, or,
 - 2. while not the occupant of an automobile or of rolling stock that runs on rails, who is struck by an uninsured or unidentified automobile,

- 3.2.3 “unidentified automobile” means an automobile with respect to which the identity of either the owner or driver cannot be ascertained;
- 3.2.4 “uninsured automobile” means an automobile with respect to which neither the owner nor driver thereof has applicable and collectible bodily injury liability and property damage liability insurance for its ownership, use or operation, but does not include an automobile owned by or registered in the name of the Insured or his or her spouse.

Qualification of Dependent Relative

- 3.3** Where a dependent relative referred to in paragraph 3.2.2 (c) (ii) is the owner of an automobile insured under a contract or sustains bodily injuries or dies as the result of an accident while the occupant of his or her own uninsured automobile, such dependent relative shall be deemed not to be a dependent relative for the purposes of this Section.
- 3.4** The following terms, conditions, provisions, exclusions and limits prescribed by the regulations made under section 265 of the *Insurance Act* apply to the coverage under this Section.

Limits and Exclusions

3.5 THE INSURER SHALL NOT BE LIABLE to make any payment,

- (a) for any amount in excess of the minimum limits for automobile liability insurance in the jurisdiction in which the accident occurs regardless of the number of persons injured or killed or the damage to the automobile and contents, and in no event shall the Insurer be liable for any amount in excess of the minimum limits set out in section 251 of the *Insurance Act*;
- (b) where the person insured under the Policy is entitled to recover money under the third party liability section of a motor vehicle liability policy;
- (c) to any person involved in an accident in a jurisdiction in which a valid claim may be made for such payment against an unsatisfied judgment or similar fund;
- (d) for any loss or damage caused directly or indirectly by radioactive material;
- (e) in respect of damages for accidental damage to the insured automobile and its contents, for the first \$300 of any loss in any one occurrence nor any amount in excess of \$25,000; or
- (f) for loss or damage referred to in subsection 3.1 that occurs while the insured automobile is being operated by an excluded driver.

3.6 Where by reason of any one accident, liability results from bodily injury or death and from damage to the insured automobile or its contents,

- (a) claims arising out of bodily injury or death have priority to the extent of 95 percent of the amount payable over claims arising out of damage to the insured automobile and its contents; and
- (b) claims arising out of damage to the insured automobile and its contents have priority to the extent of 5 percent over claims arising out of bodily injury or death.

Accidents Involving Unidentified Automobiles

3.7 Where an unidentified automobile has caused bodily injury or death to a person insured under the Policy,

- (a) the person insured under the Policy, or his or her representative, shall report the accident to a police, peace or judicial officer within twenty-four hours after it occurs or as soon as practicable after that time;
- (b) the person, or his or her representative, shall give the Insurer a written statement within thirty days after the accident occurs or as soon as is practicable after that date setting out the details of the accident;
- (c) the statement shall state whether the accident was caused by a person whose identity cannot be ascertained and whether the person insured under the Policy was injured or killed and property was damaged in the accident; and
- (d) the person, or his or her representative, shall make available for inspection by the Insurer on request the automobile in which the person was an occupant when the accident occurred.

Determination of Legal Liability and Amount of Damages

3.8 The determination as to whether the person insured under the Policy is legally entitled to recover damages, and, if so entitled, the amount thereof shall be determined,

- (a) by agreement between the person insured under the Policy and the Insurer;
- (b) at the request of the person insured under the Policy, and with the consent of the Insurer, by arbitration by some person to be chosen by both parties, or if they cannot agree on one person, then by two persons, one to be chosen by the person insured under the Policy and the other by the Insurer and a third person to be appointed by

- the persons so chosen; or
- (c) by a court of competent jurisdiction in Ontario in an action brought against the Insurer by the person insured under the Policy, and unless the determination has been previously made in a contested action by a court of competent jurisdiction in Ontario, the Insurer may include in its defence the determination of liability and the amount thereof.

3.9 The *Arbitration Act, 1991* applies to every arbitration under subsection 3.8 (b).

Notice of Legal Action

- 3.10** Where the person insured under the Policy or his or her representative commences a legal action for damages against any other person owning or operating an automobile involved in an accident, a copy of the document(s) initiating a claim for damages shall be delivered or sent by registered mail immediately to the chief agent or head office of the Insurer in Ontario.
- 3.11** Subject to subsections 3.5 and 3.6, where the person insured under the Policy or his or her representative obtains a judgment against the other person referred to in subsection 3.10 but is unable to recover, or to recover fully the amount of that judgment, the Insurer shall on request pay the amount of that judgment or, as the case may be, the difference between what the person has recovered under that judgment and the amount of that judgment.
- 3.12** Before making any such payment, the Insurer may require that the person insured under the Policy or his or her representative assign the judgment, or the balance of the judgment, as the case may be, to the Insurer and the Insurer shall account to the person insured under the Policy for any recovery it makes under that judgment for any amount in excess of what it has paid to that person and its costs.

Notice and Proof of Claim

3.13 A person entitled to make a claim in respect of the bodily injury or death of a person insured under the Policy shall do so in accordance with the following;

- (a) the claimant shall give the Insurer written notice of the claim within thirty days after the accident, or as soon as is practicable after that date;
- (b) the claimant shall give the Insurer, within ninety days after the accident, or as soon as is practicable after that date, such proof as is reasonably possible in the circumstances of the accident, the resulting loss and the claim;
- (c) the claimant shall provide the Insurer on request with a certificate of the medical or psychological advisor of the person insured under the Policy stating the cause of the injury or death, and, if applicable, the nature of the injury and the expected duration of any disability; and
- (d) the claimant shall provide the Insurer with the details of any other insurance policy, other than a life insurance policy, to which the claimant may have recourse.

3.14 Subject to Statutory Condition 7, Statutory Condition 6 applies with necessary modifications with respect to a claim for damages to the insured automobile or its contents.

Medical Examinations

3.15 On reasonable notice, the Insurer may require the person insured under the Policy to undergo an examination by a qualified medical or psychological advisor as often as the Insurer reasonably requires.

3.16 The Insurer will pay for any examination it requires under subsection 3.15.

3.17 The Insurer shall provide a copy of the medical report to a person making a claim under the Policy, or to the person's representative, upon request.

Limitations

3.18 No person is entitled to bring an action to recover the amount of a claim provided for under the Policy, as required by section 265 (1) of the *Insurance Act*, unless the requirements of this Section with respect to the claim have been complied with.

3.19 An action or proceeding against the Insurer in respect of loss or damage to the insured automobile or its contents shall be commenced within one year next after the loss or damage occurs.

- 3.20** An action or proceeding against the Insurer in respect of bodily injury or death, or in respect of loss or damage to property other than the insured automobile or its contents, shall be commenced within two years after the cause of action arises.

Limit on Amount Payable

- 3.21** If a person insured under the Policy is entitled to receive benefits under more than one contract providing insurance of the type set forth in section 265 (1) of the *Insurance Act*, the person, or any person claiming through or under the person, or any person claiming under Part V of the *Family Law Act*, is entitled to recover only an amount equal to one benefit.

SECTION 4 DIRECT COMPENSATION - PROPERTY DAMAGE

Please note that the General Provisions, Definitions, Exclusions and Statutory Conditions of this Policy found in Section 7 and Section 8, except as otherwise stated in those Sections, apply to every Section of the Policy. Each Section of the Policy should be read subject to those provisions in Sections 7 and 8.

- 4.1** Where section 263 of the *Insurance Act* (Direct Compensation – Property Damage) applies, the Insurer agrees to pay the cost of damage to an automobile, its equipment and its contents and for loss of use of such automobile or contents arising from an accident for which another person would have been liable in the absence of section 263 of the *Insurance Act* if such automobile is,
- (a) owned by the Insured, PROVIDED THAT its use is not excluded under subsection 7.14 and that it is not an Excluded Automobile under subsection 7.15, or
 - (b) not owned by the Insured, PROVIDED THAT the automobile,
 - (i) is in the Insured's care, custody or control, and
 - (ii) is not being used for an Excluded Use under subsection 7.14 and is not an Excluded Automobile under subsection 7.15, and
 - (iii) is not insured under another motor vehicle liability policy.
- 4.2** The amount paid will be based on the degree the Insured or driver is not at fault in the accident as determined under the *Fault Determination Rules* made under the *Insurance Act*.

- 4.3** The amount paid in respect of loss or damage to the contents of the automobile which are not carried for reward will be paid to the owner of the contents.

Deductible

- 4.4** The Insurer's liability for each occurrence and for each separate automobile may be subject to a Direct Compensation – Property Damage deductible amount. The deductible, if any, is the amount stated in Item 5, Section 4 of the Certificate of Insurance, multiplied by the percentage to which the Insured or driver is not at fault in the accident as determined by the *Fault Determination Rules* made under the *Insurance Act*.
- 4.5** In the event that there is loss or damage to both the automobile and its contents, the deductible will first be applied to the automobile loss. If there is any remaining deductible, then that amount will be applied to the contents loss.
- 4.6** The Insurer will pay that portion of the total damage that is equal to the percentage to which the Insured or driver was not at fault for the accident, less the applicable Direct Compensation-Property Damage deductible.

Exclusions

- 4.7** The Insurer shall not be liable under this Section for,
- (a) contents of the automobile which are carried for reward, or
 - (b) any liability arising from contamination of property carried in the automobile, and
 - (c) loss or damage caused by Nuclear Energy Hazard, except as provided for by section 255 of the *Insurance Act* (Nuclear Energy Hazard).

SECTION 5 LOSS OF OR DAMAGE TO OWNED AUTOMOBILES

Please note that the General Provisions, Definitions, Exclusions and Statutory Conditions of this Policy found in Section 7 and Section 8, except as otherwise stated in those Sections, apply to every Section of the Policy. Each Section of the Policy should be read subject to the provisions in Sections 7 and 8.

- 5.1** The Insurer agrees to pay for direct and accidental loss of or damage to any owned automobile, including its equipment while attached to and forming part of the automobile, under one or more of the following subsections;

- Subsection 5.1.1 COLLISION OR UPSET - caused by collision with another object or by upset of the automobile.
- Subsection 5.1.2 COMPREHENSIVE - caused by any peril other than by collision with another object or another automobile upon which it is being transported, or by upset of either automobile; provided that,
- (a) “another object” includes an automobile to which the automobile is attached or upon which it is being transported, and the surface of the ground and any object in or on the surface; and
 - (b) “peril” includes, but is not limited to those perils listed under subsection 5.1.3 (Specified Perils), falling or flying objects, missiles, and vandalism.
- Subsection 5.1.3. SPECIFIED PERILS - caused by fire; theft or attempted theft; lightning, windstorm, hail, or rising water; earthquake; explosion; riot or civil disturbance; falling or forced landing of aircraft or parts of aircraft; or the stranding, sinking, burning, derailment, collision or upset of any railway car or watercraft in, or upon which the automobile is being transported.
- Subsection 5.1.4 SPECIFIED PERILS EXCLUDING THEFT – caused by fire, lightning, windstorm, hail, or rising water; earthquake; explosion; riot or civil disturbance; falling or forced landing of aircraft or parts of aircraft; or the stranding, sinking, burning, derailment, collision or upset of any railway car or watercraft in, or upon which the automobile is being transported.

Deductible

- 5.2** The Insurer’s liability shall be limited to the amount of loss or damage in excess of the deductible amount payable by the Insured as stated in the applicable subsection of Item 5, Section 5 of the Certificate of Insurance. For loss or damage under subsection 5.1.1 (Collision or Upset) where section 263 of the *Insurance Act* (Direct Compensation - Property Damage) applies, the deductible amount is the amount described in Item 5, subsection 5.1.1 of Section 5 of the Certificate of Insurance multiplied by the percentage that the Insured or driver is at fault as determined by the *Fault Determination Rules* made under the *Insurance Act*.
- 5.3** Subsection 5.2 applies to loss or damage to each automobile, except with respect to automobiles insured under subsection 5.1.2 (Comprehensive), subsection 5.1.3 (Specified Perils) and subsection 5.1.4 (Specified Perils Excluding Theft), where the deductible applies to each occurrence.

- 5.4** No deductible amount is payable by the Insured under subsections 5.2 and 5.3 where the loss or damage is caused by fire or lightning where these are insured perils.

Limits of Liability

Applicable to subsection 5.1.2 (Comprehensive), subsection 5.1.3 (Specified Perils) and subsection 5.1.4 (Specified Perils Excluding Theft)

- 5.5** Subject to subsections 5.6, 5.7, 5.8 AND 5.9 below, THE INSURER SHALL NOT BE LIABLE in respect of any one occurrence for,
- (a) any amount in excess of the limits of liability stated in subsection 5.1.2 (Comprehensive), subsection 5.1.3 (Specified Perils), and subsection 5.1.4 (Specified Perils Excluding Theft) in Item 5 of the Certificate of Insurance at each specified location;
 - (b) any amount at a newly acquired location in excess of the lowest limit of liability stated for any specified location;
 - (c) loss or damage to more than four owned automobiles at any location not used by the Insured in the business specified in Item 3 of the Certificate of Insurance.
- 5.6** Where the premium is computed on a MONTHLY AVERAGE BASIS, if at the time of loss the Insured has failed to file the report referred to in subsection 7.8 of Section 7 (General Provisions, Definitions and Exclusions), the Insurer's liability shall be limited to the amounts included in the last report filed; and if the delinquent report is the first report required to be filed, the Insurer shall be liable for not more than 75% of the applicable limit of liability stated in Item 5, Section 5 of the Certificate of Insurance.
- 5.7** In the event of loss where the premium is computed on a MONTHLY AVERAGE BASIS, the Insurer's liability at each location shall be limited to the proportion of the loss that the amounts reported to the Insurer on the last report filed prior to the loss bears to the actual cash value of all automobiles at the location on the date for which the last report was made.
- 5.8** Where the premium is computed on a CO-INSURANCE BASIS, the Insured shall maintain insurance under this Policy on the automobiles hereby insured at each specific location to the extent of at least 80% of the actual cash value of the automobiles, and that, failing so to do, the Insured shall be a co-Insurer to the extent of an amount sufficient to make the aggregate insurance equal to 80% of the actual cash value of the automobiles at the time of loss or damage, and shall bear his or her proportion of any loss or damage that may occur.

- 5.9** If the total loss or damage under subsection 5.8 is confined to one automobile only, the co-insurance described in subsection 5.8 shall not apply to the loss or damage.

Exclusions

- 5.10** THE INSURER SHALL NOT BE LIABLE under this Section for loss or damage,

- (a) to tires, or consisting of or caused by mechanical fracture or breakdown of any part of the automobile, or by rusting, corrosion, wear and tear, freezing, or explosion within the combustion chamber, BUT the Insurer will be liable if the loss or damage is coincident with other loss or damage which is covered by the relevant subsection, or is caused by fire, theft or vandalism if covered by such subsection;
- (b) resulting from conversion, embezzlement, or theft by any person in lawful possession of the automobile under a mortgage, conditional sale, lease or other similar written agreement;
- (c) resulting from a voluntary transfer of title or ownership, whether or not induced to do so by any fraudulent scheme, trick or false pretence;
- (d) caused directly or indirectly by contamination by radioactive material;
- (e) to contents of automobiles or trailers, other than their equipment;
- (f) for more than \$25 for recorded material and equipment for use with a playing or recording unit. The insurer shall not be liable for recorded material or equipment not contained within or attached to the playing or recording unit. Recorded material includes, but is not limited to, tapes, compact discs, video cassettes and digital video discs; or
- (g) for more than \$1500 for loss or damage to electronic accessories or equipment other than factory installed equipment. The insurer shall pay the actual cash value of the equipment up to \$1500 in total. "Electronic accessories and equipment" includes, but is not limited to, radios, tape players/decks, stereo players/decks, compact disc players, speakers, telephones, two-way radios including CB radios, ham radios and VHF radios, televisions, facsimile machines, electronic navigation assistance, positioning and location finding devices, computers, and items of a similar nature. "Factory installed equipment" means electronic accessories and equipment which was included in the original new purchase price of the automobile.

- 5.11** THE INSURER SHALL NOT BE LIABLE under this Section for any loss or damage suffered where the Insured drives or operates the automobile or permits any other person to drive or operate the automobile,

- (a) while under the influence of intoxicating substances to such an extent as to be incapable of proper control of the automobile; or

- (b) if the driver is convicted of any of the following offences under the *Criminal Code* of Canada relating to the operation, care, custody or control of the automobile, or committed by means of an automobile, or of any similar offence under any law in any jurisdiction covered by this Policy: causing death by criminal negligence, causing bodily harm by criminal negligence, dangerous operation of motor vehicles, failure to stop at the scene of an accident, operation of a motor vehicle when impaired or with more than 80 mg of alcohol in the blood, refusal to comply with demand for breath sample, causing bodily harm during operation of vehicle while impaired or over 80mg of alcohol in the blood, or operating a motor vehicle while disqualified from doing so; or
- (c) in a race or speed test, or for illegal activity; or, while not authorized by law.

5.12 THE INSURER SHALL NOT BE LIABLE under this Section for loss or damage to any automobile sold by the Insured and in the possession of a purchaser under any partial payment plan.

5.13 THE INSURER SHALL NOT BE LIABLE under this Section for loss or damage to any automobile which is being carried in or upon or is being towed by any automobile owned, hired or leased by the Insured and designed for transportation of more than one automobile.

5.14 THE INSURER SHALL NOT BE LIABLE under subsection 5.1.1 (Collision or Upset) for loss or damage occurring after the theft of the automobile and before recovery by the Insured, except where the theft has been committed by a person or persons residing in the same dwelling premises as the Insured; or employed by the Insured in connection with the business described in Item 3 of the Certificate of Insurance.

5.15 THE INSURER SHALL NOT BE LIABLE under subsection 5.1.2 (Comprehensive) or 5.1.3 (Specified Perils) for loss or damage caused by theft by a person residing in the same dwelling premises as the Insured, or employed by the Insured in connection with the business described in Item 3 of the Certificate of Insurance.

5.16 THE INSURER SHALL NOT BE LIABLE under subsection 5.1.2 (Comprehensive) or 5.1.3 (Specified Perils) for loss or damage caused by theft from any open lot or unroofed space owned, rented or controlled by the Insured in connection with the Insured's business stated in Item 3 of the Certificate of Insurance, except the theft of an entire automobile.

5.17 THE INSURER SHALL NOT BE LIABLE under subsection 5.1.4 (Specified Perils Excluding Theft) for loss or damage occurring after the theft of the automobile and before recovery of the automobile by the Insured.

Additional Agreements of Insurer

5.18 Where a premium is specified under Item 5, Section 5 of the Certificate of Insurance and loss or damage arises from an insured peril, the Insurer further agrees,

- 5.18.1 that where the occurrence of the insured peril results in the Insured incurring liability for such expenses, the Insurer will pay general average, salvage and fire department charges and customs duties of any jurisdiction covered by this Policy, and
- 5.18.2 to waive subrogation against every person who, with the Insured's consent, has care, custody or control of the automobile, provided always that this waiver shall not apply to any person
 - (a) having such care, custody or control in the course of the business of selling, repairing, maintaining, servicing, storing or parking automobiles other than an officer or employee of the Insured; or
 - (b) to any person who has
 - (i) committed a breach of any condition of this Policy, or
 - (ii) driven or operated the automobile in the circumstances referred to in subsection 5.11.

Agreement of Insured

5.19 The Insured agrees that in the event of loss or damage for which coverage is provided by this Policy, the Insured shall at the Insurer's request replace the property or make the necessary repairs at actual cost to the Insured.

SECTION 6 LIABILITY FOR DAMAGE TO A CUSTOMER'S AUTOMOBILE WHILE IN THE CARE, CUSTODY OR CONTROL OF THE INSURED

Please note that the General Provisions, Definitions, Exclusions and Statutory Conditions of this Policy found in Section 7 and Section 8, except as otherwise stated in those Sections, apply to every Section of the Policy. Each Section of the Policy should be read subject to the provisions in Sections 7 and 8.

Collision or Upset

6.1 The Insurer agrees,

- 6.1.1 to pay on behalf of the Insured, all sums which the Insured is legally obligated to pay in respect of loss or damage to a customer's

automobile, including its equipment while attached to the automobile, and including reimbursement of expenses incurred for taxicabs, public transportation or rental of a substitute automobile as a result of COLLISION OR UPSET - caused by collision with another object or by upset; and

- 6.1.2 to pay to the Insurer of a customer's automobile the amount paid by that Insurer because of the operation of section 263 of the *Insurance Act* and the *Fault Determination Rules* made under that section, based on the degree that the Insured or driver was at fault in the accident.

Exclusions

- 6.2** THE INSURER SHALL NOT BE LIABLE under subsection 6.1 (Collision or Upset),

- (a) for any amount in excess of the limit stated in Item 5, subsection 6.1 of Section 6 of the Certificate of Insurance and of the expenditures provided for in the Additional Agreements of this Section; or
- (b) for loss or damage to contents of automobiles or trailers, other than their equipment, except as provided under subsection 6.1.2; or
- (c) for loss or damage which occurs after theft of the automobile and before recovery by the Insured; or
- (d) for loss or damage caused directly or indirectly by contamination by radioactive material.

Deductible

- 6.3** Each occurrence causing loss or damage covered under subsection 6.1 (Collision or Upset) shall give rise to a separate claim. The Insurer's liability for each claim shall be limited to the amount of loss or damage in excess of the deductible amount payable by the Insured as stated in Item 5, subsection 6.1 of Section 6 of the Certificate of Insurance. Where section 263 of the *Insurance Act* (Direct Compensation – Property Damage) applies, the deductible amount is the amount stated in Item 5, subsection 6.1 of Section 6 of the Certificate of Insurance multiplied by the percentage to which the Insured or driver is at fault as determined by the *Fault Determination Rules* made under the *Insurance Act*.

Specified Perils

- 6.4** The Insurer agrees to pay on behalf of the Insured, all sums which the Insured is legally obligated to pay in respect of loss of or damage to a customer's automobile, including its equipment while attached to the automobile, and including reimbursement of expenses incurred for taxicabs, public transportation or rental of a substitute automobile, for

SPECIFIED PERILS - caused by fire; theft or attempted theft; vandalism; lightning, windstorm, hail, or rising water; earthquake; explosion; riot or civil disturbance; falling or forced landing of aircraft or parts of aircraft; or the stranding, sinking, burning, derailment, or collision or upset of any railway car or watercraft in, or upon which the automobile is being transported.

Limits of Liability Under subsection 6.4

6.5 SUBJECT TO SUBSECTION 6.8 (CO-INSURANCE CLAUSE), THE INSURER SHALL NOT BE LIABLE under subsection 6.4 (Specified Perils) in respect of any one occurrence for:

- (a) any amount in excess of the limits of liability stated in Item 5, subsection 6.4 of Section 6 of the Certificate of Insurance at each specified location and of expenditures provided for in the Additional Agreements of this Section;
- (b) any amount at a newly acquired location in excess of the lowest limit of liability stated for any specified location;
- (c) loss or damage to more than four automobiles at any location not used by the Insured in the business specified in Item 3 of the Certificate of Insurance.

Exclusions

6.6 THE INSURER SHALL NOT BE LIABLE under subsection 6.4 (Specified Perils) for loss or damage,

- (a) from the explosion of tires or from explosion within the combustion chamber of the engine of the automobile, unless the loss or damage is coincident with other loss or damage covered by subsection 6.4;
- (b) caused directly or indirectly by contamination by radioactive material;
- (c) caused by theft from any open lot or unroofed space owned, rented or controlled by the Insured, except the theft of an entire automobile;
- (d) to the contents of automobiles or trailers, other than their equipment; or
- (e) for more than \$25 for recorded material and equipment for use with a playing or recording unit. The insurer shall not be liable for recorded material or equipment not contained within or attached to the playing or recording unit. Recorded material includes, but is not limited to, tapes, compact discs, video cassettes and digital video discs.

Deductible

- 6.7** Each occurrence causing loss or damage covered under subsection 6.4 shall give rise to a separate claim. The Insurer's liability for each claim shall be limited to the amount of loss or damage in excess of the deductible amount payable by the Insured as stated in Item 5, subsection 6.4 of Section 6 of the Certificate of Insurance. No deductible amount is payable by the Insured under this subsection where loss or damage is caused by fire or lightning where these are Insured perils.

Co-Insurance Clause

- 6.8** If at the time of a loss covered by subsection 6.4 there are in or on the premises at the location where the loss occurs a greater number of customers' automobiles than the "Maximum Number of Customers' Automobiles" stated for that location in Item 5, subsection 6.4 of Section 6 of the Certificate of Insurance, THE INSURER SHALL NOT BE LIABLE for a greater proportion of the amount for which it otherwise would be liable than the "Maximum Number of Customers' Automobiles" stated for that location bears to the total number of customers' automobiles in or on the premises at the location at the time the loss occurs.

Additional Agreements of Insurer

- 6.9** Where coverage is provided by this Section the Insurer shall,
- (a) upon receipt of notice of loss or damage, make such investigations, conduct such negotiations with the claimant, and effect such settlement of any resulting claims, as are deemed expedient by the Insurer;
 - (b) defend in the name and on behalf of any person insured by this Policy and at the cost of the Insurer any civil action that is at any time brought against such person on account of loss or damage; and
 - (c) pay all costs assessed against any person insured by this Policy in any civil action defended by the Insurer and any interest accruing after judgment upon that part of the judgment which is within the limits of the Insurer's liability.

SECTION 7 GENERAL PROVISIONS, DEFINITIONS AND EXCLUSIONS

Please note that the General Provisions, Definitions, Exclusions and Statutory Conditions of this Policy found in this Section and in Section 8, except as otherwise stated in those Sections, apply to every Section of the Policy. Each Section of the Policy should be read subject to the provisions of this Section and of Section 8.

Territory

7.1 This Policy applies to loss or damage to persons or property caused by an incident that arises out of the ownership, operation or use of an automobile that occurs in Canada, the United States of America and any other jurisdiction designated in the *Statutory Accident Benefits Schedule*, or on a vessel travelling between ports of those countries.

7.1.1 All of the dollar limits described in this Policy are in Canadian funds.

Definitions

7.2 In this Policy:

7.2.1 “accident benefits” means the benefits set out in the *Statutory Accident Benefits Schedule* made under the *Insurance Act*.

Automobile Defined:

7.2.2 For the purposes of Section 1 (Third Party Liability), Section 2 (Accident Benefits), Section 3 (Uninsured Automobile Coverage), Section 4 (Direct Compensation - Property Damage), Section 5 (Loss or Damage to Owned Automobiles), and Section 6 (Liability for Damage to a Customer’s Automobile): “automobile” includes a trailer and a motorized snow vehicle. Regulations may include, or exclude, certain other types or classes of vehicles as “automobiles”.

7.2.3 For the purposes of Section 1 (Third Party Liability), Section 2 (Accident Benefits), Section 3 (Uninsured Automobile Coverage), Section 4 (Direct Compensation - Property Damage), and Section 5 (Loss or Damage to Owned Automobiles): “owned automobile” means:

- (a) an automobile, including trailers and equipment, owned by the Insured and used for pleasure or in connection with the business stated in Item 3 of the Certificate of Insurance; and

- (b) an automobile sold in the stated business by the Insured but not yet delivered to the purchaser, EXCEPT an automobile the ownership, operation or use of which is excluded in Section 7, (General Provisions, Definitions and Exclusions) or Section 8, (Statutory Conditions) of this Policy.

7.2.4 For the purposes of Section 1 (Third Party Liability), Section 2 (Accident Benefits), Section 3 (Uninsured Automobile Coverage) and Section 6 (Liability for Damage to a Customer's Automobile):

"customer's automobile" means an automobile owned by another, while the automobile is being towed or pushed by an automobile driven by the Insured or an employee or partner, or while in the care, custody or control of the Insured in the business stated in Item 3 of the Certificate of Insurance but DOES NOT INCLUDE an automobile,

- (a) owned, rented or leased by any person insured by this Policy or by any person residing in the same dwelling premises as the insured; or
- (b) sold by the Insured but not yet delivered to the purchaser.

7.2.5 For the purposes of Section 1 (Third Party Liability), Section 2 (Accident Benefits) and Section 3 (Uninsured Automobile Coverage):

"non-owned automobile" means an automobile, other than a customer's automobile, or an automobile leased by the Insured from another under a lease contract for a period exceeding thirty days and which requires the Insured to effect and maintain insurance, which is not owned by the Insured and which is used for pleasure by the Insured or partners or employees of the Insured, or in connection with the business stated in Item 3 of the Certificate of Insurance.

Other Definitions

7.2.6 "newly acquired location" means any new location acquired by the Insured in the business specified in Item 3 of the Certificate of Insurance, if notice of the new location is given to the Insurer within fourteen days following the date of acquisition.

7.2.7 "occupant" in respect of an automobile, means,

- (a) the driver,
- (b) a passenger, whether being carried in or on the automobile,
- (c) a person getting into or on or getting out of or off the automobile.

7.2.8 "spouse" means either of two persons who,

- (a) are married to each other,
- (b) have together entered into a marriage that is voidable or void, in good faith on the part of the person asserting a right under this Policy, or
- (c) have lived together in a conjugal relationship outside marriage,
 - (i) continuously for a period of not less than three years, or
 - (ii) in a relationship of some permanence if they are the natural or adoptive parents of a child.

Notice to Insurer

7.3 The Insured agrees to provide to the Insurer written notice, with all available particulars, of any incident involving the insured automobile which must be reported to the police under the *Highway Traffic Act*, within seven days of the incident, but if the Insured is unable because of incapacity to give such notice, as soon as possible thereafter.

Consent

7.4 An occupant of an automobile which is being operated without the consent of the owner or by an excluded driver shall not be entitled to indemnity or payment under this Policy except as provided in Section 2 (Accident Benefits).

Adjustable Premium Computation

7.5 The advance premiums are computed according to the terms shown on the Premium Computation Statement for the policy period.

7.6 The advance premiums referred to in subsection 7.5 are subject to adjustment at the end of the policy period when the Insured shall deliver to the Insurer a written statement of the current information necessary to adjust the premium shown in the Premium Computation Statement; provided that,

- (a) if the adjusted premium so computed exceeds the applicable advance premium stated in Item 5 of the Certificate of Insurance, the Insured shall pay the difference; and
- (b) if the premium is less than the applicable advance premium, the

Insurer shall return to the Insured the unearned premium subject to the Minimum Retained Premium stated in the Certificate of Insurance.

7.7 With respect only to subsections 5.1.2 (Comprehensive), 5.1.3 (Specified Perils) and 5.1.4 (Specified Perils Excluding Theft) of Section 5, if the premium is computed on a MONTHLY AVERAGE BASIS:

- (a) the advance premiums shall be 75% of the annual premium computed on the limits of liability and the rates applying at each location; and
- (b) the advance premiums referred to in (a) are subject to adjustment at the end of the policy period.

7.8 For the purposes of subsection 7.7, the earned premium shall be computed as follows:

- (a) the Insured shall make a report in writing to the Insurer not later than 30 days after the last day of each month giving the actual cash value of all owned automobiles held for sale at each location on the last business day of each month.
- (b) the value of all owned automobiles not held for sale must be included in the values reported for the principal location in the municipality or district in which the Insured carries on business.
- (c) an average of the total values reported at each location shall be made, and if the premium on the average values
 - (i) exceeds the applicable advance premiums stated in the Certificate of Insurance, the Insured shall pay an additional premium for such excess; and
 - (ii) is less than the applicable advance premiums, the Insurer shall return to the Insured the unearned premium.

7.9 In the event of any report referred to in paragraph 7.8 (a) not being made within the period stated in that subsection, the limit of liability at each location shall be taken as the value at risk for the purpose of adjustment of premium.

Audit

7.10 The Insurer or its authorized representative shall have access to the Insured's records at all reasonable times for the purpose of determining any fact relating to the insurance provided by this Policy.

Automobiles and Trailers

- 7.11** An automobile and one or more trailers attached to it shall be held to be one automobile with respect to the limit of liability under Section 1 (Third Party Liability), Section 2 (Accident Benefits) and Section 3 (Uninsured Automobile Coverage) of this Policy, and separate automobiles with respect to the Limits of Liability, including any deductible provisions, under Section 4 (Direct Compensation - Property Damage), Section 5 (Loss or Damage to Owned Automobiles) and Section 6 (Liability for Damage to a Customer's Automobile).

Additional Insureds

- 7.12** The Insurer agrees to pay on behalf of the following persons in the same manner and to the same extent as if named in this Policy as the Insured;

Business Use

- (a) with respect to Section 1 (Third Party Liability), Section 2 (Accident Benefits), Section 3 (Uninsured Automobile Coverage), and Section 6 (Liability for Damage to a Customer's Automobile) of this Policy, every other person who, with the consent of the owner, and in connection with the business described in Item 3 of the Certificate of Insurance, drives or operates any automobile other than
 - (i) an automobile owned by or registered in the name of such additional insured person; or
 - (ii) an automobile whose operation or use is excluded in Section 7 (General Provisions, Definitions and Exclusions) or Section 8 (Statutory Conditions) of this Policy; and

Driving Other Automobiles

- (b) with respect to Section 1 (Third Party Liability), Section 2 (Accident Benefits), Section 3 (Uninsured Automobile Coverage) and Section 4 (Direct Compensation-Property Damage) of this Policy, every active partner or full-time employee of the Insured for whose regular use an automobile is provided by the Insured; every person named on the Additional Insured Endorsement; or the spouse, who lives with such active partner, full time employee and person named on the Additional Insured Endorsement; and the spouse of the Insured who lives with the Insured, who, with the consent of the owner drives for pleasure purposes any other automobile having a manufacturer's gross vehicle weight rating not exceeding 4,500 kilograms, PROVIDED THAT,
 - (i) neither such partner, employee, persons named on the

- Additional Insured Endorsement, if any, or such spouse, is the owner or the lessee for more than 30 days of an automobile having a manufacturer's gross vehicle weight rating not exceeding 4,500 kilograms;
- (ii) such other automobile is not owned, hired or leased or regularly used by the Insured, partner or employee of the Insured, or person named on the Additional Insured Endorsement, or by any person residing in the same dwelling premises as any of these persons;
 - (iii) the operation or use of the other automobile is not excluded in Section 7 (General Provisions, Definitions and Exclusions) or in Section 8 (Statutory Conditions) of this Policy; and
 - (iv) Section 4 (Direct Compensation-Property Damage) coverage applies only when such other automobile is in the care, custody or control of a person referred to in subsection 7.12 (b) and is not insured under another motor vehicle liability policy.

Direct Compensation-Property Damage

7.12.1 The Insurer agrees to provide coverage under Section 4 (Direct Compensation-Property Damage) to a person whose automobile is in the care, custody or control of the Insured, PROVIDED that the automobile is not;

- (i) insured under another motor vehicle liability policy, or
- (ii) being used for an Excluded Use under subsection 7.14 and is not an Excluded Automobile under subsection 7.15 of Section 7 (General Provisions, Definitions and Exclusions) of this Policy.

Other Insurance

7.13 Insurance under Section 1 (Third Party Liability), and Section 3 (Uninsured Automobile Coverage) of this Policy is first loss insurance with respect to a customer's automobile, and any other valid motor vehicle liability policy is excess insurance only.

Excluded Uses

7.14 THE INSURER SHALL NOT BE LIABLE while,

- (a) the automobile is rented or leased by the Insured to another, provided that the following shall not be deemed to be renting or leasing to another,
 - (i) the use by an employee of the employee's automobile on the business of the employer and for which the employee is being paid;

- (ii) the use of an owned automobile by a customer pending return of the customer's automobile which has been left with the Insured for repairs or servicing; and
 - (iii) the use of an owned automobile by a customer for a period not exceeding 30 days, pending delivery of an automobile for which a purchase order or a lease agreement has been placed with the insured by the customer;
- but** this exclusion shall not apply while an owned automobile, rented or leased to another, is in the care, custody or control of the Insured for the purpose of maintenance or repair, and in this case this Policy shall be first loss insurance;
- (b) the automobile is used to carry explosives, or radioactive material for research, education, development or industrial purposes, or for purposes incidental to these purposes;
 - (c) the automobile is used as a taxicab, bus, sightseeing conveyance, or for carrying passengers for compensation or hire; provided that the following uses shall not be deemed to be carrying passengers for compensation or hire,
 - (i) carrying another person, where the other person reciprocates;
 - (ii) carrying another person occasionally and infrequently, who shares the cost of the trip;
 - (iii) carrying a domestic servant of the Insured or of his or her spouse;
 - (iv) carrying clients or customers or prospective clients or customers;
 - (v) transporting children occasionally and infrequently to or from school, or school activities conducted within the educational program; or
 - (vi) reimbursing volunteer drivers for their reasonable driving expenses including gas, vehicle wear and tear and meals; and
 - (d) the automobile is being used,
 - (i) for the carrying of goods or materials for compensation;
 - (ii) for public road construction, repair or maintenance; or
 - (iii) as farm or contractor's equipment on behalf of others for compensation.

Excluded Automobiles

7.15 THE INSURER SHALL NOT BE LIABLE under this Policy for loss, damage, injury or death arising from the ownership, use or operation of any automobile,

- (a) owned by the Insured in connection with or used for the purpose of any business conducted by or any employment or occupation for

- wages or profit engaged in by the Insured other than as stated in Item 3 of the Certificate of Insurance;
- (b) owned by the Insured which is designed or modified for racing purposes;
 - (c) provided by the Insured to any person for regular or frequent use, except an active partner or a full time employee of the business stated in Item 3 of the Certificate of Insurance PROVIDED that this exclusion does not apply while the person is using the automobile in the business stated in Item 3 of the Certificate of Insurance; and
 - (d) owned or hired by the Insured and;
 - (i) designed for the bulk transportation of petroleum products or other materials while being used for those purposes; or
 - (ii) designed for the transportation of more than one automobile.
 - (e) leased by the Insured from another under a lease contract for a period exceeding thirty days and which requires the Insured to effect and maintain insurance.

Personnel of other Garages Excluded

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

War Risks Excluded

7.17 THE INSURER SHALL NOT BE LIABLE under Section 2 (Accident Benefits), Section 3 (Uninsured Automobile Coverage), Section 4 (Direct Compensation – Property Damage), Section 5 (Loss or Damage to Owned Automobiles), and Section 6 (Loss or Damage to a Customer's Automobile), of this Policy for any loss, damage, injury or death caused directly or indirectly by bombardment, invasion, civil war, insurrection, rebellion, revolution, coup, or actions of armed forces while engaged in a war, whether declared or not.

SECTION 8 STATUTORY CONDITIONS

Note: The *Insurance Act* requires that these conditions be printed as part of every automobile insurance policy in Ontario. If there is a discrepancy between these conditions and the wording in the policy, these conditions prevail.

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

Material Change in Risk

1. (1) The insured named in this contract shall promptly notify the insurer or its local agent in writing of any change in the risk material to the contract and within the insured’s knowledge.
- (2) Without restricting the generality of the foregoing, the words, “change in the risk material to the contract” include:
 - (a) any change in the insurable interest of the insured named in this contract in the automobile by sale, assignment or otherwise, except through change of title by succession, death or proceedings under the *Bankruptcy and Insolvency Act* (Canada);and, in respect of insurance against loss of or damage to the automobile,
 - (b) any mortgage, lien or encumbrance affecting the automobile after the application for this contract;
 - (c) any other insurance of the same interest, whether valid or not, covering loss or damage insured by this contract or any portion thereof.

Incorrect Classification

2. (1) Where the insured has been incorrectly classified under the risk classification system used by the insurer or under the risk classification system that the insurer is required by law to use, the insurer shall make the necessary correction.

Refund of Premium Overpayment

- (2) Where a correction is made under subcondition (1) of this condition, the insurer shall refund to the insured the amount of any premium overpayment together with interest thereon for the period that the incorrect classification was in effect at the bank rate at the end of the first day of the last month of the quarter preceding the quarter in which the incorrect classification was first made, rounded to the next highest whole number if the bank rate includes a fraction.

Definition

- (3) In subcondition (2) of this condition,

“bank rate” means the bank rate established by the Bank of Canada as the minimum rate at which the Bank of Canada makes short term advances to the banks listed in Schedule I to the *Bank Act* (Canada).

Additional Premium

- (4) Where a correction is made under subcondition (1) of this condition within sixty days after this contract takes effect, the insurer may require the insured to pay any additional premium resulting from the correction, without interest.

Monthly Payments

3. Unless otherwise provided by the regulations under the *Insurance Act*, the insured may pay the premium, without penalty, in equal monthly payments totalling the amount of the premium. The insurer may charge interest not exceeding the rate set out in the regulations.

Authority to Drive

4. (1) The insured shall not drive or operate or permit any other person to drive or operate the automobile unless the insured or other person is authorized by law to drive or operate it.

Prohibited Use

- (2) The insured shall not use or permit the use of the automobile in a race or speed test or for any illicit or prohibited trade or transportation.

Requirements Where Loss or Damage to Persons or Property

5. (1) The insured shall,
 - (a) give to the insurer written notice, with all available particulars, of any accident involving loss or damage to persons or property and of any claim made on account of the incident;
 - (b) verify by statutory declaration, if required by the insurer, that the claim arose out of the use or operation of the automobile and that the person operating or responsible for the operation of the automobile at the time of the accident is a person insured under this contract; and
 - (c) forward immediately to the insurer every letter, document, advice or statement of claim received by the insured from or on behalf of the claimant.
- (2) The insured shall not,
 - (a) voluntarily assume any liability or settle any claim except at the insured's own cost; or
 - (b) interfere in any negotiations for settlement or in any legal proceeding.
- (3) The insured shall, whenever requested by the insurer, aid in securing information and evidence and the attendance of any witness and shall co-operate with the insurer, except in a pecuniary way, in the defence of any action or proceeding or in the prosecution of any appeal.

Requirements Where Loss or Damage to Automobile

6. (1) Where loss of or damage to the automobile occurs, the insured shall, if the loss or damage is covered by this contract,
 - (a) give notice thereof in writing to the insurer with the fullest information obtainable at the time;
 - (b) at the expense of the insurer, and as far as reasonably possible, protect the automobile from further loss or damage; and

- (c) deliver to the insurer within ninety days after the date of the loss or damage a statutory declaration stating, to the best of the insured's knowledge and belief, the place, time, cause and amount of the loss or damage, the interest of the insured and of all others therein, the encumbrances thereon, all other insurance, whether valid or not, covering the automobile and that the loss or damage did not occur directly or indirectly through any wilful act or neglect of the insured.
- (2) Any further loss or damage accruing to the automobile directly or indirectly from a failure to protect it as required under subcondition (1) of this condition is not recoverable under this contract.
- (3) No repairs, other than those that are immediately necessary for the protection of the automobile from further loss or damage, shall be undertaken and no physical evidence of the loss or damage shall be removed,
 - (a) without the written consent of the insurer; or
 - (b) until the insurer has had a reasonable time to make the examination for which provision is made in statutory condition 8.

Examination of Insured

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

Insurer Liable for Cash Value of Automobile

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

Repairing, rebuilding or replacing property damaged or lost

- (6) The insurer may repair, rebuild or replace the property that is damaged or lost, instead of making the payment referred to in statutory condition 9, if the insurer gives written notice of its intention to do so within seven days after receipt of the proof of loss.

Time for repairs

- (6.1) The insurer shall carry out the repair, rebuilding or replacement referred to in subcondition (6),
 - (a) within a reasonable period of time after giving the notice required under subcondition (6), if an appraisal referred to in subcondition (2.1) of statutory condition 9 is not carried out in respect of the claim; or
 - (b) within a reasonable period of time after the insurer receives the appraisers' determination of the matters in disagreement, if an appraisal referred to in subcondition (2.1) of statutory condition 9 is carried out in respect of the claim.

New or aftermarket parts

- (6.2) For the purposes of subcondition (6), the insurer may repair, rebuild or replace the property with new parts provided by the original equipment manufacturer or with non-original or rebuilt parts of like kind and quality to the property that was damaged or lost.

No Abandonment; Salvage

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

Time Limit

- 7. The notice required by subcondition (1) of statutory condition 5 and subcondition (1) of statutory condition 6 shall be given to the insurer within seven days of the incident but if the insured is unable because of incapacity to give the notice within seven days of the incident, the insured shall comply as soon as possible thereafter.

Inspection of Automobile

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

Time and manner of payment of insurance money

9. (1) If the insurer has not chosen to repair, rebuild or replace the property that is damaged or lost, the insurer shall pay the insurance money for which it is liable under the contract,
 - (a) within 60 days after the insurer receives the proof of loss, if no appraisal referred to in subcondition (2.1) is carried out in respect of the claim; or
 - (b) within 15 days after the insurer receives the appraisers' determination of the matters in disagreement, if an appraisal referred to in subcondition (2.1) is carried out in respect of the claim.

Reasons for Refusal

- (2) If the insurer refuses to pay a claim, it shall promptly inform the insured in writing of the reasons the insurer claims it is not liable to pay.

Resolution of disagreement by appraisal under s. 128 of the Act

- (2.1) Section 128 of the Act applies to this contract if,
 - (a) the insurer has received a proof of loss from the insured in respect of property that is lost or damaged;
 - (b) the insured and the insurer disagree on,
 - (i) the nature and extent of repairs, rebuilding and replacements required or their adequacy, or
 - (ii) the amount payable in respect of the loss or damage;and
 - (c) either the insured or the insurer requests in writing that an appraisal under section 128 of the Act be carried out and the other of them agrees.

When Action may be Brought

- (3) The insured shall not bring an action to recover the amount of a claim under this contract unless the requirements of statutory conditions 5 and 6 are complied with.

Limitation of Actions

- (4) Every action or proceeding against the insurer under this contract in respect of loss or damage to the automobile or its contents shall be commenced within one year next after the happening of the loss and not afterwards, and in respect of loss or damage to persons or other property shall be commenced within two years next after the cause of action arose and not afterwards.

Who May Give Notice and Proofs of Claim

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

Deductible amounts

- 10.1 (1) Despite anything in this contract,
 - (a) the insurer shall be liable only for amounts in excess of the applicable deductible amount, if any, mentioned in this contract; and
 - (b) any provision in this contract relating to an obligation of the insurer to pay an amount or to repair, rebuild or replace property that is damaged or lost shall be satisfied by paying the amount determined by deducting any applicable deductible amount from,
 - (i) the amount the insured would otherwise be entitled to recover, or
 - (ii) the cost of repairing, rebuilding or replacing the property.

Deemed deductible amount

- (2) For the purposes of subcondition (1), an amount that an insurer is not liable to pay by reason of subsection 261 (1) or (1.1) or 263 (5.1) or (5.2.1) of the *Insurance Act* shall be deemed to be a deductible amount under this contract.

Termination

- 11. (1) Subject to section 12 of the *Compulsory Automobile Insurance Act* and sections 237 and 238 of the *Insurance Act*, the insurer may, by registered mail or personal delivery, give to the insured a notice of termination of the contract.
 - (1.1) If the insurer gives a notice of termination under subcondition (1) for a reason other than non-payment of the whole or any part of the premium due under the contract or of any charge under any agreement ancillary to the contract or if the insurer gives a notice of termination in accordance with subcondition (1.7), the notice of termination shall terminate the contract no earlier than,
 - (a) the 15th day after the insurer gives the notice, if the insurer gives the notice by registered mail; or
 - (b) the fifth day after the insurer gives the notice, if the insurer gives the notice by personal delivery.
 - (1.2) Subject to subcondition (1.7), if the insurer gives a notice of termination under subcondition (1) for the reason of non-payment of the whole or any part of the premium due under the contract or of any charge under any agreement ancillary to the contract, the notice of termination shall comply with subcondition (1.3) and shall specify a day for the termination of the contract that is no earlier than,
 - (a) the 30th day after the insurer gives the notice, if the insurer gives the notice by registered mail; or
 - (b) the 10th day after the insurer gives the notice, if the insurer gives the notice by personal delivery.
 - (1.3) A notice of termination mentioned in subcondition (1.2) shall,
 - (a) state the amount due under the contract as at the date of the notice; and

- (b) state that the contract will terminate at 12:01 a.m. of the day specified for termination unless the full amount mentioned in clause (a), together with an administration fee not exceeding the amount approved under Part XV of the Act, payable in cash or by money order or certified cheque payable to the order of the insurer or as the notice otherwise directs, is delivered to the address in Ontario that the notice specifies, not later than 12:00 noon on the business day before the day specified for termination.
- (1.4) For the purposes of clause (a) of subcondition (1.3), if the insured and the insurer have previously agreed, in accordance with the regulations, that the insured is permitted to pay the premium under the contract in instalments, the amount due under the contract as at the date of the notice shall not exceed the amount of the instalments due but unpaid as at the date of the notice.
- (1.5) If the full amount payable under clause (b) of subcondition (1.3) is not paid by the time and in the manner that the notice specifies, the contract shall be deemed to be terminated, without any further action being required on the part of the insurer, as of 12:01 a.m. of the day specified for termination.
- (1.6) If the full amount payable under clause (b) of subcondition (1.3) is paid by the time and in the manner that the notice specifies, the contract shall not terminate on the day specified for termination and the notice shall have no further force or effect.
- (1.7) If, on two previous occasions in respect of the contract, the insurer has given a notice of termination mentioned in subcondition (1.2) and the full amount payable under clause (b) of subcondition (1.3) has been paid by the time and in the manner that the notice specifies and if a non-payment again occurs of the whole or any part of the premium due under the contract or of any charge under any agreement ancillary to the contract, the insurer may, by registered mail or personal delivery, give to the insured a notice of termination of the contract and subcondition (1.1) applies to the notice, instead of subcondition (1.2).
- (2) This contract may be terminated by the insured at any time on request.
- (3) Where this contract is terminated by the insurer,
 - (a) the insurer shall refund the excess of premium actually paid by the insured over the proportionate premium for the

expired time, but in no event shall the proportionate premium for the expired time be deemed to be less than any minimum retained premium specified;

- (b) if the termination is for a reason other than non-payment of the whole or any part of the premium due under the contract or of any charge under any agreement ancillary to the contract or if the insurer gives a notice of termination in accordance with subcondition (1.7), the refund shall accompany the notice, unless the premium is subject to adjustment or determination as to the amount, in which case, the refund shall be made as soon as practicable; and
 - (c) if the termination is for the reason of non-payment of the whole or any part of the premium due under the contract or of any charge under any agreement ancillary to the contract and if subcondition (1.7) does not apply to the termination, the refund shall be made as soon as practicable after the effective date of the termination.
- (4) Where this contract is terminated by the insured, the insurer shall refund as soon as practicable the excess of premium actually paid by the insured over the short rate premium for the expired time, but in no event shall the short rate premium for the expired time be deemed to be less than any minimum retained premium specified.
 - (5) For the purpose of clause (a) of subconditions (1.1) and (1.2), the day on which the insurer gives the notice by registered mail shall be deemed to be the day after the day of mailing.
 - (6) All references in this condition to times of day shall be interpreted to mean the time of day in the local time of the place of residence of the insured.

Notice

- 12. Any written notice to the insurer may be delivered at, or sent by registered mail to, the chief agency or head office of the insurer in the Province. Written notice may be given to the insured named in this contract by letter personally delivered to the insured or by registered mail addressed to the insured at the insured's latest post office address as notified to the insurer. In this condition, the expression,

"registered" means registered in or outside Canada.

Statutory Accident Benefits Protected

13. Despite a failure to comply with these statutory conditions, a person is entitled to such benefits as are set out in the *Statutory Accident Benefits Schedule*.

Ontario Application for Automobile Insurance Garage Form (O.A.F. 4)										Policy No. Assigned															
New Policy Renewal Replacing Policy No.										Language Preferred English French															
☐ ☐ ☐ _____										☐ ☐															
Insurance Company										Broker/Agent															
ITEM										APPLICATION										INDICATE					
1. FULL NAME OF THE APPLICANT FULL BUSINESS ADDRESS (ALSO PROVIDE POSTAL ADDRESS IF DIFFERENT) LOCATION OF OTHER PREMISES WHERE BUSINESS IS CONDUCTED (SHOW EACH BUILDING AND LOT SEPARATELY.)										(A) _____										BLDG.	LOT				
										(B) _____															
										(C) _____															
										(D) _____															
2. POLICY PERIOD		FROM TIME		☐ AM ☐ PM		Year		Month		Day		TO 12:01 AM		Year		Month		Day		ALL TIMES ARE LOCAL TIMES AT THE APPLICANT'S POSTAL ADDRESS.					
3. THE AUTOMOBILES IN RESPECT OF WHICH INSURANCE IS TO BE PROVIDED ARE THOSE USED IN CONNECTION WITH THE APPLICANT'S BUSINESS OF: (SPECIFY)																									
(SPECIFY WHETHER AUTOMOBILE DEALER, REPAIR GARAGE, SERVICE STATION, STORAGE GARAGE OR PARKING LOT AND DESCRIBE ALL OTHER BUSINESS, IN RESPECT OF WHICH INSURANCE IS TO BE PROVIDED, CONDUCTED BY THE APPLICANT AT THE LOCATIONS SPECIFIED IN ITEM 1). NOTE: THIS FORM SHOULD NOT BE USED FOR RENTAL OR LEASING EXPOSURES																									
4. THE BASIS OF RATING AND CALCULATION OF THE PREMIUM PAYABLE SHALL BE IN ACCORDANCE WITH THE PREMIUM COMPUTATION STATEMENT ATTACHED HERETO.																		FULL TIME		PART TIME					
ESTIMATED TOTAL PAYROLL FOR POLICY PERIOD \$																		NUMBER OF EMPLOYEES INCLUDING PROPRIETORS, PARTNERS AND EXECUTIVE OFFICERS AT THE EFFECTIVE DATE OF THE POLICY							
5. THIS APPLICATION IS MADE FOR INSURANCE AGAINST ONE OR MORE OF THE PERILS MENTIONED IN THIS ITEM BUT ONLY FOR INSURANCE UNDER THE SECTION(S) OR SUBSECTION(S) FOR WHICH A PREMIUM IS SPECIFIED IN THIS ITEM AND NO OTHER AND UPON THE TERMS, CONDITIONS, PROVISIONS, DEFINITIONS AND EXCLUSIONS OF THE CORRESPONDING ONTARIO GARAGE AUTOMOBILE POLICY 4, FOR THE FOLLOWING SPECIFIED LIMITS AND AMOUNTS.																									
INSURING AGREEMENTS										PREMIUM						COMPANY USE ONLY		ADVANCE PREMIUM							
Section 1 THIRD PARTY LIABILITY										Bodily Injury						\$				\$					
		THIRD PARTY INCLUSIVE LIMIT \$								Property Damage						\$									
Section 2 ACCIDENT BENEFITS		BASIC BENEFITS																\$							
		OPTIONAL INCREASED ACCIDENT BENEFITS								Income Replacement; up to \$						per week				\$					
										Caregiver & Dependant Care								\$							
										Medical, Rehabilitation & Attendant Care								\$							
										Death & Funeral								\$							
										Indexation								\$							
Section 3		UNINSURED AUTOMOBILE COVERAGE								As Stated in Section 3 of the Policy								\$							
Section 4 *		DIRECT COMPENSATION – PROPERTY DAMAGE																\$							
		DEDUCTIBLE APPLICABLE TO EACH SEPARATE AUTOMOBILE \$																\$							
		* This policy contains a partial payment of recovery clause for property damage if a deductible is specified for Direct Compensation - Property Damage.																							
Section 5 ** LOSS OF OR DAMAGE TO OWNED AUTOMOBILES		5.1.1		COLLISION OR UPSET				DEDUCTIBLE APPLICABLE TO EACH SEPARATE AUTOMOBILE \$												\$					
		THE PREMIUM UNDER SUBSECTIONS 5.1.2., 5.1.3. AND 5.1.4 SHALL BE CALCULATED ON A MONTHLY AVERAGE BASIS ☐ OR CO-INSURANCE BASIS ☐ OR OTHER ☐																							
						LOCATION AS PER ITEM 1		SUBSECTIONS INSURED		LIMIT OF LIABILITY *		A DEDUCTIBLE APPLIES FOR EACH OCCURRENCE EXCEPT AS STATED IN YOUR POLICY						COMPANY USE ONLY		\$					
		5.1.2		COMPREHENSIVE (EXCLUDING COLLISION OR UPSET AND OPEN LOT THEFT)				(A)				\$		\$											
								(B)				\$		\$											
		5.1.3		SPECIFIED PERILS (EXCLUDING OPEN LOT THEFT)				(C)				\$		\$											
								(D)				\$		\$											
				* THE LIMIT OF LIABILITY FOR EACH AUTOMOBILE IS THE ACTUAL CASH VALUE AT THE TIME OF LOSS NOT EXCEEDING THE ACTUAL COST TO THE INSURED AND IS SUBJECT TO THE STATED LIMIT AND APPROPRIATE CO-INSURANCE CONDITIONS APPLICABLE TO THE MONTHLY AVERAGE BASIS OR CO-INSURANCE BASIS OF RATING.																					
				**This policy contains a partial payment of loss clause.																					
Section 6 ** LIABILITY FOR DAMAGE TO A CUSTOMER'S AUTOMOBILE WHILE IN THE CARE, CUSTODY OR CONTROL OF THE APPLICANT		6.1		COLLISION OR UPSET				LIMIT APPLICABLE TO ANY ONE CUSTOMER'S AUTOMOBILE \$				DEDUCTIBLE APPLICABLE TO EACH SEPARATE OCCURRENCE \$						\$							
						LOCATION AS PER ITEM 1		MAXIMUM NUMBER OF CUSTOMERS' AUTOMOBILES		LIMIT OF LIABILITY ANY ONE OCCURRENCE		A DEDUCTIBLE APPLIES FOR EACH OCCURRENCE EXCEPT AS STATED IN YOUR POLICY				COMPANY USE ONLY		\$							
						(A)				\$		\$													
						(B)				\$		\$													
						(C)				\$		\$													
				(D)				\$		\$															
O.E.F. 81 - Garage Family Protection Endorsement YES ☐ NO ☐										LIMIT Limits are the same as Section 1, or						\$									
OTHER ENDORSEMENTS																									
																\$									
NAME AND ADDRESS OF LIENHOLDER OR MORTGAGEE TO WHOM, JOINTLY WITH THE APPLICANT, LOSS UNDER SECTIONS 4 & 5 IS PAYABLE.										MINIMUM RETAINED PREMIUM \$				TOTAL ADVANCE PREMIUM ▶ \$											
6. HAS ANY INSURER CANCELLED, DECLINED OR REFUSED TO RENEW ANY INSURANCE RELATED TO THE BUSINESS OF THE APPLICANT WITHIN THE THREE YEARS PRECEDING THIS APPLICATION? IF SO, STATE NAME OF INSURER AND POLICY NO.																THE ADVANCE PREMIUMS ARE SUBJECT TO THE ADJUSTABLE PREMIUM COMPUTATION PROVISION IN THE POLICY.									
7. STATE PARTICULARS OF ALL ACCIDENTS, LOSSES OR CLAIMS ARISING OUT OF THE OWNERSHIP, USE OR OPERATION OF ANY AUTOMOBILE (i) BY THE APPLICANT (ii) IN CONNECTION WITH THE BUSINESS, WITHIN SIX YEARS PRECEDING THIS APPLICATION (LIST SEPARATELY IF NECESSARY).																									
LOSSES:		BI		PD		AB		DC-PD		UA		Coll		Comp/SP											
DATE Y/M/D		\$		\$		\$		\$		\$		Owned \$ Customer		Owned \$ Customer											
8. PROVIDE DETAILS OF APPLICANT'S MOST RECENT AUTO INSURANCE.										INSURER:										POLICY #		EXPIRY DATE		YY MM DD	
Remarks																									
Item No.																									
9. DECLARATION OF APPLICANT - Read this section carefully before you sign.																									
Warning: The Insurance Act provides that where (a) an Applicant for a contract, (i) gives false particular of the described automobile to be insured to the prejudice of the Insurer, or (ii) knowingly misrepresents or fails to disclose in the application any fact required to be stated therein; or (b) the Insured contravenes a term of the contract or commits a fraud; or (c) the Insured willfully makes a false statement in respect of a claim under the contract, a claim by the Insured, for other than such statutory accident benefits as are set out in the Statutory Accident Benefits Schedule, is invalid and the right of the Insured to recover indemnity is forfeited.																									
Warning - Offences																									
It is an offence under the Insurance Act to knowingly make a false or misleading statement or representation to an Insurer in connection with the person's entitlement to a benefit under a contract of insurance, or to wilfully fail to inform the Insurer of a material change in circumstances within 14 days, in connection with such entitlement. The offence is punishable on conviction by a maximum fine of \$100,000 for the first offence and a maximum fine of \$200,000 for any subsequent conviction. It is an offence under the federal Criminal Code for anyone to knowingly make or use a false document with the intent it be acted on as genuine and the offence is punishable, on conviction, by a maximum of 10 years imprisonment. It is an offence under the federal Criminal Code for anyone, by deceit, falsehood or other dishonest act, to defraud or to attempt to defraud an insurance company. The offence is punishable, on conviction, by a maximum of 10 years imprisonment for cases involving an amount over \$5,000 or otherwise a maximum of 2 years imprisonment.																									
I am applying for automobile insurance based on the information provided above. With respect to this application or any renewal or change in coverage, I authorize you to collect, use and disclose information as permitted by law for the purposes necessary to assess the risk, investigate and settle claims, and detect and prevent fraud, such as credit information, driving record information and claims history.																									
Signature of Broker/Agent										Signature of Applicant										Date					

**ONTARIO APPLICATION FOR AUTOMOBILE INSURANCE
GARAGE FORM (O.A.F. 4)
INSURANCE COVERAGES APPLIED FOR**

ONTARIO MOTORISTS MUST HAVE THE FOLLOWING BASIC COVERAGES:

THIRD PARTY LIABILITY, ACCIDENT BENEFITS, UNINSURED AUTOMOBILE COVERAGE AND DIRECT COMPENSATION - PROPERTY DAMAGE.

Additional insurance may be purchased for Loss or Damage to Owned Automobiles, Loss or Damage to Customers' Automobiles and Optional Increased Accident Benefits.

This is a brief explanation of the insurance coverages available. For complete details, consult the policy. The Insurer will supply a copy of the policy if requested.

PLEASE NOTE CERTAIN TYPES AND USES OF AUTOMOBILES ARE EXCLUDED FROM COVERAGE.

THIRD PARTY LIABILITY

Provides coverage for the named Insured or other insured persons if someone else is killed or injured or their property is damaged in an automobile incident. It will pay for legitimate claims against insured persons up to the limit of your coverage, and the cost of settling claims.

ACCIDENT BENEFITS

THE INSURANCE COMPANY IS OBLIGATED TO EXPLAIN DETAILS OF ACCIDENT BENEFITS COVERAGE.

Provides benefits that insured persons are entitled to receive if injured or killed in an automobile accident. These benefits include: income replacement for persons who have lost income; payments to non-earners who suffer complete inability to carry on a normal life; payment of care expenses to persons who cannot continue to act as a primary caregiver for a member of their household; payment of medical, rehabilitation and attendant care expenses; payment of certain other expenses; payment of funeral expenses; and payments to survivors of a person who is killed. The Insured may also purchase optional benefits to increase the basic level of benefits provided in the policy. The optional benefits insurance companies must offer are:

Increased Income Replacement - the basic level of income replacement provided in the policy (\$400 per week maximum) can be increased by purchasing optional coverage so that the weekly limit is up to \$600, \$800 or \$1,000. All income replacement benefits are based on 80% of net weekly income.

Increased Caregiver and Dependant Care - the basic level of caregiver benefits for care expenses of persons who are not employed but care for dependants (up to \$250 per week for the first person needing care, and \$50 per week for every additional person) can be increased by purchasing optional coverage so that the weekly limit is up to \$325 for the first person and \$75 for additional persons. There is no basic benefit for persons who are employed and care for dependants, but if this optional coverage is purchased, a benefit to cover additional weekly dependant care expenses of \$75 for the first dependant, and \$25 for each additional dependant, up to \$150 per week is available.

Increased Medical, Rehabilitation and Attendant Care - the basic benefit pays up to \$100,000 for medical and rehabilitation expenses, with a 10 year time limit in most cases, and up to \$72,000 for attendant care expenses. If catastrophically impaired, the basic benefit pays up to \$1,000,000 for medical and rehabilitation expenses and up to \$1,000,000 for attendant care expenses. An optional coverage of \$1,000,000 above the basic coverage may be purchased, and that provides no limitation on the time for which these expenses are paid.

Increased Death and Funeral - the basic level of death benefits paid to the surviving spouse and dependant of a person who is killed (\$25,000 to a surviving spouse; \$10,000 to surviving dependant,) can be doubled by purchasing this optional coverage. This coverage also increases the basic funeral expense benefit from \$6,000 to \$8,000.

Indexation Benefit - this optional coverage will ensure that certain weekly benefit payments and monetary limits will increase on an annual basis to reflect changes in the cost of living.

UNINSURED AUTOMOBILE COVERAGE

Provides coverage if insured persons are injured or killed by an uninsured motorist or by a hit-and-run driver. It covers damage to an automobile owned by the Insured, and its contents, caused by an identified, uninsured motorist, subject to a deductible.

DIRECT COMPENSATION – PROPERTY DAMAGE

Provides coverage in Ontario, under certain conditions, for damage to an automobile owned by the Insured and to property it is carrying, when another motorist is responsible. It is called Direct Compensation because the Insured will collect from the Insurer, even though the Insured is not at fault for the accident. Coverage may also apply to a “customer’s” or “non-owned” automobile and to property it is carrying – under some conditions. There may be a deductible amount, and this amount is either paid by the Insured towards the cost of repairs or is deducted from the loss settlement. Higher deductibles may reduce the premium.

LOSS OF OR DAMAGE TO OWNED AUTOMOBILES

Provides a selection of optional coverages for specified automobiles owned by the Insured. Payments cover direct and accidental loss of, or damage to, automobiles owned by the Insured and their equipment. If you are insured for "Loss of or Damage to Owned Automobiles", there is a \$1500 limit on non-factory installed electronic accessories and equipment.

Collision or Upset: Covers owned automobiles when involved in a collision with another object or tips over.

Comprehensive: Covers owned automobiles against loss or damage other than those covered by Collision or Upset, including falling or flying objects, missiles and vandalism in addition to the perils listed under Specified Perils. Coverage excludes theft from an open lot, except theft of the entire automobile.

Specified Perils: Covers owned automobiles against loss or damage caused by certain specific perils. They are: fire; theft or attempted theft; lightning, windstorm, hail or rising water; earthquake; explosion; riot or civil disturbance; falling or forced landing of aircraft or parts of aircraft; or the stranding, sinking, burning, derailment, collision or upset of any railway car or watercraft in, or upon which the owned automobile is being transported. Coverage excludes theft from an open lot except theft of the entire automobile.

LIABILITY FOR DAMAGE TO A CUSTOMER'S AUTOMOBILE

Provides a selection of optional coverages for the Insured's legal liability for damage to customers' automobiles while in the Insured's care, custody or control. There is usually a deductible amount indicated for each coverage and this amount is either paid by the Insured toward the cost of repairs or is deducted from the loss settlement.

Collision or Upset: Covers the Insured's legal liability for damage to a customer's automobile when it is involved in a collision with another object or tips over.

Specified Perils: Covers the Insured's legal liability for loss of or damage to a customer's automobile caused by certain specific perils. They are: fire; theft or attempted theft; vandalism; lightning, windstorm, hail, rising water; earthquake; explosion; riot or civil disturbance; falling or forced landing of aircraft or parts of aircraft; the stranding, sinking, burning, derailment, or collision or upset of any railway car or watercraft in, or upon which the automobile is being transported.

Warning: The *Insurance Act* provides that where (a) an Applicant for a contract, (i) gives false particular of the described automobile to be insured to the prejudice of the Insurer, or (ii) knowingly misrepresents or fails to disclose in the application any fact required to be stated therein; or (b) the Insured contravenes a term of the contract or commits a fraud; or (c) the Insured willfully makes a false statement in respect of a claim under the contract, a claim by the Insured, for other than such statutory accident benefits as are set out in the Statutory Accident Benefits Schedule, is invalid and the right of the Insured to recover indemnity is forfeited.

Warning – Offences

It is an offence under the *Insurance Act* to knowingly make a false or misleading statement or representation to an Insurer in connection with the person's entitlement to a benefit under a contract of insurance, or to willfully fail to inform the Insurer of a material change in circumstances within 14 days, in connection with such entitlement. The offence is punishable on conviction by a maximum fine of \$100,000 for the first offence and a maximum fine of \$200,000 for any subsequent conviction.

It is an offence under the federal *Criminal Code* for anyone to knowingly make or use a false document with the intent it be acted on as genuine and the offence is punishable, on conviction, by a maximum of 10 years imprisonment.

It is an offence under the federal *Criminal Code* for anyone, by deceit, falsehood or other dishonest act, to defraud or to attempt to defraud an insurance company. The offence is punishable, on conviction, by a maximum of 10 years imprisonment for cases involving an amount over \$5,000 or otherwise a maximum of 2 years imprisonment.

O.E.F. 79
OWNED AUTOMOBILES – FIRE DEDUCTIBLE ENDORSEMENT
(for Ontario Garage Automobile Policy O.A.P. 4)

Issued to	Effective Date of Change Year Month Day	Policy Number
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In consideration of the premium, it is agreed that the deductible amount in Item 5 of the Certificate of Insurance with respect to subsection 5.1.2 (Comprehensive), subsection 5.1.3 (Specified Perils excluding open lot theft) and subsection 5.1.4 (Specified Perils excluding theft) shall also apply on each occurrence for loss or damage caused by fire.

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

.....
Signature of Insured

O.E.F. 81
GARAGE FAMILY PROTECTION ENDORSEMENT

Issued to	Effective Date of Change	Policy Number
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(for Ontario Garage Automobile Policy O.A.P. 4)

DEFINITIONS

- 1. Subject to section 2, in this endorsement,
 - 1.1 “automobile” means a vehicle for which motor vehicle liability insurance would be required if it were subject to the law of Ontario.
 - 1.2 “dependent relative” means
 - (a) a person who is principally dependent for financial support upon the named insured or his or her spouse, and who is
 - (i) under the age of 18 years;
 - (ii) 18 years or over and is mentally or physically incapacitated;
 - (iii) 18 years or over and in full time attendance at a school, college or university;
 - (b) a relative of the named insured or of his or her spouse, who is principally dependent on the named insured or his or her spouse, for financial support;
 - (c) a relative of the named insured or of his or her spouse, who resides in the same dwelling premises as the named insured; and
 - (d) a relative of the named insured or of his or her spouse, while an occupant of an owned automobile, as defined in the Policy.

BUT subsections 1.2 (c) and 1.2 (d) apply only where the person injured or killed is not an Insured person as defined in the family protection coverage of any other policy of insurance or does not own, or lease for more than 30 days, an automobile which is licensed in any jurisdiction of Canada where family protection coverage is available.
 - 1.3 “eligible claimant” means
 - (a) the insured person who sustains bodily injury; and
 - (b) any other person who, in the jurisdiction in which an accident occurs, is entitled to maintain an action against the inadequately insured motorist for damages because of bodily injury to or death of an insured person.
 - 1.4 “family protection coverage” means the insurance provided by this endorsement and any similar indemnity provided under any other contract of insurance.
 - 1.5 “inadequately insured motorist” means
 - (a) the identified owner or identified driver of an automobile for which the total motor vehicle liability insurance or bonds, cash deposits or other financial guarantees as required by law in lieu of insurance, obtained by the owner or driver is less than the limit of family protection coverage; or
 - (b) the identified owner or identified driver of an uninsured automobile as defined in Section 3 (Uninsured Automobile Coverage) of the Policy;

PROVIDED THAT

 - (A) where an eligible claimant is entitled to recover damages from an inadequately insured motorist and the owner or operator of any other automobile, for the purpose of
 - (i) (a) above, and
 - (ii) determining the Insurer’s limit of liability under section 4 of this endorsement,the limit of motor vehicle liability insurance shall be deemed to be the aggregate of all limits of motor vehicle liability insurance and all bonds, cash deposits or other financial guarantees as required by law in lieu of such insurance, for all of the automobiles;
 - (B) where an eligible claimant is entitled to recover damages from the identified owner or identified driver of an uninsured automobile as defined in Section 3 (Uninsured Automobile Coverage) of the Policy, for the purpose of
 - (i) (a) and (b) above; and
 - (ii) determining the limit of coverage under section 4 of this endorsement;other uninsured automobile coverage available to the eligible claimant shall be taken into account as if it were motor vehicle liability insurance with the same limits as the Uninsured Automobile Coverage;
 - (C) where an eligible claimant alleges that both the owner and driver of an automobile referred to in clause 1.5(b) cannot be determined, the eligible claimant’s own evidence of the involvement of such automobile must be corroborated by other material evidence; and
 - (D) “other material evidence” for the purposes of this section means
 - (i) independent witness evidence, other than evidence of a spouse as defined in sections 1.11 and 1.10 of this endorsement or a dependent relative as defined in section 1.2 of this endorsement; or
 - (ii) physical evidence indicating the involvement of an unidentified automobile.
 - 1.6 “insured person” means,
 - (a) while an occupant of an owned automobile as defined in the Policy,
 - (i) the named Insured, if an individual,
 - (ii) all active partners and full time employees of the business described in Item 3 of the Certificate of Insurance, if they are provided with an owned automobile as defined in the Policy for their regular personal use on a full time basis,
 - (iii) any person specified in an Additional Insured Endorsement if they are provided with an owned automobile as defined in the Policy for their regular personal use on a full time basis, and
 - (iv) if residing in the same dwelling premises, the spouse, of persons described in 1.6 (a) (i), (ii) and (iii), and any dependent relative of either,
 - (b) while an occupant of any other automobile (except an automobile excluded by type or use in the Policy) or while not the occupant of an automobile when struck by an automobile,
 - (i) the named Insured if an individual, providing such individual does not lease an automobile for a period in excess of 30 days,
 - (ii) the persons described in 1.6 (a) (i), (ii), (iii) and (iv) providing such persons do not own an automobile or lease an automobile for a period in excess of 30 days which is licensed in any jurisdiction of Canada where family protection coverage is available.
 - 1.7 “limits of family protection coverage” means the amount set out in the Certificate of Insurance with respect to this endorsement, but if no amount is set out in the Certificate, the limit for Section 1, (Third Party Liability) set out in the Certificate is the limit of family protection coverage.
 - 1.8 “limit of motor vehicle liability insurance” means the amount stated in the Certificate of Insurance as the limit of liability of the Insurer with respect to Section 1 (Third Party Liability) claims, regardless of whether that limit is reduced by the payment of claims or otherwise;

PROVIDED THAT in the event that an Insurer’s liability under a policy is reduced by operation of law to the statutory minimum limits in a jurisdiction because of a breach of the Policy, the statutory minimum limits are the limits of motor vehicle liability insurance in the Policy.
 - 1.9 “Policy” means the Policy to which this endorsement is attached.
 - 1.10 “spouse” means either of two persons who,
 - (a) are married to each other;
 - (b) have together entered into a marriage that is voidable or void, in good faith on the part of the person asserting a right under this endorsement; or
 - (c) are not married to each other and have cohabited continuously for a period of not less than three years, or have cohabited in a relationship of some permanence if they are the natural or adoptive parents of a child.
 - (i) continuously for a period of not less than three years, or
 - (ii) in a relationship of some permanence, if they are the natural or adoptive parents of a child.
 - 1.11 “uninsured automobile” means an automobile with respect to which neither the owner nor driver thereof has applicable and collectible bodily injury liability and property damage liability insurance for its ownership, use or operation, but does not include an automobile owned by or registered in the name of the Insured or his or her spouse or same-sex partner.
- 2. The definitions in section 1 apply as of the time of the happening of an accident for which indemnity is provided under this endorsement.

INSURING AGREEMENT

3. In consideration of a premium of \$.....or as stated in the Certificate of Insurance, the Insurer shall indemnify an eligible claimant for the amount that he or she is legally entitled to recover from an inadequately insured motorist as compensatory damages in respect of bodily injury to or death of an insured person arising directly from the use or operation of an automobile.

LIMIT OF COVERAGE UNDER THIS ENDORSEMENT

4. The Insurer’s maximum liability under this endorsement, regardless of the number of eligible claimants or insured persons injured or killed or the number of automobiles insured under the Policy, is the amount by which the limit of family protection coverage exceeds the total of all limits of motor vehicle liability insurance, or bonds or cash deposits, or other financial guarantees as required by law in lieu of such insurance, of the inadequately insured motorist and of any person jointly liable with that motorist.
5. Where this endorsement applies as excess, the Insurer’s maximum liability under this endorsement is the amount calculated under section 4 of this endorsement, less the amounts available to eligible claimants under any first loss insurance referred to in section 18 of this endorsement.

AMOUNT PAYABLE PER ELIGIBLE CLAIMANT

6. The amount payable to an eligible claimant under this endorsement shall be calculated by determining the amount of damages the eligible claimant is legally entitled to recover from the inadequately insured motorist, and deducting from that amount the aggregate of the amounts referred to in section 7 of this endorsement, but in no event shall the Insurer be obliged to pay an amount in excess of the limit of coverage as determined under sections 4 and 5 of this endorsement.
7. The amount payable under this endorsement to an eligible claimant is excess to an amount received by the eligible claimant from any source, other than money payable on death under a policy of insurance, and is excess to amounts that were available to the eligible claimant from,
- (a) the insurers of the inadequately insured motorist, and from bonds, cash deposits or other financial guarantees given on behalf of the inadequately insured motorist;
 - (b) the insurers of a person jointly liable with the inadequately insured motorist for the damages sustained by an insured person;
 - (c) the Société de l’assurance automobile du Québec;
 - (d) an unsatisfied judgment fund or similar plan, or which would have been payable by such fund or plan had this endorsement not been in effect;
 - (e) the uninsured automobile coverage of a motor vehicle liability policy;
 - (f) an automobile accident benefits plan applicable in the jurisdiction in which the accident occurred;
 - (g) a law or policy of insurance providing disability benefits or loss of income benefits or medical expense or rehabilitation benefits;
 - (h) any applicable workers’ compensation plan or law of the jurisdiction in which the accident occurred;
 - (i) the family protection coverage of another motor vehicle liability policy.
8. If the Insurer is presented with claims by more than one eligible claimant and the total amount payable to the eligible claimants exceeds the limit of the Insurer’s liability under sections 4 and 5 of this endorsement, the Insurer shall pay to each eligible claimant a pro rata portion of the amount otherwise payable to each eligible claimant; and if payments are made to eligible claimants prior to the receipt of actual notice of any additional claim, the limits in sections 4 and 5 shall be the amount calculated under those sections less the amounts paid to the prior eligible claimants.

DETERMINATION OF THE AMOUNT RECOVERABLE

9. The amount that an eligible claimant is entitled to recover shall be determined in accordance with the procedures set forth for determination of the issues of quantum and liability under Section 3 (Uninsured Automobile Coverage) of the Policy.
10. In determining the amount that an eligible claimant is entitled to recover from the inadequately insured motorist, issues of quantum shall be decided in accordance with the law of Ontario, and issues of liability shall be decided in accordance with the law of the place where the accident occurred.
11. In determining any amounts that an eligible claimant is entitled to recover, no amount shall be included with respect to prejudgment interest which accumulated prior to notice as required by section 15 of this endorsement.
12. In determining any amounts that an eligible claimant is entitled to recover, no amount shall be included with respect to punitive, exemplary, aggravated or other damages awarded in whole or in part because of the conduct of the inadequately insured motorist or the person jointly liable with him or her, unless these damages are for the purpose of compensating the eligible claimant for losses actually incurred.
13. In determining any amounts an eligible claimant is entitled to recover from an inadequately insured motorist, no amount shall be included with respect to costs.
14. For the purposes of this endorsement, the findings of a court with respect to issues of quantum or liability are not binding on the insurer unless the insurer was provided with a reasonable opportunity to participate in those proceedings as a party.

PROCEDURES

15. The following requirements are conditions precedent to the liability of the Insurer to an eligible claimant under this endorsement:
- (a) the eligible claimant shall promptly give written notice, with all available particulars, of any accident involving injury to or death of an insured person and of any claim made on account of the accident;
 - (b) the eligible claimant shall, upon request, provide details of any policies of insurance other than life insurance to which the eligible claimant may have recourse;
 - (c) the eligible claimant and the insured person shall submit to examination under oath, and shall produce for examination at such reasonable place and time as is designated by the Insurer or its representative, all relevant documents in their possession or control, and shall permit extracts and copies of them to be made.
16. Where an eligible claimant commences a legal action for damages for bodily injury or death against any other person owning or operating an automobile involved in the accident, a copy of the initiating process shall be delivered or sent by registered mail immediately to the chief agent or head office of the Insurer in Ontario together with particulars of the insurance and loss.
17. Every action or proceeding against the Insurer for recovery under this endorsement shall be commenced within 12 months of the date that the eligible claimant or his or her representative knew or ought to have known that the quantum of claims with respect to an insured person exceeded the minimum limits for motor vehicle liability insurance in the jurisdiction in which the accident occurred, but this requirement is not a bar to an action which is commenced within 2 years of the date of the accident.

MULTIPLE COVERAGES

18. The following rules apply where an eligible claimant is entitled to payment under family protection coverage under more than one policy:
- (a) (i) if he or she is an occupant of an automobile, such insurance on the automobile in which the eligible claimant is an occupant is first loss insurance and any other such insurance is excess;
 - (ii) if he or she is not an occupant of an automobile, such insurance in any policy in the name of the eligible claimant is first loss insurance and any other such insurance is excess.
 - (b) all applicable first loss family protection coverage shall be apportioned on a pro rata basis, but in no event shall the aggregate payment under all such insurances exceed the highest limit of coverage provided by any one of such first loss insurances;
 - (c) the applicable first loss insurance shall be exhausted before recourse is made to excess insurances;
 - (d) all applicable excess family protection coverage shall be similarly apportioned on a pro rata basis, but in no event shall the aggregate payment under all such insurances exceed the highest limit of coverage, as defined in section 5 of this endorsement, which is provided by any one of such excess insurances.

ACCIDENTS IN THE PROVINCE OF QUEBEC

19. This endorsement does not apply to an accident occurring in the Province of Quebec for which compensation is payable under the *Automobile Insurance Act* (Quebec) or under an agreement referred to in that Act.

SUBROGATION

20. Where a claim is made under this endorsement, the Insurer is subrogated to the rights of the eligible claimant by whom a claim is made, and may maintain an action in the name of that person against the inadequately insured motorist and the persons referred to in section 7 of this endorsement.

ASSIGNMENT OF RIGHTS OF ACTION

21. Where a payment is made under this endorsement, the Insurer is entitled to receive from the eligible claimant an assignment of all rights of action, whether judgment is obtained or not, and the eligible claimant undertakes to cooperate with the Insurer, except in a pecuniary way, in the pursuit of any subrogated action or any right of action so assigned.

MISCELLANEOUS

22. If this endorsement applies to more than one automobile, coverages shall be construed as if provided by separate policies of insurance with respect to each automobile to which this endorsement applies, subject to the provisions of section 18 of this endorsement.

Except as otherwise provided in this endorsement, all limits, terms, conditions, provisions, definitions and exclusions of the Policy to which this endorsement is attached shall have full force and effect.

O.E.F. 82
LIABILITY FOR DAMAGE TO NON-OWNED AUTOMOBILES
AND DRIVE OTHER AUTOMOBILES – NAMED PERSONS ENDORSEMENT
(FOR ONTARIO GARAGE AUTOMOBILE POLICY O.A.P. 4)

Issued to	Effective Date Year Month Day	Policy Number
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In consideration of a premium of \$, or as stated in the Certificate of Insurance, the Insurer agrees to pay on behalf of the person(s) named below, and the spouse of each who lives with such named person, all sums which an Insured person is obligated to pay in respect of liability imposed by law, or assumed under a written agreement for loss or damage arising from the care, custody or control of any automobile including its equipment, and resulting from loss or damage caused by a peril for which a premium is specified below.

	NAME	RELATIONSHIP TO INSURED
1.		
2.		
3.		
4.		

INSURING AGREEMENTS		DEDUCTIBLE		PREMIUM	
Section 5: Loss of or damage to non-owned automobiles					
		5.1.1 Collision or Upset	\$	A deductible applies on each occurrence except as stated in your policy.	
		5.1.2 Comprehensive	\$		
		5.1.3 Specified Perils	\$		
Total Premium				\$	

Provided that,

- The Perils for which coverage is provided by this endorsement are as described in Section 5 (Loss of or Damage to Owned Automobiles), Section 7 (General Provisions, Definitions and Exclusions) and Section 8 (Statutory Conditions) of the Policy;
- The coverage provided by this endorsement applies only to an automobile having a manufacturer's gross vehicle weight rating of not more than 4,500 kg or of the type;
- The Insurer shall not be liable for loss or damage to any automobile;
 - which is owned or licensed in the name of the Insured, or any person insured by this endorsement, or by any person residing in the same dwelling premises of any insured person, or to an automobile which is owned or leased by the employer of these persons, or
 - which is defined as a "Customer's Automobile" in subsection 7.2.4, of Section 7, or
 - the use of which is excluded in subsection 7.14 (Excluded Uses) or is an excluded automobile in subsection 7.15 (Excluded Automobiles), in Section 7.
- Where applicable to the coverage provided by this endorsement, the Additional Agreements of Insurer under Section 1 of the Policy shall apply to this endorsement;
- The Insurer shall not be liable under this endorsement for any amount in excess of \$ for any one occurrence, exclusive of amounts under provision 4 above;
- Such automobile is being used with the consent of the owner or lessee.

In addition to the coverage provided above, the insurer agrees that the following coverage applies:

DRIVE OTHER AUTOMOBILES COVERAGE – NAMED PERSON(S)

It is agreed that the Insurer will provide coverage only with respect to Section 1 (Third Party Liability), Section 2 (Accident Benefits), Section 3 (Uninsured Automobile Coverage), and Section 4 (Direct Compensation - Property Damage), for an automobile having a manufacturer's gross vehicle weight rating of not more than 4,500 kilograms, while personally driven by any person named in this endorsement, provided that:

- such named person is not driving such other automobile in connection with the business of selling, repairing, maintaining, servicing, storing or parking automobiles;
- such other automobile is not used for carrying passengers for compensation or hire or for commercial delivery at the time of loss;
- for all coverages except Accident Benefits, such other automobile is not owned by or frequently used by either the Insured or by such named person or by any person or persons residing in the same dwelling premises as either the Insured or such named person;
- for all coverages except Accident Benefits, such other automobile is not owned, hired or leased by the employer of the Insured or of such named person or by the employer of any person or persons residing in the same dwelling premises as either the Insured or such named person;
- if such named person is driving such other automobile while an excluded driver under the policy insuring such other automobile, this policy will provide coverage under Section 1 (Third Party Liability) and Section 3 (Uninsured Automobile Coverage); and
- Section 4 (Direct Compensation-Property Damage) coverage applies only when such other automobile is in the care, custody or control of a person insured by this endorsement and is not insured under another motor vehicle liability policy.

Coverage applies to persons named above and the spouse of each, who lives with such named person, provided such persons or their spouse do not own an insured automobile or lease an automobile insured under a policy extended by a Permission to Rent or Lease Endorsement (Specified Lessee) or similar endorsement.

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

O.E.F. 86
CUSTOMERS' AUTOMOBILES – FIRE DEDUCTIBLE ENDORSEMENT
(for Ontario Garage Automobile Policy O.A.P. 4)

Issued to	Effective Date of Change Year Month Day	Policy Number
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In consideration of the premium, it is agreed that the deductible amount in Item 5 of the Certificate of Insurance with respect to subsection 6.4 (Specified Perils) shall also apply on each occurrence for loss or damage caused by fire.

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

.....
Signature of Insured

Ontario Application for Automobile Insurance

Owner's Form (OAF 1)

This is your Application for Automobile Insurance.

- Check it carefully and notify your Broker/Agent of any errors or of any changes in the future.
- Retain this document for your Records.

Some of the terms used in this application are explained further below.

Insurance Company

Broker/Agent

Insurance Coverages Applied For

Ontario motorists must have the following basic coverages: Liability, Accident Benefits, Uninsured Automobile and Direct Compensation – Property Damage. You may also purchase additional insurance for Loss or Damage to the automobile and Optional Increased Accident Benefits. This is a brief explanation of the insurance coverages available to you. For complete details consult your policy. Your Insurer will supply you with a copy of the policy if you request it.

Liability - Provides coverage for you or other insured persons if someone else is killed or injured or their property is damaged in an automobile incident. It will pay for legitimate claims against you or other insured persons up to the limit of your coverage, and the cost of settling claims.

Accident Benefits - Your insurance company is obligated to explain details of Accident Benefits coverage to you. Provides benefits that you and other insured persons are entitled to receive if injured or killed in an automobile accident. These benefits include: income replacement for persons who have lost income; payments to non-earners who suffer complete inability to carry on a normal life; payment of care expenses to persons who cannot continue to act as a primary caregiver for a member of their household; payment of medical, rehabilitation and attendant care expenses; payment of certain other expenses; payment of funeral expenses; and payments to survivors of a person who is killed. You may also purchase optional benefits to increase the basic level of benefits provided in your policy.

The optional benefits your insurance company must offer are:

Increased Income Replacement – the basic level of income replacement provided in the policy (\$400 per week maximum) can be increased by purchasing optional coverage so that the weekly limit is up to \$600, \$800 or \$1,000. All income replacement benefits are based on 80% of your net weekly income.

Increased Caregiver and Dependant Care – the basic level of caregiver benefits for care expenses of persons who are not employed but care for dependants (up to \$250 per week for the first person needing care, and \$50 per week for every additional person) can be increased by purchasing optional coverage so that the weekly limit is up to \$325 for the first person and \$75 for additional persons. There is no basic benefit for persons who are employed and care for dependants, but if you purchase this optional coverage you can receive a benefit to cover additional weekly dependant care expenses of \$75 for the first dependant, and \$25 for each additional dependant, up to \$150 per week.

Increased Medical, Rehabilitation and Attendant Care – the basic benefit pays up to \$100,000 for medical and rehabilitation expenses, with a 10 year time limit in most cases, and up to \$72,000 for attendant care expenses. If catastrophically impaired, the basic benefit pays up to \$1,000,000 for medical and rehabilitation expenses and up to \$1,000,000 for attendant care expenses. You can purchase optional coverage of \$1,000,000 above the basic coverage, and that provides no limitation on the time for which these expenses are paid.

Increased Death and Funeral – the basic level of death benefits paid to the surviving spouse and dependant of a person who is killed (\$25,000 to surviving spouse; \$10,000 to surviving dependant) can be doubled by purchasing this optional coverage. This coverage also increases the basic funeral expense benefit from \$6,000 to \$8,000.

Indexation Benefit – this optional coverage will ensure that certain weekly benefit payments and monetary limits will increase on an annual basis to reflect changes in the cost of living.

Uninsured Automobile

Provides coverage if you or other insured persons are injured or killed by an uninsured motorist or by a hit-and-run driver. It covers damage to your automobile and its contents caused by an identified, uninsured motorist, subject to a \$300 deductible.

Direct Compensation – Property Damage

Provides coverage in Ontario, under certain conditions, for damage to your automobile and to property it is carrying, when another motorist is responsible. It is called Direct Compensation because you will collect from us, your insurance company, even though you are not at fault for the accident. There may be a deductible amount, and this amount is either paid by you toward the cost of repairs or is deducted from the loss settlement. Higher deductibles may reduce your premium.

Loss or Damage

Provides a selection of optional coverages for your own automobile. Payments cover direct and accidental loss of, or damage to, a described automobile and its equipment. There is usually a deductible amount indicated for each coverage and this amount is either paid by you toward the cost of repairs or is deducted from the loss settlement. Higher deductibles may reduce your premium. There are four types of coverages:

Specified Perils: Covers the described automobile against loss or damage caused by certain specific perils. They are fire; theft or attempted theft; lightning, windstorm, hail or rising water; earthquake; explosion; riot or civil disturbance; falling or forced landing of aircraft or parts of aircraft; or the stranding, sinking, burning, derailment or collision of any kind of transport in, or upon which, the described automobile is being transported.

Comprehensive: Covers a described automobile against loss or damage other than those covered by Collision or Upset, including perils listed under Specified Perils, falling or flying objects, missiles and vandalism.

Collision or Upset: Covers damage when a described automobile is involved in a collision with another object or tips over.

All Perils: Combines the Collision or Upset and Comprehensive coverages.

Policy No. Assigned

OAF1 (11/2005)
Page 2 of 4

If a driver is licensed less than 6 years in Canada, driving experience in other countries may be recognized. Attach proof of other licensing and insurance.

What are the details of the applicant's most recent automobile insurance?

Insurance Company	Policy No.	Expiry Date
		Year Month Day

To the applicant's knowledge...

- ☒ Has any driver's licence, vehicle permit etc, issued to the applicant or to any person in the household or business been suspended or cancelled in the last 6 years?
Yes ☐ No ☐ If Yes, give details in Remarks section.
- ☒ Has any insurance company cancelled automobile insurance for the applicant or any listed driver in the last 3 years?
Yes ☐ No ☐ If Yes, give details in Remarks section.
- ☒ During the last 3 years, has any automobile insurance policy issued to the applicant or any listed driver been cancelled or has any claim been denied for material misrepresentation? Yes ☐ No ☐ If Yes, give details in Remarks section.
- ☒ Has the applicant or any listed driver been found by a court to have committed a fraud connected with automobile insurance?
Yes ☐ No ☐ If Yes, give details in Remarks section.

5 Previous Accidents and Insurance Claims

Give details of all accidents or claims arising from the ownership, use or operation of any automobile by the applicant or any listed driver during the last 6 years. The coverages are: BI - Bodily Injury, PD - Property Damage, AB - Accident Benefits, DCPD - Direct Compensation - Property Damage, UA - Uninsured Automobile, Coll - Collision, AP - All Perils, Comp - Comprehensive, SP - Specified Perils

Driver No.	Auto No.	Date Year Month Day	Coverage BI	Claim PD	Paid AB	Under DCPD	UA	Coll/AP	Comp/SP	Amount Paid or Estimate	Details (Use Remarks section if necessary)

6 History of Convictions

Give details of all convictions of the applicant and any listed driver arising from the operation of any automobile in the last 3 years.

Driver No.	Date Convicted Year Month Day	Details (Use Remarks section if necessary)	Driver No.	Date Convicted Year Month Day	Details (Use Remarks section if necessary)

7 Rating Information – AGENT/BROKER AND COMPANY USE ONLY

Auto No.	Class	Driving Record					Driver No.		At-Fault Claim Surcharges		Conviction Surcharges	
		BI	PD	AB	DCPD	Coll/AP	Princ.	Sec.	Description	%	Description	%
1.												
2.												
3.												
Auto No.	List Price New	Vehicle Code	Rate Group			Location	Territory	Discounts Description and Percentage				
			AB	DCPD/ Coll/AP	Comp/SP							
1.												
2.												
3.												

8 Insurance Coverages Applied For – Read Page 1 of this form before completing this section.

Mandatory			Automobile 1		Automobile 2		Automobile 3		Occasional Driver Premium
	Liability	Limit (000s)	Premium	Limit (000s)	Premium	Limit (000s)	Premium		
	Bodily Injury								
	Property Damage								
	Accident Benefits (Basic Benefits)								
	Optional Increased Accident Benefits								
	(\) Coverage Required								
	☐ Income Replacement Up to \$ 600 per wk.								
	☐ Income Replacement Up to \$ 800 per wk.								
	☐ Income Replacement Up to \$1,000 per wk.								
☐ Caregiver & Dependant Care									
☐ Medical, Rehabilitation & Attendant Care									
☐ Death & Funeral									
☐ Indexation Benefit									
Uninsured Automobile									
Direct Compensation-Property Damage	Deductible		Deductible		Deductible				
This policy contains a partial payment of recovery clause for property damage if a deductible is specified for Direct Compensation-Property Damage.									
Optional	Loss or Damage*	Deductible	Premium	Deductible	Premium	Deductible	Premium	Premium	
	Specified Perils (excluding Collision or Upset)								
	Comprehensive (excluding Collision or Upset)								
	Collision or Upset								
	All Perils								
* This policy contains a partial payment of loss clause. A deductible applies for each claim except as stated in your policy.									
OPCF	Policy Change Forms (Name & No.)	Deductible/Limit	Premium	Deductible/Limit	Premium	Deductible/Limit	Premium	Premium	
	Family Protection Coverage -OPCF 44R ☐ Yes ☐ No	LIMIT SAME AS LIABILITY UNLESS OTHERWISE NOTED		LIMIT SAME AS LIABILITY UNLESS OTHERWISE NOTED		LIMIT SAME AS LIABILITY UNLESS OTHERWISE NOTED			
Total Premium Per Automobile									

OPCF 3
DRIVE GOVERNMENT AUTOMOBILES

Issued to	Effective Date of Change Year Month Day	Policy Number
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In consideration of the premium stated below or as stated in the Certificate of Automobile Insurance, the Insurer agrees to indemnify the Insured against the liability imposed by law upon the Insured or assumed by him or her under any contract or agreement for loss or damage arising from the use, operation, care, custody or control of any automobile including its equipment, owned by the Government of Canada or by the government of any province or territory of Canada and resulting from bodily injury to or death of any person or damage to property, or from loss of or damage to such automobile.

The word "Insured" as used in this change form shall include (a) his or her spouse and (b) any other person who with the consent of the Named Insured personally drives the automobile.

This change form also provides insurance against one or more of the perils shown below, but only for the Insurance Coverage(s) for which a premium is shown below and subject to the terms and conditions of the Policy to which this change form is attached, and for the following specified limit(s) and amounts.

Insurance Coverages

	Limit	Premium
Liability		
Bodily Injury		
Property Damage		
Accident Benefits (Basic Benefits)	As stated in Sect 4 of Policy	
Optional Increased Accident Benefits		
(✓) Coverage required		
☐ Income Replacement up to \$ per week	As stated in Sect.4 of Policy	
☐ Caregiver & Dependant Care	As stated in Sect.4 of Policy	
☐ Medical, Rehabilitation & Attendant Care	As stated in Sect.4 of Policy	
☐ Death & Funeral	As stated in Sect.4 of Policy	
☐ Indexation Benefit	As stated in Sect.4 of Policy	
Uninsured Automobile	As stated in Sect.5 of Policy	
Direct Compensation – Property Damage		
This policy contains a partial payment of recovery clause for property damage if a deductible is specified for Direct Compensation – Property Damage	Deductible	
Loss or Damage to Government Automobile		
This policy contains a partial payment of loss clause. A deductible applies for each claim except as stated in your policy.	Deductible	Premium
Specified Perils (excluding Collision or Upset)		
Comprehensive (excluding Collision or Upset)		
Collision or Upset		
All Perils		
Policy Change Forms (Name and OPCF No., including limit if applicable)		Premium
Total Premium		

Provided that:

- The perils for which indemnity is provided by the, "Loss or Damage Coverages", shown above are the same perils as stated in Section 7.1.2 of the Policy to which this change form is attached and are subject, where applicable, to Sections 3.3.1, 3.3.2 and 3.3.3 under Section 3, "Liability Coverage" of the Policy;
- Not more than one such automobile owned by the Government of Canada or by the government of any province or territory of Canada shall be in the care, custody or control of the Insured at any one time;
- The Insurer shall not be liable under any subsection of Section 7, "Loss or Damage Coverages" shown above for any amount in excess of \$ or the amount stated in the Certificate of Automobile Insurance to which this change form is attached for any one occurrence.
- For "Direct Compensation - Property Damage" in section 6, the Government owned automobile cannot be a described automobile in a motor vehicle liability policy.

All other terms and conditions of your policy remain the same.

OPCF 3 (11/2005)

OPCF 27
Liability for Damage to Non-Owned Automobile(s) and Providing
Other Coverages When Insured Persons Drive Other Automobiles

Issued to	Effective Date of Change Year Month Day	Policy Number
The additional premium for this change is \$.....or as indicated on your Certificate of Automobile Insurance		

1. **Purpose of This Change** - This change is part of your policy. It extends coverage:
 - for loss or damage to a non-owned automobile including its equipment resulting from the care, custody or control of that non-owned automobile by an insured person, and
 - when persons named below drive other automobiles.
2. **Who Is Covered**

2.1 If the Certificate of Automobile Insurance is in the name of an individual or individuals, an insured person in this change form means you, your spouse and all drivers listed in the policy.

2.2 If the Certificate of Automobile Insurance is in the name of a corporation, unincorporated association, partnership, sole proprietorship or other entity, an insured person in this change form means the persons named below and their spouses .

Named Persons	Relationship to Insured/Lessee

3. **Liability for Damage to Non-Owned Automobiles**

3.1. **What We Will Cover**

In return for the premium charged, we will provide coverage for the liability imposed by law or assumed by any written agreement for loss or damage to a non-owned automobile including its equipment resulting from the care, custody or control of that non-owned automobile by an insured person. This loss or damage must result from a peril set out below for which you are insured and a premium is shown here or as indicated on your Certificate of Automobile Insurance.

Insurance Coverage		Deductible			Premium
Loss or damage to non-owned automobiles	Specified Perils	\$		A deductible applies for each claim except as stated in your policy.	
	Comprehensive	\$			
	Collision or Upset	\$			
	All Perils	\$			
				Total Premium	\$

- 3.2 **Limitations on This Coverage**

3.2.1 The coverage applies only to an automobile of 4500 kilograms or less (gross vehicle weight), or of thetype.

3.2.2 We will not cover loss or damage to any automobile which is:
 - owned or licensed in the name of any person insured by this change or by any person living in the same dwelling as these persons, or
 - owned or leased by the employer of these persons.

3.2.3 Where applicable, sections 3.3.1, 3.3.2 and 3.3.3 of your policy will apply to this change.

3.2.4 We will not pay more than \$..... under this change for any one occurrence plus the costs provided for in 3.2.3 above.

3.2.5 The automobile must be used with the owner's or lessee's consent.

4. **Providing Other Coverage When Insured Persons Drive Other Automobiles**

4.1 **What We Will Cover**

In return for the premium charged, we will provide the Liability, Accident Benefits, Uninsured Automobile and Direct Compensation-Property Damage coverage described in your policy when the insured persons drive other automobiles.

4.2 **Definition of Other Automobile**

For the purposes of Section 3, "Liability Coverage," Section 4, "Accidents Benefits Coverage," Section 5, "Uninsured Automobile Coverage, and Section 6, "Direct Compensation - Property Damage," of your policy, other automobile also means:

Any automobile of 4500 kilograms gross vehicle weight or less, other than the described automobile, while driven by an insured person referred to in 2, when the other automobile:

 - is not being driven by an insured person in connection with the business of selling, repairing, maintaining, storing, servicing or parking automobiles;
 - is not owned or frequently used by an insured person or anyone living in the same dwelling as the insured person;
 - is not owned, hired or leased by an insured person's employer or by an employer of anyone living in the same dwelling as the insured person, and
 - is not being used to carry paying passengers or to make commercial deliveries at the time of the loss.

For Direct Compensation - Property Damage Coverage the other automobile cannot be a described automobile in a motor vehicle liability policy.

4.3 **Limitations on This Coverage**

This coverage does not apply to anyone who owns an insured automobile or leases an automobile covered by OPCF 5, "Permission to Rent or Lease Automobile (s) and Extending Coverage to the Specified Lessee(s)," or a similar endorsement.

**OPCF 40
FIRE DEDUCTIBLE**

Issued to	Effective Date of Change Year Month Day	Policy Number
☐ The change applies only to automobile(s) number _____ indicated on your Certificate of Automobile Insurance. ☐ See your Certificate of Automobile Insurance for which automobile(s) this change applies to.		

- 1. Purpose of This Change** - This change is part of your policy. It makes loss caused by fire subject to a deductible.
- 2. What You Agree To** - In return for the premium charged, you agree that the deductible shown on your Certificate of Automobile Insurance under Specified Perils, Comprehensive or All Perils will apply to each claim under Section 7 of your policy for loss caused by fire.

All other terms and conditions of your policy remain the same.

Signature of Insured	Date
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OPCF 44R

FAMILY PROTECTION COVERAGE

DEFINITIONS

1. Subject to section 2, in this change form,
 - 1.1 "automobile" means a vehicle for which motor vehicle liability insurance would be required if it were subject to the law of Ontario.
 - 1.2 "dependent relative" means
 - (a) a person who is principally dependent for financial support upon the named insured or his or her spouse, and who is
 - (i) under the age of 18 years;
 - (ii) 18 years or over and is mentally or physically incapacitated;
 - (iii) 18 years or over and in full time attendance at a school, college or university;
 - (b) a relative of the named insured or of his or her spouse, who is principally dependent on the named insured or his or her spouse for financial support;
 - (c) a relative of the named insured or of his or her spouse, who resides in the same dwelling premises as the named insured; and
 - (d) a relative of the named insured or of his or her spouse, while an occupant of the described automobile, a newly acquired automobile, or a temporary substitute automobile, as defined in the Policy.

BUT subsections 1.2(c) and 1.2(d) apply only where the person injured or killed is not an insured person as defined in the family protection coverage of any other policy of insurance or does not own, or lease for more than 30 days, an automobile which is licensed in any jurisdiction of Canada where family protection coverage is available.
 - 1.3 "eligible claimant" means
 - (a) the insured person who sustains bodily injury; and
 - (b) any other person who, in the jurisdiction in which an accident occurs, is entitled to maintain an action against the inadequately insured motorist for damages because of bodily injury to or death of an insured person.
 - 1.4 "family protection coverage" means the insurance provided by this change form and any similar indemnity provided under any other contract of insurance.
 - 1.5 "inadequately insured motorist" means
 - (a) the identified owner or identified driver of an automobile for which the total motor vehicle liability insurance or bonds, cash deposits or other financial guarantees as required by law in lieu of insurance, obtained by the owner or driver is less than the limit of family protection coverage; or
 - (b) the driver or owner of an uninsured automobile or unidentified automobile as defined in Section 5, "Uninsured Automobile Coverage" of the Policy.

PROVIDED THAT

 - (A) where an eligible claimant is entitled to recover damages from an inadequately insured motorist and the owner or operator of any other automobile, for the purpose of
 - (i) (a) above, and
 - (ii) determining the insurer's limit of liability under section 4 of this change form,the limit of motor vehicle liability insurance shall be deemed to be the aggregate of all limits of motor vehicle liability insurance and all bonds, cash deposits or other financial guarantees as required by law in lieu of such insurance, for all of the automobiles;
 - (B) where an eligible claimant is entitled to recover damages from the identified owner or identified driver of an uninsured automobile as defined in Section 5 of the Policy, for the purpose of
 - (i) (a) and (b) above; and
 - (ii) determining the limit of coverage under section 4 of this change form;other uninsured automobile coverage available to the eligible claimant shall be taken into account as if it were motor vehicle liability insurance with the same limits as the uninsured automobile coverage;
 - (C) where an eligible claimant alleges that both the owner and driver of an automobile referred to in clause 1.5(b) cannot be determined, the eligible claimant's own evidence of the involvement of such automobile must be corroborated by other material evidence; and
 - (D) "other material evidence" for the purposes of this section means
 - (i) independent witness evidence, other than evidence of a spouse as defined in section 1.10 of this change form or a dependent relative as defined in section 1.2 of this change form; or
 - (ii) physical evidence indicating the involvement of an unidentified automobile.
 - 1.6 "insured person" means
 - (a) the named insured and his or her spouse and any dependent relative of the named insured and his or her spouse, while
 - (i) an occupant of the described automobile, a newly acquired automobile or a temporary substitute automobile as defined in the Policy;
 - (ii) an occupant of any other automobile except where the person leases the other automobile for a period in excess of 30 days or owns the other automobile, unless family protection coverage is in force in respect of the other automobile; or
 - (iii) not an occupant of an automobile who is struck by an automobile; and
 - (b) if the named insured is a corporation, an unincorporated association, partnership, sole proprietorship or other entity, any officer, employee or partner of the named insured for whose regular use the described automobile is provided and his or her spouse and any dependent relative of either, while
 - (i) an occupant of the described automobile, a newly acquired automobile or a temporary substitute automobile as defined in the Policy;
 - (ii) an occupant of an automobile other than
 - (a) the automobile referred to in (i) above;
 - (b) an automobile leased by the named insured for a period in excess of 30 days; or
 - (c) an automobile owned by the named insured,

PROVIDED family protection coverage is in force in respect of the other automobile, or

 - (iii) not an occupant of an automobile, who is struck by an automobile;

EXCEPT THAT

where the Policy has been changed to grant permission to rent or lease the described automobile for a period in excess of 30 days, any reference to the named insured shall be construed as a reference to the lessee specified in that change form.
 - 1.7 "limit of family protection coverage" means the amount set out in the Certificate of Automobile Insurance with respect to this change form, but if no amount is set out in the Certificate, the limit for liability coverage set out in the Certificate with respect to the automobile to which this change form applies is the limit of family protection coverage.
 - 1.8 "limit of motor vehicle liability insurance" means the amount stated in the Certificate of Automobile Insurance as the limit of liability of the insurer with respect to liability claims, regardless of whether the limit is reduced by the payment of claims or otherwise;

PROVIDED THAT in the event that an insurer's liability under a policy is reduced by operation of law to the statutory minimum limits in a jurisdiction because of a breach of the Policy, the statutory minimum limits are the limits of motor vehicle liability insurance in the Policy.
 - 1.9 "Policy" means the Policy to which this change form is attached.
 - 1.10 Spouse means either of two persons who:
 - (a) are married to each other;
 - (b) have together entered into a marriage that is voidable or void, in good faith on the part of the person making a claim under this policy; or
 - (c) have lived together in a conjugal relationship outside marriage,
 - (i) continuously for a period of not less than three years, or
 - (ii) in a relationship of some permanence, if they are the natural or adoptive parents of a child.
 - 1.11 "uninsured automobile" means an automobile with respect to which neither the owner nor driver thereof has applicable and collectible bodily injury liability and property damage liability insurance for its ownership, use or operation, but does not include an automobile owned by or registered in the name of the insured or his or her spouse.
2. The definitions in section 1 apply as of the time of the happening of an accident for which indemnity is provided under this change form.

INSURING AGREEMENT

3. In consideration of a premium of \$ or as stated in the Certificate of Automobile Insurance to which this change form is attached, the insurer shall indemnify an eligible claimant for the amount that he or she is legally entitled to recover from an inadequately insured motorist as compensatory damages in respect of bodily injury to or death of an insured person arising directly or indirectly from the use or operation of an automobile.

LIMIT OF COVERAGE UNDER THIS CHANGE FORM

4. The insurer's maximum liability under this change form, regardless of the number of eligible claimants or insured persons injured or killed or the number of automobiles insured under the Policy, is the amount by which the limit of family protection coverage exceeds the total of all limits of motor vehicle liability insurance, or bonds, or cash deposits, or other financial guarantees as required by law in lieu of such insurance, of the inadequately insured motorist and of any person jointly liable with that motorist.
5. Where this change form applies as excess, the insurer's maximum liability under this change form is the amount calculated under section 4 of this change form, less the amounts available to eligible claimants under any first loss insurance referred to in Section 18 of this change form.

AMOUNT PAYABLE PER ELIGIBLE CLAIMANT

6. The amount payable to an eligible claimant under this change form shall be calculated by determining the amount of damages the eligible claimant is legally entitled to recover from the inadequately insured motorist, and deducting from that amount the aggregate of the amounts referred to in Section 7 of this change form, but in no event shall the insurer be obliged to pay an amount in excess of the limit of coverage as determined under Sections 4 and 5 of this change form.
7. The amount payable under this change form to an eligible claimant is excess to an amount received by the eligible claimant from any source, other than money payable on death under a policy of insurance, and is excess to amounts that were available to the eligible claimant from
- (a) the insurers of the inadequately insured motorist, and from bonds, cash deposits or other financial guarantees given on behalf of the inadequately insured motorist;
 - (b) the insurers of a person jointly liable with the inadequately insured motorist for the damages sustained by an insured person;
 - (c) the Société de l'assurance automobile du Québec;
 - (d) an unsatisfied judgment fund or similar plan in a jurisdiction other than Ontario, or which would have been payable by such fund or plan had this change form not been in effect;
 - (e) the uninsured automobile coverage of a motor vehicle liability policy;
 - (f) an automobile accident benefits plan applicable in the jurisdiction in which the accident occurred;
 - (g) a law or policy of insurance providing disability benefits or loss of income benefits or medical expense or rehabilitation benefits;
 - (h) any applicable Workers' Compensation Act or similar law of the jurisdiction in which the accident occurred;
 - (i) the family protection coverage of another motor vehicle liability policy.
8. If the insurer is presented with claims by more than one eligible claimant and the total amount payable to the eligible claimants exceeds the limit of the insurer's liability under sections 4 and 5 of this change form, the insurer shall pay to each eligible claimant a pro rata portion of the amount otherwise payable to each eligible claimant; and if payments are made to eligible claimants prior to the receipt of actual notice of any additional claim, the limits in sections 4 and 5 shall be the amount calculated under those sections less the amounts paid to the prior eligible claimants.

DETERMINATION OF THE AMOUNT RECOVERABLE

9. The amount that an eligible claimant is entitled to recover shall be determined in accordance with the procedures set forth for determination of the issues of quantum and liability under Section 5 of the Policy "Uninsured Automobile Coverage".
10. In determining the amount that an eligible claimant is entitled to recover from the inadequately insured motorist, issues of quantum shall be decided in accordance with the law of Ontario, and issues of liability shall be decided in accordance with the law of the place where the accident occurred.
11. In determining any amounts that an eligible claimant is entitled to recover, no amount shall be included with respect to prejudgment interest which accumulated prior to notice as required by section 15 of this change form.
12. In determining any amount that an eligible claimant is entitled to recover, no amount shall be included with respect to punitive, exemplary, aggravated or other damages awarded in whole or in part because of the conduct of the inadequately insured motorist or the person jointly liable with him or her, unless these damages are for the purpose of compensating the eligible claimant for losses actually incurred.
13. In determining any amounts an eligible claimant is entitled to recover from an inadequately insured motorist, no amount shall be included with respect to costs.
14. For the purposes of this change form the findings of a court with respect to issues of quantum or liability are not binding on the insurer unless the insurer was provided with a reasonable opportunity to participate in those proceedings as a party.

PROCEDURES

15. The following requirements are conditions precedent to the liability of the insurer to an eligible claimant under this change form:
- (a) the eligible claimant shall promptly give written notice, with all available particulars, of any accident involving injury to or death of an insured person and of any claim made on account of the accident;
 - (b) the eligible claimant shall, upon request, provide details of any policies of insurance other than life insurance to which the eligible claimant may have recourse;
 - (c) the eligible claimant and the insured person shall submit to examination under oath, and shall produce for examination at such reasonable place and time as is designated by the insurer or its representative, all relevant documents in their possession or control, and shall permit extracts and copies of them to be made.
16. Where an eligible claimant commences a legal action for damages for bodily injury or death against any other person owning or operating an automobile involved in the accident, a copy of the initiating process shall be delivered or sent by registered mail immediately to the chief agent or head office of the insurer in Ontario together with particulars of the insurance and loss.
17. Every action or proceeding against the insurer for recovery under this change form shall be commenced within 12 months of the date that the eligible claimant or his or her representative knew or ought to have known that the quantum of claims with respect to an insured person exceeded the minimum limits for motor vehicle liability insurance in the jurisdiction in which the accident occurred, but this requirement is not a bar to an action which is commenced within 2 years of the date of the accident.

MULTIPLE COVERAGES

18. The following rules apply where an eligible claimant is entitled to payment under family protection coverage under more than one policy:
- (a) (i) if he or she is an occupant of an automobile, such insurance on the automobile in which the eligible claimant is an occupant is first loss insurance and any other such insurance is excess;
 - (ii) if he or she is not an occupant of an automobile, such insurance in any policy in the name of the eligible claimant is first loss insurance and any other such insurance is excess.
 - (b) all applicable first loss family protection coverage shall be apportioned on a pro rata basis, but in no event shall the aggregate payment under all such insurances exceed the highest limit of coverage provided by any one of such first loss insurances,
 - (c) the applicable first loss insurance shall be exhausted before recourse is made to excess insurances,
 - (d) all applicable excess family protection coverage shall be similarly apportioned on a pro rata basis, but in no event shall the aggregate payment under all such insurances exceed the highest limit of coverage as defined in section 5 of this change form, which is provided by any one of such excess insurances.

ACCIDENTS IN THE PROVINCE OF QUEBEC

19. This change form does not apply to an accident occurring in the Province of Quebec for which compensation is payable under the **Automobile Insurance Act** (Quebec) or under an agreement referred to in that Act.

SUBROGATION

20. Where a claim is made under this change form, the insurer is subrogated to the rights of the eligible claimant by whom a claim is made, and may maintain an action in the name of that person against the inadequately insured motorist and the persons referred to in section 7 of this change form.

ASSIGNMENT OF RIGHTS OF ACTION

21. Where a payment is made under this change form, the insurer is entitled to receive from the eligible claimant an assignment of all rights of action, whether judgment is obtained or not, and the eligible claimant undertakes to cooperate with the insurer, except in a pecuniary way, in the pursuit of any subrogated action or any right of action so assigned.

MISCELLANEOUS

22. If more than one automobile is insured under this Policy, this change form shall apply only to the automobile(s) described as automobile(s) number in the schedule of automobiles attached to and forming part of this Policy, or as stated in the Certificate of Automobile Insurance. If this change form is designated with respect to more than one automobile, coverages shall be construed as if provided by separate policies of insurance with respect to each automobile to which this change form applies, subject to the provisions of section 18 of this change form.

Except as otherwise provided in this change form, all limits, terms, conditions, provisions, definitions and exclusions of the Policy shall have full force and effect.