



MENDAKOTA INSURANCE COMPANY
 (Served by KAI Advantage Auto, Inc.)
PERSONAL AUTOMOBILE INSURANCE POLICY
 (INDIANA)

IMPORTANT

Notify the Company's claim office in Elk Grove Village, Illinois by telephone, of every accident however slight, immediately upon occurrence. Telephone 1-800-287-2741. You may also access our website at www.kingswayamerica.com to report a loss. Delay in providing notice may jeopardize your claim rights. Send a completed written report as soon as practicable.

PLEASE READ YOUR POLICY

NOTICE- This policy has been issued based upon the reliance of your statements and representations on the application. Policy references as to parts and clauses relate to the similar references on the Declarations Page.

MENDAKOTA INSURANCE COMPANY
St. Paul, Minnesota
 (A stock insurance company, herein called the company)

agrees with the **named insured** as designated in the Declarations made a part hereof, in consideration of the payment of the premium and in reliance upon the statements and representations in the Application and subject to the Declarations and all of the terms of this policy:

PART I- LIABILITY

A-Bodily Injury Liability, B-Property Damage Liability. To pay on behalf of the **insured**, but only to the extent of the applicable limits, all sums which the **insured** shall become legally obligated to pay as damages because of:

- A. **Bodily Injury, or**
- B. **Property Damage,**

arising out of the ownership, maintenance or use of an **owned automobile** or a **non-owned automobile**, and the company shall defend any suit alleging such **bodily injury** or **property damage** and seeking damages which are payable under the terms of this policy, even if any of the allegations of the suit are groundless, false or fraudulent; but the company may make such investigation and settlement of any claim or suit as it deems expedient.

It is understood and agreed that the company (1) has no obligation to any **insured** after applicable limits of the policy have been exhausted by payment; and (2) is not obligated to pay, and shall not pay, attorney fees for any legal or investigative work unless such attorneys are specifically selected by the company; and (3) is not obligated to pay, and shall not pay, any sum which the **insured** may be legally obligated to pay as a result of a lawsuit unless the company received actual notice of said suit before any judgement had been entered in said suit.

Supplementary Payments. To pay, in addition to the applicable limits of liability:

- (a) all expenses incurred by the Company, all costs taxed against the **insured** in any suit and all interest on the entire amount of any judgement therein which accrues after entry of the judgement and before the Company has paid or tendered or deposited in court that part of the judgement which does not exceed the limit of the Company's liability thereon;
- (b) premiums on appeal bonds required in any such suit, premiums on bonds to release attachments for an amount not in excess of the applicable limit of liability of this policy and the cost of bail bonds required of the **insured** because of accident or traffic law violation arising out of the use of an automobile **insured** hereunder, not to exceed \$100 per bail bond, but without any obligation to apply for or furnish any such bonds;
- (c) expenses incurred by the **insured** for such immediate medical and surgical relief to others as shall be imperative at the time of an accident involving an automobile **insured** hereunder and not due to war; and
- (d) all reasonable expenses, other than loss of earnings, incurred by the **insured** at the Company's request.

Persons Insured. The following are **insureds** under Part I:

- (a) with respect to the **owned automobile**,
 - (1) the **named insured**,
 - (2) any other person using such automobile to whom the **named insured** has given permission, provided the use is within the scope of such permission;
- (b) with respect to a **non-owned automobile**;
 - (1) the **named insured**, or a **relative** provided he or she has received the permission of its owner, and the use is within the scope of such permission.
- (c) any other person or organization legally responsible for the use of:
 - (1) an **owned automobile**, or
 - (2) a **non-owned automobile**, if such automobile is not owned or hired by such person or organization, provided the actual use thereof is by a person who is an insured under (a) or (b) above with respect to such **owned automobile** or **non-owned automobile**.

"**covered automobile**" means an **owned automobile** for which premium charges shown in the Declarations indicate the specific coverage afforded, or an automobile which is subsequently added or replaced herein by endorsement.

"**named insured**" means the individual named in Item 1 of the Declarations and also includes his/her spouse, if a resident of the same household.

"**bodily injury**" means **bodily injury** to a person and sickness, disease or death which results from it.

"**property damage**" means injury to or destruction of property including loss of use thereof.

"**insured**" means a person or organization described above under 'Persons Insured'.

"**relative**" means a person related to the **named insured** or his/her spouse by blood, marriage or adoption and who is a resident of the same household as the **named insured** or spouse and is either a non-driver or is listed on the Application for this insurance as a driver, provided neither such **relative** nor his/her spouse owns an **automobile**.

"**resident**" means a person whose legal address is the same as the **named insured** and who lives full time with the **named insured**.

"**automobile**" means a four wheel private passenger, station wagon, sports utility, or jeep type vehicle; or, a truck, pickup truck, window van, or panel van with a load capacity of fifteen hundred pounds or less not used for business or commercial purposes, and designed and licensed for use on public roads.

"**owned automobile**" means:

- (a) an **automobile** owned by the **named insured** at the inception of and described in this policy, or
- (b) an **automobile**, ownership of which is acquired by the **named insured** during the policy period provided:

- (1) the newly acquired **automobile** replaces an **automobile** described in this policy, neither the **named insured** nor any **resident** of his/her household retains ownership of the described replaced **automobile**, and the **named insured** notifies the Company in writing, within 30 days after such acquisition of his/her decision to make this policy applicable to such acquired replacement **automobile**,
- (2) the Company insures all **automobiles** owned by the **named insured** on the date of such acquisition, and the **named insured** notifies the Company in writing, within 30 days after such acquisition of his/her decision to make this policy and no other policy applicable to such **automobile**, or

- (c) a **temporary substitute automobile**.

"**temporary substitute automobile**" means any **automobile** not owned by the **named insured**, or any resident of the same household, while temporarily used as a substitute for an owned **automobile** when withdrawn from normal use because of its breakdown, repair, servicing, loss or destruction.

"**occupying**" means in or upon or entering into or alighting from an **automobile**.

"**non-owned automobile**" means an **automobile** not owned by or furnished for the regular use of the **named insured** or any **relative** other than a **temporary substitute automobile**, while said **automobile** is in the possession or custody of an **insured** or is being operated by him/her.

"**trailer**" means a **trailer** designed for use with an **automobile** not being used for business or commercial purposes and not used as a home, office, store, display or passenger **trailer**.

"automobile business" means the business or occupation of selling, repairing, servicing, storing, washing, or parking **automobiles**.

"use" of an **automobile** includes the loading and unloading thereof.

"war" means **war**, whether or not declared, civil war, insurrection, rebellion or revolution, or any act or condition incident to any of the foregoing.

"state" includes the District of Columbia, any territory or possession of the United States, and any province of Canada.

Exclusions. This policy does not apply under Part I:

(a) to **bodily injury** to, or damage to property owned by, the **named insured** or any **relative** of the **named insured** where the person against whom suit is brought is also a resident of that same household. This exclusion shall not apply when a third party acquires the right of contribution against a member of the injured person's family;

(b) to any **automobile** while used as a public or livery conveyance;

(c) to any injury or damage expected or intended on the part of an **insured**;

(d) to **bodily injury** or **property damage** arising out of the operation of farm machinery;

(e) to **bodily injury** or sickness, disease or death of any fellow employee of the **insured** injured in the course of his/her employment if such injury arises out of the use of an automobile in the business of his/her employer, but this exclusion does not apply to the **named insured** with respect to injury sustained by any fellow employee;

(f) to **bodily injury** to any employee of the **insured** arising out of and in the course of his/her employment by the **insured**, but this exclusion does not apply to any such injury arising out of and in the course of domestic employment by the **insured** unless benefits are in whole or in part either payable or required to be provided under any worker's compensation law;

(g) to an **owned automobile** while used in the **automobile business**;

(h) to a **non-owned automobile** while used (1) in the **automobile business** by the **insured**, or (2) in any other business or occupation of the **insured** except an **automobile** operated or occupied by the **named insured** or by his private chauffeur or domestic servant, or a **trailer** used therewith or with any **owned automobile**;

(i) to injury to or destruction of (1) property owned or transported by the **insured**, or (2) property rented to or in charge of the **insured** other than a residence or private garage, or (3) property as to which the **insured** is for any purpose exercising physical control;

(j) to any **automobile**, or any other type of motor vehicle, rented or leased by the **insured** where other valid and collectible insurance has been purchased by or furnished to the **insured** in connection with such rental or lease;

(k) to **bodily injury** or **property damage** with respect to which an **insured** under the policy is also an **insured** under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an **insured** under any such policy but for its termination upon exhaustion of its limit of liability;

(l) to any **automobile** designed for racing while being tested, repaired or serviced, or to any **automobile** or any other type of motor vehicle while used, operated, manipulated or maintained in any impromptu, prearranged or organized race or speed test, including "hot rod" or "stock car" racing;

(m) to **bodily injury** or **property damage** due to **war**, whether or not declared, civil war, riot, insurrection, rebellion, or revolution, or to any act or condition incidental to any of the foregoing;

(n) to any **automobile** while being operated or used in the commission of a crime, other than a traffic violation;

(o) to the payment of punitive or exemplary damages;

(p) while the **automobile** is pushing or pulling another motor vehicle or **automobile**, or is being pushed or pulled by an **automobile** or any other type of motor vehicle;

(q) while a **covered automobile** is in the control of an excluded operator;

(r) to other than compensatory damages for death, **bodily injury**, and **property damage** to make an injured party whole within the limitations of this policy, any additional damages, costs expenses, pecuniary losses, attorney's fees, penalties, fines, treble damages, or

PART II-UNINSURED MOTORIST COVERAGE

D/D2 Uninsured Motorist Coverage. To pay all sums which the **insured** or his/her legal representative shall be legally entitled to recover as damages from the owner or operator of an **uninsured automobile** because of **property damage** to a **covered automobile** or **bodily injury**, including death resulting therefrom, hereinafter called "**bodily injury**", sustained by the **insured**, caused by accident and arising out of the ownership, maintenance or use of such **uninsured automobile**, provided, for the purposes of this coverage, determination of whether the **insured** or such representative is legally entitled to recover such damages, and if so the amount thereof, shall be made by agreement between the **insured** or such representative and the Company or, if they fail to agree, by arbitration as herein provided.

Recovery under this Part for "**property damage**" is subject to the payment of a specific separate premium for uninsured motorist **property damage** liability.

No judgement against any person or organization alleged to be legally responsible for the **bodily injury** or **property damage** shall be conclusive, as between the **insured** and the Company, of the issues of liability of such person or organization or of the amount of damages to which the **insured** is legally entitled unless such judgement is entered pursuant to an action prosecuted by the **insured** with the written consent of the Company.

Definitions. The Definitions under Part I, except the definition of "persons insured" apply to Part II and under Part II: "**persons insured**" – means:

(a) the **named insured** and any **relative** of the **named insured**;

(b) any other person while lawfully occupying an **insured automobile**; and

punitive damages which may be recoverable or awarded at law or in equity as a result of an **insured's** criminal conviction;

(s) to other than compensatory damages for death, **bodily injury**, and **property damage** to make an injured party whole within the limitations of this policy, any additional damages, costs, expenses, attorney's fees, fines, penalties, treble damages, punitive damages, or smart money which may be recoverable or awarded at law or in equity as a consequence of reckless driving, operating a motor vehicle with a blood or breath alcohol content deemed to be legally intoxicating, or under the influence of an illegal substance, causing or contributing to operating a motor vehicle while intoxicated; or similarly influenced, or reckless endangerment.

Non-Owner's Policy – If this policy is written as a **Non-Owner Policy** as shown on the Declarations, it is agreed that such insurance as is afforded for **Bodily Injury** and **Property Damage** only applies with respect to the use of any "**non-owned automobile**" and not any "**owned automobile**" by the **named insured** and his/her spouse if a resident of the same household subject to the following provisions:

1. The definitions of "**non-owned automobile**" and "**insured**" are changed under this Part I to read: "**non-owned automobile**" means an **automobile** not owned by or furnished for the regular use of the **named insured** or his or her spouse or any other member of the household; "**insured**" means the **named insured** and his or her spouse.

2. This policy does not apply to any **automobile** owned by or furnished for the regular use of the **named insured** or his/her spouse or any **relative**.

3. This insurance shall be excess over any other valid and collectible insurance.

Financial Responsibility Laws. When this policy is certified as proof of financial responsibility for the future under the provisions of any motor vehicle financial responsibility law, such insurance as is afforded by the policy for **bodily injury** liability or for **property damage** liability shall comply with the provisions of such law to the extent of the coverage and limits of liability required by such law, but in no event in excess of the limits of liability stated in this policy. The **insured** agrees to reimburse the Company for any payment made by the Company which it would not have been obligated to make under the terms of this policy except for the agreement contained in this paragraph.

Limits of Liability. The limit of **bodily injury** liability stated in the Declarations as applicable to "each person" is the limit of the Company's liability for all damages, including damages for care and loss of services and loss of consortium, arising out of **bodily injury** sustained by one person as the result of any one accident; the limit of such liability stated in the Declarations as applicable to "each accident" is, subject to the above provision respecting each person, the total limit of the Company's liability for all such damages arising out of **bodily injury** sustained by two or more persons as the result of any one accident.

The limit of **property damage** liability stated in the Declarations as applicable to "each accident" is the total limit of the Company's liability for all damages arising out of injury to or destruction of all property of one or more persons or organizations, including the loss of use thereof, as the result of any one accident.

However, the total limits of the Company's liabilities for all damages, under Part I, -Liability, for any Person Insured, other than the **named insured** or a **relative**, shall be the limits of liability required by Section 9-25-4-5 of the Indiana Vehicle Code.

The insurance afforded under Part I applies separately to each **insured** against whom claim is made or suit is brought, but neither the inclusion herein of more than one **insured**, nor the application of the policy to more than one **automobile** shall operate to increase the limits of liability stated in the declarations for the Liability coverage's for any one automobile.

Other Insurance. If the **insured** has other insurance against a loss covered by Part I of this policy, the Company shall not be liable under this policy for a greater proportion of such loss than the applicable limit of liability stated in the Declarations bears to the total applicable limit of liability of all valid and collectible insurance against such loss; provided, however, the insurance with respect to a **temporary substitute automobile** or **non-owned automobile** shall be excess insurance over any other valid and collectible insurance.

(c) any person, with respect to damages he/she is entitled to recover because of **bodily injury** to which this Part applies when sustained by an **insured** under (a) or (b) above.

The insurance afforded under Part II applies to each **insured**, but the inclusion herein of more than one **insured** shall not operate to increase the limits of the Company's liability.

"insured automobile" – means:

(a) an **owned automobile**, or

(b) a **temporary substitute automobile** for an **owned automobile**,

(c) a **non-owned automobile** while being operated by the **named insured**, but such shall not include any:

(1) **automobile** or **trailer** owned by a resident of the same household as the **named insured**;

(2) **automobile** while used as a public or livery conveyance; or

(3) **automobile** while being used without the permission of the owner.

"uninsured automobile" includes a **trailer** of any type and means:

(a) an **automobile** or **trailer** with respect to the ownership, maintenance or use for which, there is no **bodily injury** liability bond or insurance policy applicable at the time of the accident with respect to any person or organization legally responsible for the use of such **automobile**, or said bond or insurance policy has limits less than required by Section 9-24-4-5 of the Indiana Vehicle Code;

(b) a hit-and-run automobile;

(c) an **automobile** or **trailer** with respect to which there is a **bodily injury** or **property damage** liability insurance policy or bond applicable at the time of the accident but the company writing the same is and is declared insolvent subsequent to the date of the accident.

However the term "**uninsured automobile**" shall not include:

(a) an **insured automobile** or an **automobile** furnished for the regular use of the **named insured** or a **relative** of the **named insured** who causes **bodily injury** or **property damage** in excess of the limit required under the Indiana Financial Responsibility Law;

(b) an **automobile** or **trailer** owned or operated by a self-insurer within the meaning of any motor vehicle financial responsibility law, motor carrier law or any similar or other law;

(c) an **automobile** or **trailer** owned by the United States of America, Canada, a state, any political subdivision of any such government or any agency of any of the foregoing;

(d) a land motor vehicle or **trailer** if operated on rails or crawler-treads or while located for use as a residence or premises and not as a vehicle;

(e) a farm type tractor or equipment designed for use principally off public roads, except while actually upon public roads;

(f) an **insured automobile** or an **automobile** furnished for the regular use of the **named insured** or a **relative** of the **named insured** under Part I of this policy where coverage is excluded for damages sustained in the accident.

"**hit-and-run automobile**" means an **automobile** which causes **bodily injury** to an **insured** or **property damage** to an **owned automobile** arising out of direct physical contact with the **insured** or with an **automobile** which the **insured** is occupying at the time of the accident, provided, with respect to **bodily injury** only, (a) there cannot be ascertained the identity of either the operator or the owner of such "**hit-and-run automobile**"; and (b) the **insured** or someone on his/her behalf shall have reported the accident within 24 hours to a police, peace or judicial officer or to the Commissioner of Motor Vehicles, and (c) the **insured** or someone on his/her behalf shall have filed with the Company within 30 days thereafter a statement under oath that the **insured** or his/her legal representative has a cause or causes of action arising out of such accident for damages against a person or persons whose identity is unascertainable, and setting forth the facts in support thereof; and (d) at the Company's request, the **insured** or his/her legal representative makes available for inspection the **automobile** which the **insured** was occupying at the time of the accident.

Non-Owner's Policy – If this policy is written as a **Non-Owner Policy** as shown on the Declarations, it is agreed that such insurance as is afforded for **Bodily Injury** and **Property Damage** only applies with respect to the use of any "**non-owned automobile**" and not any "**owned automobile**" by the **named insured** and his/her spouse if a resident of the same household subject to the following provisions:

1. The definitions of "**non-owned automobile**" and "**insured**" are changed under this Part II to read: "**non-owned automobile**" means an **automobile** not owned by or furnished for the regular use of the **named insured** or his or her spouse or any other member of the household; "**insured**" means the **named insured** and his or her spouse.

2. This policy does not apply to any **automobile** owned by or furnished for the regular use of the **named insured** or his/her spouse or any **relative**.

3. This insurance shall be excess over any other valid and collectible insurance.

Exclusions This policy does not apply under Part II to:

(a) **bodily injury** to an **insured** or damage to property owned by an **insured** with respect to which such **insured**, his/her legal representative or any person entitled to payment under this coverage shall, without written consent of the Company, make any settlement with any person or organization who may be legally liable therefore;

(b) inure directly or indirectly to the benefit of any worker's compensation or disability benefits carrier or any person or organization qualifying as a self-insurer under any worker's compensation or disability benefits law or any similar law;

(c) any claim for punitive or exemplary damages against the driver of an **uninsured automobile**;

(d) any claim against the Company unless the Company has received actual written notice of said claim within 2 years of the date of the accident;

(e) **bodily injury** to an **insured** while occupying an **automobile** (other than an **insured automobile**), motorcycle or any other motor vehicle, owned by the **named insured** or a **relative**, or through being struck by such **automobile**, motorcycle, or other motor vehicle;

(f) **bodily injury** to any person while occupying any **automobile** not owned by, or furnished or available for the regular use of the **named insured** or any **relative** while used as a public or livery conveyance for a fee; but this exclusion does not apply:

(1) a share-the-expense car pool; or

(2) the **named insured** or any **relative**.

(g) any damages incurred while an **insured automobile** is in the control of an excluded operator;

(h) **bodily injury**, death, or **property damages** which are expected or intended, from the point of view of the **insured**, or which are caused intentionally, by or at the direction of an **insured**;

(i) other than compensatory damages for death, **bodily injury**, and **property damage** to make an injured party whole within the limitations of this policy, any additional damages, costs expenses, pecuniary losses, attorney's fees, penalties, fines, treble damages, or punitive damages which may be recoverable or awarded at law or in equity as a result of an **insured's** criminal conviction; and

(j) other than compensatory damages for death, **bodily injury**, and **property damage** to make an injured party whole within the limitations of this policy, any additional damages, costs, expenses, attorney's fees, fines, penalties, treble damages, punitive damages, or smart money which may be recoverable or awarded at law or in equity as a consequence of reckless driving, operating a motor vehicle with a blood or breath alcohol content deemed to be legally intoxicating, causing or contributing to operating a motor vehicle while intoxicated; or reckless endangerment.

Limits of Liability.

(a) The Limit of Liability stated in the Declarations as applicable to "each person" is the limit of the Company's maximum liability for all damages, including claims for loss of consortium or services, because of **bodily injury** sustained by one person as a result of any one accident. The Limit of Liability stated in the Declarations as applicable to "each accident" is the total limit of the Company's maximum liability for all damages, including claims for loss of consortium or services, because of **bodily injury** sustained by two or more persons as a result of any one accident.

(b) Any amount payable under the terms of Part II because of **bodily injury** sustained in an accident by a person who is an **insured** under Part II shall be reduced by:

(1) all sums paid on account of such **bodily injury** by or on behalf of

(i) the owner or operator of the **uninsured automobile** and (ii) any other person or organization jointly or severally liable together with such owner or operator for such **bodily injury** including all sums paid under coverage A **bodily injury** of Part I, and

(2) the amount paid and the present value of all amounts payable on account of such **bodily injury** under any worker's compensation law, disability benefits law or any similar law

(c) Any payment made under Part II to or for any **insured** shall be applied in reduction of the amount for damages which the **insured** may be entitled to recover from any person under coverage A **bodily injury** of Part I.

(d) The Company shall not be obligated to pay under this coverage that part of the damages which the **insured** may be entitled to recover from the owner or operator of an **uninsured automobile** which represents **medical payments** paid or payable under Part IV.

(e) If more than one policy issued by this Company applies to Part II, the total limit of this Company's liability under all such policies shall not exceed the amount applicable under any one policy for any one **automobile**.

(f) It is agreed between the **insured** and the Company that in no event shall the total limit of the Company's liability exceed the limits set forth in the Declaration regardless of the number of vehicles insured under the policy or the separated itemization of premiums therefor; and that coverage under this section may not be "stacked" with any other similar or identical coverage that may be issued under this policy, or any other policy, including Underinsured Motorist Coverage, (Part III).

(g) Any amount payable under Part II shall be reduced by all sums paid to the **insured** for **property damage** on behalf of the owner or operator of the **uninsured automobile** and any other person or organization jointly or severally liable together with such owner or operator. **Property damage** losses recoverable hereunder shall be limited to the actual cash value of any damages caused by the direct physical contact of an **uninsured automobile** with the **insured automobile** subject to the deductible, if any. However, the deductible shall be waived if the **insured automobile** was parked and unoccupied at the time of loss.

(h) There shall be no coverage for loss of use of the **insured automobile** and no coverage for loss or damage to personal property located in the **insured automobile**.

(i) There shall be no liability imposed under the Uninsured Motorist **Property Damage** Coverage if the owner or the operator of the at fault **automobile** or the **hit-and-run automobile** cannot be identified.

Other Insurance. With respect to **bodily injury** to an **insured** while occupying an **automobile** not owned by the **named insured**, the insurance under this Part shall apply only as excess insurance over any other similar insurance available to such **insured** and applicable to such **automobile** as primary insurance, and this insurance shall then apply only in the amount by which the limits of liability for this coverage exceeds the applicable limit of liability of such other insurance.

Except as provided in the foregoing paragraph, if the **insured** has other similar insurance available to him/her and applicable to the accident, the damages shall be deemed not to exceed the higher of the applicable limits of liability of this

insurance and such other insurance, and the Company shall not be liable for a greater proportion of any loss to which this

Part applies than the limit of liability hereunder bears to the sum of the applicable limits of liability of this insurance and such other insurance.

Arbitration. If any person making claim hereunder and the Company do not agree that both the **automobile(s)** and the driver(s) of the **automobile(s)** with which any person making claim has had an accident, or do not agree that such person is legally entitled to recover damages from the owner or operator of an **uninsured automobile** because of **bodily injury** to an **insured** or damage to a **insured automobile** or do not agree as to the amount payable hereunder, then these matters shall be submitted to arbitration. Upon the **insured** demanding arbitration and selecting an arbitrator as required under the terms hereof in writing, the Company may select an arbitrator and the two arbitrators so named shall select a third arbitrator. If such arbitrators are not selected within 45 days from the receipt of such written request, either party may request such arbitration be submitted to the American Arbitration Association. In the event the two selected arbitrators cannot agree upon a third arbitrator either party may petition any Judge in any court of record in the County and State in which the arbitration is pending to select a third arbitrator upon Notice of Motion to the other party or their attorney, if applicable, and without the necessity of filing a law suit or serving the other party with process. The arbitrators shall then hear and determine the questions in dispute and except to the extent herein provided, the decision in writing of any two arbitrators shall be binding upon the parties. All arbitration hearings under this policy, including both the tripartite panel and the American Arbitration Association, shall be conducted in the County and State in which the **insured** resides and in accordance with the usual rules governing procedure and admission of evidence in courts of law of that County and not in accordance with any court mandated arbitration or mediation rules. It is agreed that the arbitrator(s) shall not enter an award in excess of the applicable policy limits, and, if an award is entered in excess of the applicable policy limits then that portion of the award which exceeds the policy limits is void and not binding on either the **insured** or the company. Each party will pay the expenses it incurs and the expenses of its arbitrator; and bear the expenses of the third arbitrator equally.

Any decision made by the arbitrators shall be binding for the amount of damages not exceeding the limits for **bodily injury** or death as set forth in section 9-25-4-5 of the Indiana Vehicle Code. The Company or the **insured** may, at any time, within ninety days after the rendering of an arbitration award, reject that portion of the award for **bodily injury** or death in excess of the minimum amounts set forth in section 9-25-4-5 of the Indiana Vehicle Code by written notice served by registered mail, provided such written notification is mailed no later than ninety days next after the rendering of the arbitrator's award. Failure to timely serve notice of rejection shall irrevocably constitute an acceptance of that portion of the arbitration award in excess of the amounts set forth in section 9-25-4-5 of the Indiana Vehicle Code.

If timely notice of the rejection of that portion of the arbitrator's award in excess of the limits set forth in section 9-25-4-5 of the Indiana Vehicle Code is made as provided above, then any party aggrieved by any such rejection shall, not later than thirty days next after mailing of the rejection described and provided for above, file an action in a court of competent jurisdiction to determine the legal liability and damages authorized under this Part II. Failure to timely file such an action shall constitute acceptance of the award of the arbitrators in the amounts in excess of the amounts set forth in section 9-25-4-5 of the Indiana Vehicle Code.

No claim shall lie against the company where an **insured** has failed to make a written demand for arbitration within two years from the date of the accident.

PART III- UNDERINSURED MOTORIST COVERAGE

E. Underinsured Motorist Coverage. To pay all damages which an insured is legally entitled to recover from the owner or operator of an **underinsured automobile** because of **bodily injury** sustained by an **insured**. The owner's or operator's liability for these damages must arise out of the ownership, maintenance or use of the **underinsured automobile** provided, for the purposes of this coverage, determination as to whether the **insured** is legally entitled to recover such damages, and if so the amount thereof, shall be made by agreement between the **insured** and the Company or, if they fail to agree, by arbitration as herein provided.

To pay under this coverage only after the limits of liability under all applicable **bodily injury** liability bonds or policies have been exhausted by payment of judgements or settlements.

Definitions. The definitions under Part I apply to Part III, and under Part III: "**Underinsured automobile**" means an **automobile** or **trailer** of any type to which a **bodily injury** liability bond or policy applies at the time of the accident but its limit for **bodily injury** liability is less than the limit of liability for this coverage.

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

- (1) owned by or furnished or available for the regular use of the **insured** or any family member or person residing in the **insured's** household;
- (2) owned by any governmental unit or agency;
- (3) operated on rails or crawler treads;
- (4) which is a farm type tractor or equipment designed mainly for use off public roads while not upon public roads;
- (5) while located for use as a residence or premises;
- (6) owned or operated by a person qualifying as a self-insurer under any applicable motor vehicle law;
- (7) to which a **bodily injury** liability bond or policy applies at the time of the accident, and the bonding or insuring company denies coverage or is or becomes insolvent;
- (8) which is defined as an "**uninsured automobile**" under Part II.

Exclusions. This policy does not apply under Part III:

- (a) to any person while occupying an **owned automobile** when it is being used to carry persons or property for a fee;
- (b) to any person using any **automobile** without a reasonable belief that the person is entitled to do so;
- (c) as to inure directly or indirectly to the benefit of any worker's compensation or disability benefits carrier or any person or organization qualifying as a self-insurer under any worker's compensation or disability benefits law or any similar law;
- (d) to punitive or exemplary damage;
- (e) if Uninsured Motorist Coverage – Part II applies to the accident;
- (f) if the **insured**, his/her legal representative or any person entitled to coverage under this provision fail to sue the Company within two years from the date all **bodily injury** liability insurance policies applicable to all **underinsured automobiles** and their operators have been exhausted by payment of judgement or settlement; and

PART IV - MEDICAL PAYMENTS

F. Medical Payments. To pay all reasonable expenses incurred within one year from the date of accident for necessary medical, surgical, X-ray and dental services, including prosthetic devices, and necessary ambulance, hospital, professional nursing and funeral services.

Division 1. to or for the **named insured** and each **relative** who sustains **bodily injury**, sickness or disease, including death resulting therefrom, hereinafter called "**bodily injury**", caused by accident, while occupying or through being struck by an **automobile**;

Division 2. to or for any other person who sustains **bodily injury**, caused by accident, while occupying:

- (a) a **covered automobile**, while being used by an **insured**; or
- (b) a **non-owned automobile**, if the **bodily injury** results from its operation by an **insured** provided that no such payment shall be made unless the person to or for whom such payment is made shall have executed a written agreement the amount of such payment shall (1) be applied toward the settlement of any claim or the satisfaction of any judgement for damages

Trust Agreement. In the event of payment to any person under Part II:

(a) the Company shall be entitled to the extent of such payment to the proceeds of any settlement or judgement that may result from the exercise of any rights of recovery of such person against any person or organization legally responsible for the damages because of which such payment is made;

(b) such person shall hold in trust for the benefit of the Company all rights of recovery which he shall have against such other person or organization because of the damages which are the subject of claim made under Part II;

(c) such person shall do whatever is proper to secure such rights and shall do nothing after loss to prejudice such rights;

(d) if requested in writing by the Company or its representative, such person shall take, through any representative designated by the Company, such actions as may be necessary or appropriate to recover such payment as damages from such other person or organization, such action to be taken in the name of such person; in the event of a recovery, the Company shall be reimbursed out of such recovery for expenses, costs and attorneys' fees incurred by it in connection therewith;

(e) such person shall execute and deliver to the Company such instruments and papers as may be appropriate to secure the rights and obligations of such person and the Company established by these provisions.

(g) any accident while a **covered automobile** is in the control of an excluded operator.

Limit of Liability. The limit of Liability as stated in the Declarations for "each person" for underinsured Motorists Coverage is the Company's maximum limit of liability for all damages for **bodily injury** sustained by any one person in any one accident. Subject to this limit for "each person", the limit of liability shown in the Declarations for "each accident" for Underinsured Motorists Coverage is the Company's maximum limit of liability for all damages for **bodily injury** resulting from any one accident.

The limit of liability shall be reduced by all sums paid because of **bodily injury** coverage by or on behalf of persons or organizations who may be legally responsible. Any amounts otherwise payable for damages under this coverage shall be reduced by all sums paid or payable for **bodily injury** coverage available under any worker's compensation law, disability benefits law or any similar law.

Any payment under Part III to or for any **insured** shall be reduced by the amount of damages which the **insured** may be entitled to recover from any person **insured** under coverage **A of Part I – bodily injury**. The Company shall not be obligated to pay under this coverage that part of the damages which the **insured** may be entitled to recover from the owner or operator of an **underinsured motor vehicle** which represents expenses for medical services paid or payable under Part IV – **medical payments**.

If more than one policy issued by this Company applies to Part III, the total limit of this Company's liability under all such policies shall not exceed the amount applicable under only one policy, and in no event shall the total limit of the Company's liability exceed the limits set forth in the Declarations, regardless of the number of **insureds** or **covered automobiles** or the separate itemization of premiums therefore and that coverage under this section shall not be "stacked" with any other similar or identical coverage that may be issued under this policy, or any other policy including Uninsured Motorist Coverage (Part II).

Other Insurance. With respect to **bodily injury** to an **insured** while occupying an **automobile** not owned by the **named insured**, the insurance under Part III shall apply only as excess insurance over any other similar insurance available to such **insured** and applicable to such **automobile** as primary insurance, then this insurance shall apply only in the amount by which the limit of liability for Part III exceeds the applicable limit of liability of such other insurance.

Except as provided in the foregoing paragraph, if the **insured** has other similar insurance available to him/her and applicable to the accident, the damages shall be deemed not to exceed the higher of the applicable limits of liability of this insurance and such other insurance, and the Company shall not be liable for a greater proportion of any loss to which Part III applies than the limit of liability hereunder bears to the sum of the applicable limits of liability of this insurance and such other insurance.

entered in his/her favor, (2) against any **insured** because of **bodily injury** arising out of an accident to which the **Part I Liability** applies.

Definitions. The definitions under **Part I** apply to **Part IV**.

Exclusions. This policy does not apply under Part IV to **bodily injury**, sickness, disease or death:

(a) sustained while occupying (1) a **covered automobile** while used as a public or livery conveyance, or (2) any other vehicle while located for use as a residence or premises;

(b) sustained by the **named insured** or a **relative** (1) while occupying an **automobile** owned by or furnished for the regular use of either the **named insured** or any **relative**, other than an **automobile** defined herein as a "**covered automobile**", or (2) while occupying or as a result of being struck by (i) a farm type tractor or other equipment designed for use principally off public roads, while not upon public roads, or (ii) a vehicle operated on rails or crawler-treads;

(c) sustained by any person other than the **named insured** or a **relative**, resulting from use of (1) a **non-owned automobile** while used in the **automobile business** or as a public or livery conveyance, or (2) a **non-owned automobile** in any other business or occupation except operation or occupancy of such **automobile** by the **named insured** or by his/her private chauffeur or domestic servant;

(d) sustained by any person who is employed in the **automobile business**, if the accident arises out of the operation thereof and if benefits therefor are in whole or in part either payable or required to be provided under any worker's compensation law;

(e) to injury, sickness, disease, death or loss due to war;

(f) to the extent that any medical expense is paid or payable to or on behalf of the injured person under the provisions of any worker's compensation or disability benefits law or any similar law;

(g) resulting from the hazardous properties of nuclear material and arising out of the operation of a nuclear facility by any person or organization;

(h) to any **automobile** or any other type of motor vehicle designed for racing while being tested, repaired or serviced, or while used, operated, manipulated or maintained in any

impromptu, prearranged or organized race or speed test, including "hot rod" or "stock car" racing; and

(i) while a **covered automobile** is in the control of an excluded operator.

Limit of Liability. The limit of liability for medical payments stated in the Declarations as applicable to "each person" is the limit of the Company's liability for all expenses incurred by or on behalf of each person who sustains **bodily injury** as the result of any one accident. If more than one policy issued by this Company applies to this part, the total limit of this Company's liability under all such policies shall not exceed the amount applicable under only one policy.

Other Insurance. If there is other **automobile** medical payments insurance against a loss covered by Part IV of this policy, the Company shall not be liable under this policy for a greater proportion of such loss than the applicable limit of liability of all valid and collectible **automobile** medical payments insurance; provided, however, the insurance with respect to a **temporary substitute automobile** or **non-owned automobile** shall be excess insurance over any other valid and collectible **automobile** medical payments insurance.

PART V - PHYSICAL DAMAGE

G. Comprehensive (excluding Collision). At the Company's option to have repaired or to pay for loss caused by other than **collision** to a **covered automobile** or to a **non-owned automobile** but only for the amount of each such loss in excess of the deductible amount stated in the Declarations as applicable hereto. For the purpose of this coverage, breakage of glass and loss caused by missiles, falling objects, fire, theft or larceny, explosion, earthquake, windstorm, hail, war, flood, malicious mischief or vandalism, riot or civil commotion shall not be deemed to be loss caused by **collision**.

Supplementary Payments. In addition to the applicable limit of liability, to:

(a) reimburse the **insured** for transportation expenses not exceeding \$10 per day or totaling more than \$150 incurred during the period commencing 72 hours after a theft covered by this policy of the entire **automobile** has been reported to the Company and the police, and terminating on the date the whereabouts of the **automobile** becomes known to the **named insured** or Company or on such earlier date as the Company tenders settlement for such theft;

(b) pay general average and salvage charges for which the **insured** becomes legally liable as to the **automobile** being transported.

H. Collision. At the Company's option to have repaired or to pay for loss caused by **collision** to a **covered automobile** or to a **non-owned automobile** but only for the amount of each such loss in excess of the deductible amount stated in the **Declarations** as applicable hereto.

I. Towing and Labor Costs. To pay for towing and labor costs necessitated by the disablement of a **covered automobile** or of any **non-owned automobile**, provided the labor is performed at the place of disablement.

J. Rental Reimbursement. It is agreed commencing 48 hours after loss to the **covered automobile**, caused by **collision**, which is timely reported to the Company and covered by the Company, the Company will reimburse the **insured** for the rental fee expense incurred with a maximum daily reimbursement benefit as shown on the declarations page (excluding mileage charges) for the rental of a **temporary substitute automobile** while the **covered automobile** is in the custody of a licensed business, garage or facility for repairs.

Exclusions

This coverage does not apply:

(1) while any driver of the **covered automobile** is intoxicated or under the influence of any substance unless administered at the advice of a physician.

(2) while the **covered automobile** is rented by or on behalf of the **insured**.

Reimbursement for the rental expenses begins at 12:01 AM on (a) the day following the date the **named insured** delivers the **covered automobile** to the garage for repairs; and ends when the first of the following conditions occurs:

(1) completion of repairs;

(2) replacement of the **automobile**;

(3) number of days of coverage as shown on the declarations page.

Payment of Loss. The Company may pay the **insured** for loss in money or provide a substitute form of transportation, with the option resting with the Company. In no event shall a claim for rental reimbursement be accepted by the Company unless a verified, itemized statement of rental charges is supplied by the **insured** within thirty (30) days after the date of loss from a licensed or recognized automobile rental agency or business. This insurance is applicable in addition to any other valid or collectible **collision** insurance available to the **insured**.

Definitions. The definitions of "named insured", "relative", "owned automobile", "non-owned automobile", "covered automobile", "automobile business", "war", "trailer" in Part I apply to Part V and under Part V:

"insured" means (a) with respect to a **covered automobile** (1) the **named insured** and (2) any person or organization, other than a person or organization engaged in the **automobile business** or as a carrier or as the bailee for hire, maintaining, using or having custody of said **automobile** with the permission of the **named insured**; (b) with respect to a **non-owned automobile**, the **named insured** and any **relative** provided the actual use thereof is with the permission of the owner.

"loss" means direct and accidental loss of or damage to (a) the **automobile**, including its **equipment**, or (b) other insured property.

"diminished value" means the actual or perceived loss in market or resale value which results from direct and accidental damage to an **automobile** insured hereunder.

"collision" means collision of an **automobile** with another object, with a vehicle to which it is attached, or by upset of such **automobile**.

"forcible entry" means entry by actual force and violence evidenced by visible marks on the exterior of the **automobile** or the premises on which the **automobile** is garaged at the point of entry.

"equipment" means the standard or optional **equipment** which is available from the manufacturer for the make, model, and model year of the automobile, and was permanently installed in the **automobile** in the place designed by the manufacturer at the time of original sale or inception of this policy.

Exclusions. This policy does not apply under this Part:

(a) to any **automobile** while used as a public livery conveyance; or for commercial purpose,

(b) to loss of **equipment** which is not available from the manufacturer of the **automobile** for that make, model, and model year;

(c) to loss of **equipment** which is available from the manufacturer of the **automobile** for that make, model, and model year, but which is not permanently installed in the dash or console opening specified by the manufacturer of the **automobile** for the installation of such **equipment**;

(d) to loss to a **non-owned automobile** arising out of its use by the **insured** in the **automobile business**;

(e) to loss to an **automobile** owned by the **named insured** and not described in this policy or to any **temporary substitute automobile** therefor, or to a **non-owned automobile** if the **insured** has other valid and collectible insurance against such loss;

(f) to damage which is due and confined to wear and tear, freezing, mechanical or electrical breakdown or failure, unless such damage results from a theft covered by this policy;

(g) to tires, unless damaged by fire, malicious mischief, vandalism, stolen or unless loss is coincident with and from same cause as other loss covered by this policy,

(h) to loss due to radioactive contamination;

(i) under coverage H - collision of this Part to breakage of glass if insurance with respect to such breakage is otherwise afforded;

(j) to loss to any **automobile** designed for racing while being tested, repaired or serviced or being used, operated, manipulated or maintained in any impromptu, prearranged or organized race or speed test, including "hot rod" or "stock car" racing;

(k) to loss of or damage to any device or instrument designed for the recording, reproduction, receiving, or transmittal of sound, radio waves, microwaves or television signals unless such device or instrument is permanently installed in the dash or console opening specified by the manufacturer of the **automobile** for the installation of such **equipment**;

(l) to loss of or damage to any tape, wire, record disc or other any medium for use with any device or instrument designed for the recording, reproduction, or recording and reproduction of sound

(m) to loss with respect to an **automobile**, ownership of which is acquired by the **named insured** during the policy period when the **named insured** has not notified the Company in writing within 30 days of such acquisition of his/her election to make Part V of this policy applicable to such **automobile**;

(n) to loss to any custom furnishings or **equipment** in or upon any pick-up, panel truck, or van such as, but not limited to, special carpeting, insulation, furniture, bars, television receivers, facilities for cooking or sleeping, height-extending roofs, custom murals, paintings or other decals or graphics;

(o) to damage caused intentionally by or at the direction of the **insured**;

(p) to any loss arising out of or during use for the transportation of hazardous substance, flammable liquid, or similarly hazardous material;

(q) loss due to **war**, declared or undeclared;

(r) to loss to any **trailer**;

(s) while an **automobile** is in control of an excluded driver; and

(t) to any "**covered automobile**" or any "**non-owned automobile**" for "loss" due to

"diminished value".

Limit of Liability. The Company's liability for all losses under this Part shall not exceed the lesser of the following:

(a) the actual cash value of stolen or damaged property or part thereof at the time of the loss; or

(b) the amount necessary to repair the damaged property at the time of the loss; or
(c) the amount necessary to replace the stolen or damaged property at the time of the loss with property of like kind with deduction for depreciation and physical condition; or
(d) the actual cash value of the stolen or damaged property less deductible and salvage value on retained vehicles nine model years or older.

Other Insurance. This insurance with respect to a **temporary substitute automobile** or **non-owned automobile** shall be excess insurance over any other valid and collectible insurance.

PART VI – CONDITIONS (Unless otherwise noted, conditions apply to all Parts.)

1. Policy Period, Territory. This policy applies only to accidents, occurrences and losses during the policy period, as stated in the Declarations, while the **automobile** is within the United States of America, its territories or possessions, or Canada or is being transported between ports thereof. This policy may be renewed for successive policy periods by payment of the required premium to the Company on or before the effective date of each successive policy period. If such premium is not paid when due, the policy shall terminate as of that date and such date shall be the end of the policy period. Such premium shall be computed in accordance with the manuals then in use by the Company. Each policy period shall begin and end at 12:01 AM, standard time at the address of the **named insured**.

application is false, misleading or materially affects the acceptance or rating of this risk by the Company, by either direct misrepresentation, omission, concealment of facts or incorrect statements, this policy shall be null and void and of no benefit whatsoever from its inception.

2. Premium. If the **named insured** disposes of or replaces an **automobile**, he/she shall inform the Company in writing within 30 days of such change. If the **named insured** acquires ownership of an additional **automobile** or replacement **automobile**, he/she shall inform the Company in writing within 30 days following the date of its delivery of his/her election to make this policy and no other applicable to such **automobile**. Any premium adjustment necessary shall be made as of the date of such change or acquisition in accordance with the manuals in use by the Company.

In the event any representation contained in any notification of change is false, misleading or materially affects the acceptance or rating of this risk by the Company, by either direct misrepresentation, omission, concealment of facts or incorrect statements, this policy shall be null and void and of no benefit whatsoever from the effective date of change. This paragraph shall also apply to misstatement of use and omissions of fact. This policy shall not provide coverage for any **insured** who has made fraudulent statements or engaged in fraudulent conduct in connection with a claim or loss for which coverage is sought under this policy.

The **named insured** shall, upon request, furnish reasonable proof of the number of such **automobiles** or **trailers** owned by the **named insured** and a description thereof. If, at any time, the Company becomes aware of any operator residing in the **insured's** household, who is a operator of a covered automobile, and is not an excluded driver or operator, and is not named on the declaration page as a **named insured** or operator, and the inclusion of such person as an insured or operator under the policy would require a higher rate class, the policy will be endorsed to the correct rate class effective:

5. Two or More Automobiles – Parts I, IV and V. When two or more **automobiles** are insured hereunder, the terms of this policy shall apply separately to each, but an **automobile** and a **trailer** attached thereto shall be held to be one **automobile** as respects limits of liability under Parts I and IV of this policy, and separate **automobiles** under Part V of this policy, including any deductible provisions applicable thereto.

(1) the inception date of the policy if such person was a **resident driver** as of the inception date of the policy; or
(2) the date such person became a **resident driver** if such person became a **resident driver** during the policy period; and the **named insured** will be liable for the difference between the total premium he/she has been charged for the coverage and the total amount of premium he/she would have been charged for coverage had such person been disclosed to the Company as an **insured** or operator when such person became a **resident driver**. There will also be a surcharge equal to two-hundred percent (200%) of the premium that would have been charged for the coverage had such person been disclosed to the Company as an **insured** or operator when such person became a **resident driver** less the total amount of the premium originally charged.

6. Assistance and Cooperation of the Insured. The **insured** shall cooperate with the Company and, upon the Company's request, attend hearings and trials and assist in making settlements, securing and giving evidence, obtaining the attendance of witnesses and in the conduct of any legal proceedings in connection with the subject matter of this insurance. The **insured** shall not, except at his/her own cost, voluntarily make any payment, assume any obligation or incur any expense other than for such immediate medical and surgical relief to others as shall be imperative at the time of accident.

For purposes of the foregoing, "**resident driver**" means any person, licensed or otherwise, who resides in the **Insured's** household and who at any time during the policy period uses or operates a covered automobile.

After the notice of claim under any part of this policy, the Company may require the **insured** to take such actions as may be necessary or appropriate to preserve his/her right to recover damages from any person or organization alleged to be legally responsible for the **bodily injury**. In any action against the Company, the Company may require the **insured** to join such person or organization as a party defendant.

3. Notice. In the event of an accident, occurrence or loss, written notice containing particulars sufficient to identify the **insured** and also reasonably obtainable information with respect to the time, place and circumstances thereof, and the names and address of any injured person(s) and of available witnesses, shall be given to the Company by or on behalf of the **insured** as soon as practicable. In the event of theft the **insured** shall also promptly notify the police.

7. Action Against Company – Part I. No action shall lie against the Company unless, as a condition precedent thereto, the **insured** shall have fully complied with all terms of this policy, nor until the amount of the **insured's** obligation to pay shall have been finally determined either by judgement against the **insured** after actual trial or by written agreement of the **insured**, the claimant and the Company.

If claim is made or suit is brought against an **insured**, he/she shall immediately forward to the Company every demand, notice, summons or other process received by him/her, his/her representative or agent. The Company will not be obligated to pay, and shall not pay under Part I, unless the Company received actual notice of a lawsuit before a judgement had been entered in said suit. A suit seeking recovery against the Company under Parts II and III must be filed within two years of the accident.

Any person or organization or the legal representative thereof who has secured such judgement or written agreement shall thereafter be entitled to recover under this policy to the extent of the insurance afforded. No person or organization shall have any right under this policy to join the Company as a party to any action against the **insured** to determine the **insured's** liability, nor shall the Company be impleaded by the **insured** or his/her legal representative.

If, before the Company makes a payment of loss under Part II, the **insured** or his/her legal representative shall institute any legal action for **bodily injury** against any person or organization legally responsible for the use of an **automobile** involved in the accident. A copy of the summons and complaint or other process served in connection with such legal action shall be forwarded immediately to the Company by the **insured** or his/her legal representative.

Bankruptcy or insolvency of the **insured** or the **insured's** estate shall not relieve the Company of any of its obligations hereunder.

All notices which may be required by this policy shall be in writing and shall be served personally or by certified mail, return receipt requested. For the purpose of all time limitations, notice shall be deemed to have given on the date when so placed in the United States mail, postage prepaid.

Parts II, III, IV, and V. No action shall lie against the company unless, as a condition precedent thereto, there shall have been full compliance with all the terms of this policy and also under Part V until 30 days after proof of loss is filed and the amount of loss is determined as provided in this policy.

Notice shall be given as follows:

To The Company
MENDAKOTA INSURANCE COMPANY.
(Served by KAI Advantage Auto, Inc.)
150 Northwest Point Boulevard, Suite 200
Elk Grove Village, IL 60007

8. Insured Duties in Event of Loss – Parts II and V. In the event of loss the insured or someone on his/her behalf shall:

(a) protect the **automobile**, whether or not the loss is covered by this policy, and any further loss due to the **insured's** failure to protect shall not be recoverable under this policy. Reasonable expenses incurred in affording such protection shall be deemed incurred at the Company's request;

(b) file with the Company, within 91 days after loss, his/her sworn proof of loss in such form and including such information as the Company may reasonably require and shall, upon the Company's request, exhibit the damaged property and submit to examination under oath;

(c) report the loss within twenty-four (24) hours of its occurrence or reasonable knowledge thereof, to police, peace or judicial officers, or the Commission of Motor Vehicles; and

(d) report the loss, in the event of a hit-and-run or theft and the discovery thereof, within 24 hours of such to police, peace, or judicial officers, or the Commission of Motor Vehicles.

To The **Insured(s)**:
Notice shall be given to the person(s) designated as the "**Named Insured(s)**" on the Declarations Page which is a part of this policy as issued, at the last known address for the "**named insured**".

9. Medical report; Proof and Payment of Claim – Parts II, III and IV. As soon as practicable the injured person or someone on his /her behalf making claim shall give to the Company written proof of claim, under oath if required, including full particulars of the nature and extent of the injuries, treatment, and other details entering into the determination of the amount payable under the policy.

The Company may pay the injured person or any person or organization rendering the services or treatment and such payment shall reduce the amount payable hereunder for such injuries. Such payment hereunder shall not constitute an admission of liability of any person or of the Company.

4. Fraud and Misrepresentation. All statements contained in the application are deemed to be representations relied upon by the Company. In the event any such representation contained in the

If required, the **insured** and every other person making claim shall submit to examinations under oath by any person named by the Company and subscribe the same, as often as may reasonably

be required. Proof of claim shall be made upon forms furnished by the Company unless the Company shall have failed to furnish such forms within 15 days after receiving notice of claim.

The injured person(s) shall submit to physical examinations by physicians selected by the Company when and as often as the Company may reasonably require. He/she, or in the event of his/her incapacity his/her legal representative, or in the event of his/her death, his/her legal representative or the person or persons entitled to sue therefore, shall upon each request from the Company execute authorization(s) to enable the Company to obtain medical reports and copies of any and all records.

10. Appraisal – Part V. If the **insured** and the Company fail to agree as to the amount of loss, either may, within 60 days after proof of loss is filed, demand an appraisal of the loss. In such event the **insured** and the Company shall each select a competent appraiser, and the appraisers shall select a competent and disinterested umpire. The appraisers shall state separately the actual cash value and the amount of loss and failing to agree shall submit their differences to the umpire. An award in writing of any two shall determine the amount of loss. The **insured** and the Company shall each pay his/her chosen appraiser and shall bear equally the other expenses of the appraisal and umpire.

The Company shall not be held to have waived any of its rights by any act relating to appraisal.

11. Payment of Loss. Any amount due is payable (a) to the **insured**, or (b) if the **insured** is a minor to his/her parent or guardian, or (c) if the **insured** is deceased to his/her surviving spouse, otherwise (d) to a person authorized by law to receive such payment or to a person legally entitled to recover the damages which the payment represents; provided, the Company may at its option pay any amount due in accordance with division (d) hereof.

Part V. The Company may pay for the loss in money; or may repair or replace the damaged or stolen property; or may, at any time before the loss is paid or the property is so replaced, at its expense return any stolen property to the **named insured**, or at its option to the address shown in the Declarations, with payment for any resultant damage thereto; or may take all or such part of the property at the agreed or appraised value but there shall be no abandonment to the Company.

The Company may settle any claim for loss either with the **insured** or the owner of the property. In the repair of an **automobile** insured hereunder, the Company will follow the procedures required by Indiana Code 27-4-1.5-1, et seq.

12. No Benefit to Bailee – Part V. The insurance afforded by this policy shall not inure directly or indirectly to the benefit of any carrier or other bailee for hire which is liable for loss to the automobile.

13. Subrogation. In the event of any payments under this policy, the Company shall be subrogated to all the rights of recovery therefore which the **insured**, an injured person or any other person receiving such payment may have against any person or organization and they shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. Such person shall do nothing after loss to prejudice such rights.

In the event of any payment under Part III – the **Underinsured Motorists Coverage**, the Company shall not exercise any right of subrogation under a policy providing additional uninsured motorist coverage against an underinsured motorist where the Company has been provided with written notice in advance of a settlement between its insured and the underinsured motorist and the Company fails to advance a payment to the **insured**, in an amount equal to the tentative settlement, within 30 days following a receipt of such notice.

14. Changes. Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this policy or stop the Company from asserting any right under the terms of this policy; nor shall the terms of this policy be waived or changed, except by endorsement issued by the Company to form a part of this policy.

15. Assignment. Assignment of interest under this policy shall not bind the Company until its consent is endorsed hereon; if, however, the **named insured** or his/her spouse, if a resident of the same household, shall die, this policy shall cover (1) the survivor as **named insured**, (2) his/her legal representative as **named insured** but only while acting within the scope of his/her duties as such, (3) any person having proper temporary custody of a **covered automobile**, as an **insured**, until the appointment and qualification of such legal representative, and (4) under Division 1 of Part IV any person who was a **relative** at the time of such death.

16. Cancellation. This policy may be canceled by the **named insured** or by a premium finance company by surrender thereof to the Company or any of its authorized agents or by mailing to the Company written notice stating when thereafter the cancellation shall be effective.

This policy may be canceled by the Company by mailing to the **named insured** at the last mailing address known by the Company written notice stating when not less than twenty (20) days thereafter such cancellation shall be effective, however, if the cancellation is for non-payment of premium, ten(10) days notice shall be given.

The Company shall not exercise its right to cancel such policy after it has been in effect for sixty (60) days or any policy which has been renewed except for one or more of the following reasons:

- (a) nonpayment of premium; or

- (b) the driver's license or motor vehicle registration of the **named insured** or any other operator has been suspended or revoked or the grounds for such suspension or revocation have become known; or

- (c) the **named insured** or any other operator is under treatment for epilepsy or heart disease and does not provide a physician's certification testifying their unqualified ability to operate a motor vehicle safely; or

- (d) the **named insured** or any other operator uses drugs or alcohol beverages to excess; or

- (e) fraud, willful misrepresentation, or concealment by any insured relating to the issuance or continuation of the policy or relating to a loss; or

- (f) violation of any term or condition of the policy; or

- (g) the place of residence of the **insured** is changed to a state or country in which the insurer is not licensed.

The Company shall not fail to renew any policy of insurance unless it shall mail notice of same to the **named insured** at least twenty (20) days prior to the date of expiration. This provision shall not apply if the Company has manifested its willingness to renew directly to the **named insured** or in the case of non-payment.

All notices of cancellation or non-renewal shall include a specific explanation of the reason or reasons for cancellation or non-renewal. The mailing of notice as aforesaid on a recognized U.S. Post Office form or a form acceptable to the U.S. Post Office or other commercial mail delivery service shall be sufficient proof of notice, and a copy of such notice shall be sent to the **insured's** broker or the agent of record at the last mailing address known to the Company.

In the event of the cancellation of this policy by the Company earned premiums shall be computed pro-rata to the date of cancellation. Any refund of the premium shall be without prejudice to any claim arising prior to the cancellation, and such refund shall be made to the **named insured** or his/her representative by the Company within 30 days from (1) the date of the notice of cancellation if by the Company, or (2) the date the Company receives the request for cancellation from the **named insured** or his/her representative, but payment or tender of unearned premium is not a condition of cancellation.

17. Declarations. By acceptance of this policy, the **named insured** agrees that the statements and representations contained in the Application have been made by him/her or on his/her behalf. Said statements and representations in the Application and in any subsequent Application accepted by the Company are offered as an inducement to the Company to issue or continue this policy. This policy is issued and continued in reliance upon the truth of such statements and representations and embodies all agreements existing between himself/herself and the Company or any of its agents relating to this insurance.

LOSS PAYEE. Loss under this policy shall be payable as their interest may appear to the person or organization named in the Declarations as loss payee, provided this insurance as to such interest for any bailment lessor, conditional vendor, mortgagee or assignee of bailment lessor, conditional vendor or mortgagee (herein called the lienholder) has not been invalidated by any act or neglect of the **insured** owner of the **covered automobile** nor by any change in the title of ownership of the same. Further, that in the event of conversion, embezzlement, or secretion by the **insured** owner of the **covered automobile**, interest under the said bailment lease, conditional sale, mortgage or other encumbrance is not covered under this policy unless specifically **insured** against and premium paid therefor; and provided, also, that in case the **named insured** has neglected to pay any premium due under this policy, the lienholder has paid the same.

The lienholder shall notify the Company of any change of ownership or increase of hazard which shall come to the knowledge of said lienholder and, if accepted by the Company, it shall be endorsed herein and the lienholder shall, on demand, pay the premium for any such increased hazard for the term of the use thereof; otherwise this policy shall be null and void.

The company reserves the right to cancel this policy at any time as provided by its terms. In such case the company shall notify the lienholder when not less than ten (10) days thereafter such cancellation shall be effective as to the interest of said lienholder therein and the company shall have the right, on like notice, to cancel this agreement.

Should the **insured** fail to render Proof of Loss within the time granted in the conditions of this policy, the lienholder shall do so within sixty (60) days thereafter, in the form and the manner as provided by this policy, and further, shall be subject to the provisions of this policy relating to appraisal and time of payment and of bringing suit.

Whenever the company shall pay the lienholder any sum for loss under this policy and shall claim that, as to the **insured**, no liability therefor existed, the company shall, to the extent of such payment, be thereupon legally subrogated to all the rights of the party to whom such payment shall be made, under securities held as collateral to the debt, or may at its option, pay to the lienholder the whole principal due or to grow due on the mortgage with interest, and shall thereupon receive a full assignment and transfer of the mortgage and of all such other securities; but no subrogation shall impair the right of the lienholder to recover the full amount of its claim.

The interest of the loss payee is protected by these provisions subject to all terms, conditions, and exclusions contained in this policy, which policy is available to the loss payee upon request.

IN WITNESS WHEREOF, the Company has caused this policy to be signed by its President and Secretary. This policy shall not be valid unless completed by the attachment hereto of a complete Declarations page.



William A. Hickey, Jr.
PRESIDENT



D. Ann Brooks
SECRETARY

IN COMPLIANCE WITH THE REQUIREMENTS OF THE FAIR CREDIT REPORTING ACT (PUBLIC LAW 91-508), WE ADVISE THAT AS PART OF OUR ROUTINE PROCEDURE IN REVIEWING APPLICATIONS FOR INSURANCE OR RENEWALS OF INSURANCE POLICIES, THIS INSURANCE COMPANY MAY PROCURE AN INVESTIGATIVE CONSUMER REPORT INCLUDING INFORMATION AS TO THE CONSUMER'S CHARACTER, GENERAL REPUTATION, PERSONAL CHARACTERISTICS OR MODE OF LIVING, IF SUCH INSURANCE IS FOR AN INDIVIDUAL AND IS PRIMARILY FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES SUCH INFORMATION MAY, WITHOUT LIMITATION BE OBTAINED THROUGH PERSONAL INTERVIEWS WITH NEIGHBORS, FRIENDS OR OTHERS WITH WHOM THE CONSUMER IS ACQUAINTED.

UPON WRITTEN REQUEST TO THIS INSURANCE COMPANY, MADE WITHIN A REASONABLE PERIOD OF TIME AFTER RECEIPT OF THIS NOTICE, THIS COMPANY WILL PROVIDE IN WRITING A COMPLETE AND ACCURATE DISCLOSURE OF THE NATURE AND SCOPE OF THE INVESTIGATION REQUESTED, IF ONE WAS REQUESTED, OR ADVISE THAT NONE WAS REQUESTED.

COVERAGE UNDER THIS POLICY IS CONDITIONAL ON THE PAYMENT OF THE PREMIUM CHARGED. THEREFORE, A CHECK GIVEN IN PAYMENT OF ANY PREMIUM REQUIRED FOR EFFECTIVE PAYMENT OF THIS POLICY WHICH IS NOT HONORED BY THE PAYOR'S BANK UPON PRESENTATION FOR PAYMENT SHALL BE CONSTRUED UNDER THE PROVISIONS OF THIS POLICY AS NON-PAYMENT OF PREMIUM AND NO COVERAGE IS AFFORDED FOR ANY TIME PERIOD OR TERM OF THIS POLICY FOR WHICH SUCH CHECK WAS WRITTEN.

NOTICE TO THE POLICYHOLDERS

Questions regarding your policy or coverage should be directed to:

MENDAKOTA INSURANCE COMPANY
(Served by KAI Advantage Auto, Inc.)
1-800-287-2741

If you (a) need the assistance of the governmental agency that regulates insurance; or (b) have a complaint you have been unable to resolve with your insurer you may contact the Department of Insurance by mail, telephone or email:

State of Indiana Department of Insurance
Consumer Services Division
311 West Washington Street, Suite 300
Indianapolis, Indiana 46204

Consumer Hotline: (800) 622-4461; (317) 232-2395
Complaints can be filed electronically at www.in.gov/idoi.

We are here to serve you...

As our policyholder, your satisfaction is very important to us. If you have a question about your policy, if you need assistance with a problem, or if you have a claim, you should first contact your insurance agent or us at 1-800-287-2741. Should you have a valid claim, we fully expect to provide a fair settlement in a timely fashion.

Should you feel you are not being treated fairly with respect to a claim, you may contact the Indiana Department of Insurance with your complaint.

To contact the Department, write or call:

Consumer Services Division
Indiana Department of Insurance
311 West Washington Street, Suite 300
Indianapolis, IN 46204-2787

317-232-2395 or 1-800-622-4461