

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DELAWARE UNINSURED MOTORISTS COVERAGE

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

- BUSINESS AUTO COVERAGE FORM
- GARAGE COVERAGE FORM
- MOTOR CARRIER COVERAGE FORM
- TRUCKERS COVERAGE FORM

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

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

Named Insured:
Endorsement Effective Date:
Countersignature Of Authorized Representative
Name:
Title:
Signature:
Date:

SCHEDULE

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

A. Coverage

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

- b. An "uninsured motor vehicle" because of "property damage" caused by an "accident".
The owner's or driver's liability for these damages must result from the ownership, maintenance or use of the "uninsured motor vehicle" or the "underinsured motor vehicle".

2. We will pay only after the Limits of Liability under any liability bonds or policies have been exhausted by payment of judgments or settlements.
3. Any judgment for damages arising out of a "suit" brought without our written consent is not binding on us.

B. Who Is An Insured

If the Named Insured is designated in the Declarations as:

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

C. Exclusions

This insurance does not apply to any of the following:

1. With respect to an "uninsured motor vehicle", any claim settled without our consent, if the settlement prejudices our rights to recover payment.
2. The direct or indirect benefit of any insurer or self-insurer under any workers' compensation, disability benefits or similar law.
3. The direct or indirect benefit of any insurer of property.
4. The first \$250 of the amount of "property damage" to the property of each "insured" as the result of any one "accident".

5. Anyone using a vehicle without a reasonable belief that the person is entitled to do so.
6. "Bodily injury" or "property damage" arising directly or indirectly out of:
 - a. War, including undeclared or civil war;
 - b. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
 - c. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

D. Limit Of Insurance

1. Regardless of the number of covered "autos", "insureds", premiums paid, claims made or vehicles involved in the "accident", the most we will pay for all damages resulting from any one "accident" is the limit of Uninsured Motorists Coverage shown in the Schedule or Declarations. We will apply this limit to first provide the separate limits required by the Uninsured Motorists Law of the State of Delaware for:
 - a. "Bodily injury" to one person in any one "accident";
 - b. "Bodily injury" to two or more persons in any one "accident"; or
 - c. "Property damage" in any one "accident".

This provision will not change our total limit of liability.

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

We will not make a duplicate payment under this Coverage for any element of "loss" for which payment has been made by or for anyone who is legally responsible, including all sums paid under the policy's Liability Coverage.

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

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

E. Changes In Conditions

The Conditions are changed for Uninsured Motorists Coverage as follows:

1. With respect to an "uninsured motor vehicle" the **Other Insurance** Condition in the Business Auto and Garage Coverage Forms and **Other Insurance – Primary And Excess Insurance Provisions** in the Truckers and Motor Carrier Coverage Forms are replaced by the following:

If there is other applicable insurance available under one or more policies or provisions of coverage:

- a. Any insurance we provide with respect to a vehicle:

- (1) The Named Insured does not own; or
- (2) Owned by the Named Insured or, if the Named Insured is an individual, any "family member", that is not a covered "auto" for Uninsured Motorist Coverage under this Coverage Form;

shall be excess over any other collectible uninsured motorists insurance providing coverage on a primary basis.

- b. If the coverage under this coverage form is provided:

- (1) On a primary basis, we will pay only our share of the loss that must be paid under insurance providing coverage on a primary basis. Our share is the proportion that our Limit of Liability bears to the total of all applicable limits of liability for coverage on a primary basis.
- (2) On an excess basis, we will pay only our share of the loss that must be paid under insurance providing coverage on an excess basis. Our share is the proportion that our Limit of Liability bears to the total of all applicable limits of liability for coverage on an excess basis.

2. With respect to an "underinsured motor vehicle", the **Other Insurance** Condition in the Business Auto and Garage Coverage Forms and **Other Insurance – Primary And Excess Insurance Provisions** in the Truckers and Motor Carrier Coverage Forms are changed by addition of the following:

- a. The reference to "other collectible insurance" applies only to other collectible underinsured motorists insurance.

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

3. **Duties In The Event Of Accident, Claim, Suit Or Loss** is changed by adding the following:

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

4. The **Legal Action Against Us** provision is replaced by the following:

- a. No one may bring a legal action against us under this Coverage Form until there has been full compliance with all the terms of this Coverage Form.

- b. Any legal action against us under this Coverage Form must be brought within two years after the date of "accident".

- c. Paragraph 4.b. does not apply to:

- (1) An "insured" with respect to "bodily injury" if, within two years after the date of the "accident":

- (a) We and the "insured" agree to arbitration in accordance with this endorsement; or

- (b) The "insured" has filed an action for "bodily injury" against the owner or operator of the "underinsured motor vehicle" and such action is:

- (i) Filed in a court of competent jurisdiction; and

- (ii) Not barred by the applicable statute of limitations.

- (2) An "insured" with respect to "property damage" if, within two years after the date of the "accident" we and the "insured" agree to arbitration in accordance with this endorsement.

In the event that the two year time limitation identified in this condition does not apply, the applicable state statute of limitations will govern legal action against us under this Coverage Form.

5. Transfer Of Rights Of Recovery Against Others To Us is replaced by the following:

- a. With respect to an "uninsured motor vehicle", if we make any payment, we are entitled to recover what we paid from other parties up to the amount of coverage required by the Delaware financial responsibility law. Any person to or for whom we make payment must transfer to us his or her rights of recovery against any other party. This person must do everything necessary to secure these rights and must do nothing that would jeopardize them.
- b. With respect to an "uninsured motor vehicle", if we make any payment and the "insured" recovers from another party, the "insured" shall hold the proceeds in trust for us and pay us back the amount we have paid up to the limits specified by the Delaware financial responsibility law.
- c. This provision does not apply to damages caused by an "accident" with an "underinsured motor vehicle".

6. The following Condition is added:

ARBITRATION

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

7. The Two Or More Coverage Forms Or Policies Issued By Us is replaced by the following:

If this Coverage Form or any other Coverage Form or policy issued to the Named Insured, or any resident of the Named Insured's household, if the Named Insured is an individual, by us or any company affiliated with us apply to the same "accident", the aggregate maximum Limit of Insurance under all the Coverage Forms or policies shall not exceed the highest applicable Limit of Insurance under any one Coverage Form or policy. This condition does not apply to any Coverage Form or policy issued by us or an affiliated company specifically to apply as excess insurance over this Coverage Form.

F. Additional Definitions

As used in this endorsement:

- 1. "Family member" means a person related to an individual Named Insured by blood, marriage or adoption who is a resident of such Named Insured's household, including a ward or foster child.
- 2. "Occupying" means in, upon, getting in, on, out or off.
- 3. "Property damage" means injury or destruction of:
 - a. A covered "auto" (including its loss of use);
 - b. Property contained in the covered "auto" and owned by the Named Insured or if the Named Insured is an individual, any "family member"; or
 - c. Property contained in the covered "auto" and owned by anyone else "occupying" the covered "auto".
- 4. "Uninsured motor vehicle" means a land motor vehicle or "trailer":
 - a. For which no liability bond or policy at the time of an "accident" provides at least the amounts required by the applicable law where a covered "auto" is principally garaged;
 - b. For which an insuring or bonding company denies coverage or is or becomes insolvent; or

c. That is a hit-and-run vehicle and neither the driver nor owner can be identified. The vehicle must either:

- (1) Hit an "insured", a covered "auto" or a vehicle an "insured" is "occupying"; or
- (2) Cause "bodily injury" or "property damage" without hitting an "insured", a covered "auto" or a vehicle an "insured" is "occupying". We will only accept competent evidence which may include the testimony, under oath, of a person making claim under this or any similar coverage.

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

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

5. An "underinsured motor vehicle" means a land motor vehicle or "trailer" for which the sum of all liability bonds or policies at the time of an "accident" provides at least the amounts required by the applicable law where a covered "auto" is principally garaged but that sum is less than the highest limit of uninsured motorists coverage under either:

- a. This endorsement; or
- b. Any other applicable policy available to the "insured" injured in the "accident".

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

- a. Owned or operated by a self-insurer under any applicable motor vehicle law;
- b. Owned by a governmental unit or agency;
- c. Designed for use mainly off public roads while not on public roads; or
- d. That is an "uninsured motor vehicle".