

## STANDARD EXCESS AUTOMOBILE POLICY

### (Third Party Liability Only)

NOWHEREFORE, IN CONSIDERATION of the payment of the premium specified and of the statements contained in the application and subject to the limits, special provisions and conditions herein stated and subject, insofar as applicable, to the terms, conditions, general provisions, definitions and exclusions set forth in the first loss policy described in Item 5 of the application, which said terms, conditions, general provisions, definitions and exclusions are by reference incorporated herein, the Excess Insurer agrees to indemnify the Insured under the first loss motor vehicle liability insurance against liability imposed by law upon the Insured for an amount or amounts in excess of the limit(s) of the first loss insurance and the underlying excess insurance for loss or damage arising from the ownership, use or operation of the automobile(s) covered under such first loss insurance and the underlying excess insurance resulting from Bodily Injury to or Death of any Person or Damage to Property.

### SPECIAL PROVISIONS

1. The Excess Insurer's ultimate net loss liability shall not exceed the limit stated in Item 4 of the application in excess of the limit(s) of the first loss policy, and the underlying excess policy (ies) stated in Item 5 thereof, or such amount as the first loss Insurer and the underlying excess insurer shall be liable to pay under statute, whichever is the greater.
2. The word "ultimate net loss" used in this policy mean the amount payable in settlement of the liability of the Insured after making deductions for all recoveries and for the other valid and collectible insurances excepting the first loss and underlying policy(ies) and shall exclude all expense and costs.
3. The Excess Insurer agrees to pay costs incurred by or on behalf of the Insured where these costs are not covered by the first loss or underlying excess policy (ies), on the following basis:
  - (a) should any claim or claims become adjustable prior to the commencement of trial for not more than the first loss and underlying excess policy limit(s) than no costs shall be payable by the Excess Insurer;
  - (b) should, however, the amount for which said claim or claims may be so adjustable exceed the first loss and underlying excess policy (ies) limit(s), then the Excess Insurer shall contribute to the costs incurred on behalf of the Insured in the ratio that the Excess Insurer's proportion of the ultimate net loss as finally adjusted bears to the whole amount of such ultimate net loss;
  - (c) in the event that the Insured or the Insurer under the first loss policy elects to appeal a judgment in excess of the limit(s) of the first loss and underlying excess policy (ies) the Excess Insurer may elect to conduct such appeal and shall be liable for the taxable costs and interest incidental thereto; but in no event shall the total liability of the Excess Insurer exceed the limit of liability stated in Item 4 of the application, plus the expense of such appeal.
4. All recoveries or payments recovered or received subsequent to a loss settlement under this policy shall be applied as if recovered or received prior to such settlement and all necessary adjustments shall then be made between the Insured and the Excess Insurer, provided always that nothing in this policy shall be construed to mean that losses under this policy are not payable until the Insured's ultimate net loss has finally been ascertained.
5. Liability to pay under this policy shall not attach unless and until the first loss and underlying excess Insurer(s) shall have admitted liability for the first loss and underlying excess limit(s) or unless and until the Insured has by final judgment been adjudged to pay an amount which exceeds such first loss and underlying excess limit(s) and then only after the first loss and underlying excess insurer(s) has/have paid or has/have been held liable to pay the full amount of the first loss and underlying excess limit(s).
6. Neither the inclusion of more than one entity in the name of the Insured nor the addition of any additional Insureds under this policy shall in any way operate to increase the limit of liability set forth in Item 4 of the application.
7. Notwithstanding Statutory Condition 3(1) contained in the first loss policy the Insured is only required to give the Excess Insurer notice of any accident if the claim or claims possibly arising therefrom appear likely to exceed the first loss insurance, in which case immediate written notice thereof must be given to the person or firm mentioned in Item 7 of the application.
8. (a) This policy may be terminated
  - (i) by the Excess Insurer giving to the Insured fifteen days' notice of termination by registered mail, or five days' written notice of termination personally delivered; or
  - (ii) by the Insured at any time on request.(b) Where this policy is terminated by the Excess Insurer
  - (i) The Excess Insurer shall refund the excess of premium actually paid by the Insured over the pro rate premium for the expired time, but in no event shall the pro rata premium for the expired time be deemed to be less than any minimum retained premium specified; and
  - (ii) the refund shall accompany the notice unless the premium is subject to adjustment or determination as to amount, in which case the refund shall be made as soon as practicable.(c) Where this policy is terminated by the Insured the Excess Insurer shall refund as soon as practicable the excess of premium actually paid by the Insured over the short rate premium for the expired time, but in no event shall the short rate premium for the expired time be deemed to be less than any minimum retained premium specified.
- (d) The refund may be made by money, postal or express company money order, or by cheque payable at par.
- (e) The fifteen day mentioned in clause (i) of sub-condition (a) of this condition commences to run on the day following the receipt of the registered letter at the post office to which it is addressed.
- (f) Nothing in this special provision shall in any way affect the operation of the statutory provision in The Insurance Act providing that where the contract or contracts designated in the excess contract terminates or is terminated, the excess contract is automatically terminated, the Excess Insurer agrees to refund the excess of premium actually paid over the pro rata premium for the expired term (subject to any minimum retained premium specified) as soon as practicable, but

if there is any pro rata premium unpaid the Insured agrees to pay this.

9. Any written notice to the Excess Insurer may be delivered at, or sent by registered mail to, the chief agency or head office of the Excess Insurer in this province. Written notice may be given to the Insured named in this policy by letter personally delivered to

him or by registered mail addresses to him at his latest post office address notified to the Excess Insurer. In this condition the expression "registered" means registered in or outside Canada.

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**In Witness Whereof**, the Insurer has executed and attested these presents; but this Policy shall not be valid until countersigned by a duly Authorized Representative of the Insurer.



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CEO & President

Authorized Representative

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